Vol. 795
No. 238

Friday
18 January 2019

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS

OFFICIAL REPORT

ORDER OF BUSINESS

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/2019-01-18

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

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

No party affiliation is given for Members serving the House in a formal capacity, the Lords spiritual, Members on leave of absence or Members who are otherwise disqualified from sitting in the House.

House of Lords

Friday 18 January 2019

10 am

Prayers—read by the Lord Bishop of St Albans.

Civil Partnerships, Marriages and Deaths (Registration Etc.) Bill

Second Reading

10.06 am

Moved by ***Baroness Hodgson of Abinger***

That the Bill be now read a second time.

Baroness Hodgson of Abinger (Con): My Lords, this is my first time proposing a Private Member's Bill and I therefore ask that your Lordships be gentle with me as I find my feet. I begin by taking this opportunity to pay tribute to my honourable friend in the other place, Tim Loughton MP, who I see is here listening today. He has worked so hard to champion these issues and it is through his determination and constructive dialogue that the Bill has progressed and is in such good shape today. To continue this theme of collaboration, I thank Tim and the officials from the Home Office and the Government Equalities Office, led by Linda Edwards, for their support in preparing its journey through this House.

In the other place the Minister summarised this Bill as being about "hatches, matches and dispatches". This light-hearted reference, while apt, perhaps does not convey the emotional and personal impact wrapped up in the fourfold practical purpose of the Bill. I am delighted that these clauses now represent current government policy and I shall outline each in more detail.

The purpose of Clause 1 is to address an issue with marriage entries. There is currently provision for only the father's name to be recorded in the marriage entry when couples get married, as I was surprised to discover when my eldest son got married last summer. This has been the position since 1837 and it is high time it was addressed. The provisions in this clause will enable the updating of the marriage entry to allow for the names of the couple's mothers to be included. The clause is narrow in scope and seeks only to change how marriages are registered.

Making changes to how marriages are registered and moving to a schedule-based system has previously been the subject of debate. The right reverend Prelate the Bishop of St Albans, who is also with us today, introduced identical measures in the Registration of Marriage Bill, which was debated in this House last year. That Bill is currently in the other place, awaiting a Second Reading. It has been apparent during the debates that the provisions in the clause have cross-party support. Moving to a schedule system similar to the one that has been in place in Scotland since 1855, and which also applies in Northern Ireland, will enable changes to be made to the marriage register entry much more easily in future, without the need to replace all the paper marriage registers. I believe that there are around 84,000 marriage registers in use across register offices, churches and other religious buildings.

The creation of civil partnerships in 2004 marked a significant moment on the road to equality for same-sex couples. For the first time, same-sex couples were able to formalise their intimate partner relationships, publicly acknowledging their commitment to one another, and able to access certain rights, responsibilities and protections. We continued to celebrate the legal and formal recognition of same-sex relationships with the introduction of same-sex marriage in 2013. However, we are left with a situation in which same-sex couples are able to either get married or form a civil partnership, whereas opposite-sex couples can only get married.

While marriage holds great value for many as a means of formalising and recognising intimate partner relationships, we know that not everyone feels that this type of relationship is for them. Some people who would very much like to have their relationship recognised in the eyes of society and the law find themselves, and often their children, without protection or security simply because they do not wish to marry. We were therefore delighted when, in October, the Prime Minister announced the Government's intention to extend civil partnerships to opposite-sex couples. Following this announcement, my honourable friend Tim Loughton introduced an amendment on Report in the other place which now stands as Clause 2. This places a duty on the Government to legislate to bring about equality between same-sex couples and other couples in terms of their future ability to form a civil partnership. I know that the Government have concerns about Clause 2, which include the lack of detail in the regulation-making power, and I am pleased to be working closely with my honourable friend to draft an upgraded amendment to replace Clause 2. Our hope is that this will allay these concerns and ensure that the Bill is able to deliver as intended.

Clause 3 provides for the Government to prepare a report on whether and how the law should be changed to require or permit the registration of pregnancy losses, which cannot be registered as stillbirths under the Births and Deaths Registration Act 1953. Currently, parents whose babies are stillborn after 24 weeks' gestation are required to register the baby's name and they receive a certificate of registration of stillbirth. When a pregnancy ends before 24 weeks' gestation, hospitals may enter a baby's name in a local book of remembrance or issue a local certificate to commemorate the baby's birth for those parents who want to do so. However, there is currently no formal process for parents to be able to register their loss legally.

Every year, hundreds of thousands of pregnancies end before 24 weeks' gestation due to miscarriage, ectopic or molar pregnancy, or because parents make the difficult choice to terminate a pregnancy due to congenital anomalies. For many parents, this experience can be utterly devastating. The loss of a baby before 24 weeks' gestation is made worse for some by the fact that there is no official recognition of these losses. That is why it is critical that the Government ensure that parents who experience a pregnancy loss receive the best empathetic care and support possible, through the NHS. As part of this ambition, Ministers should look into all options for changing the current system to recognise pre-24-week pregnancy loss. I am pleased that the Department of Health and Social Care has

[Baroness Hodgson of Abinger]
commissioned a review on this issue and has already made progress on gathering evidence and stakeholder views about how the current system might be improved, as well as examples of best practice. The Bill is an important part of driving this work forward and I strongly encourage noble Lords to support and contribute to the review. Losing a child is one of the worst experiences a parent can go through. By placing a duty on the Government to prepare and present a report setting out whether and, if so, how the law on the registration of pregnancy losses should change, I am confident that the Bill provides the next step in giving parents who have lost a baby the recognition they are due.

Clause 4 makes provision for coronial investigations of stillbirths. Currently, under the Coroners and Justice Act 2009, coroners have a duty to investigate deaths in certain circumstances, such as where a death is violent or unnatural or where the cause of death is unknown. This duty extends to the deaths of newborns of any age, including those who die immediately after birth. However, coroners do not have jurisdiction to investigate where the baby showed no signs of life independent of the mother, including where the baby died during labour.

The clause places a duty on the Secretary of State to prepare and publish a report on whether and how the law ought to be changed to enable coroners to investigate stillbirths. It also provides an enabling power for the Lord Chancellor to make regulations that would amend Part 1 of the Coroners and Justice Act 2009 to enable or require coroners to conduct investigations into stillbirths, to provide for when, and in what circumstances, coroners will investigate stillbirths.

I realise that the House may have concerns about a power to make regulations in this way, but the safeguards written into the clause will ensure that it is used appropriately. For example, where the regulations would amend primary legislation, they will be subject to the affirmative resolution procedure, so there will be scrutiny by both Houses, and the regulations cannot be used to create any criminal offences unless the offence has an equivalent in Part 1 of the Coroners and Justice Act 2009.

The Government fully support the introduction of this provision. However, given the sensitivity of the issues raised, I understand the need for the Government to undertake a full review and produce a report before making any changes. This will ensure that the regulations take into account the views of all relevant stakeholders.

Finally, this provision will support the work currently being undertaken in the Department of Health and Social Care to improve maternity safety, including the Healthcare Safety Investigation Branch independent investigations into all English cases of term stillbirth occurring during labour—as defined by the Royal College of Obstetricians and Gynaecologists' Each Baby Counts criteria.

I urge noble Lords to support the clauses in the Bill and I beg to move.

10.16 am

Lord Collins of Highbury (Lab): My Lords, I too thank the noble Baroness, Lady Hodgson, and Tim Loughton for their work on the Bill, which in all main areas seeks to deliver equality and fairness—a task we failed to complete during the passage of the Marriage (Same Sex Couples) Act 2013. I say to the noble Baroness that I will certainly be as co-operative as I can, but I may not be so friendly with the Minister, because there are areas that the Government need to address.

First, on changing the law so that opposite-sex couples can form civil partnerships, in the Commons the Government, while supporting the general principle, expressed the belief, as we have heard, there were still several issues to be worked out. Tim Loughton's new clause makes no prescription about the method, wording and reach of the legislative change required, leaving that to the Government. I therefore welcome the remarks made by the noble Baroness to the effect that she is working with the Government to prepare a suitable amendment—to be considered in Committee, I hope—which would give powers to draw up appropriate regulations for equal civil partnerships by the end of 2019. That is very welcome, but I share the concern of many that the Government may be using things such as consultation to drag their feet. We cannot wait any longer.

Talk of dragging feet brings me to my second bit of unfinished business from 2013. During the passage of the 2013 Act, the Government, instead of accepting legal recognition of humanist marriage, proposed an amendment that mandated public consultation first, as well as taking the power to bring in humanist marriage by statutory instrument. In 2014, the Government held a consultation which revealed that over 90% of respondents were in favour of legally recognised humanist marriages. In 2015, the Law Commission reported that failing to grant humanists the same rights as religious people in marriage was fundamentally unfair. In June 2018, the Northern Irish Court of Appeal ruled that there is a human right to humanist marriage. I therefore hope that in her response today the Minister will say that, without any further prompting or delay, she will use the UK Government's existing powers to legally recognise humanist marriages in England and Wales. I hope that will happen as soon as is practicable.

My third bit of unfinished business is our failure to deliver equal marriage for all citizens in the United Kingdom. A year ago, Karen Bradley, the Secretary of State for Northern Ireland, stated that same-sex marriage could be legislated for in Northern Ireland by the UK Parliament and that the Conservative Government would allow a conscience vote. My honourable friend Conor McGinn, to whom I pay tribute, introduced a Private Member's Bill extending same-sex marriage to Northern Ireland on 28 March. It passed its First Reading but, at Second Reading in the Commons, it was blocked by a Conservative MP on 11 May and again on 26 October, and was rescheduled for debate on 23 November, before again being rescheduled to 25 January. Of course, the noble Lord, Lord Hayward, introduced an identical Bill to your Lordships' House on 27 March and it passed its First Reading that day.

On 1 November, Royal Assent was granted to the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018, which contains sections describing Northern Ireland's same-sex marriage and abortion bans as human rights violations. That law does not legalise same-sex marriage in Northern Ireland, but it

directs the British Government to issue guidance to civil servants in Northern Ireland on the incompatibility of human rights with the region's laws on those two issues. Again, I hope the Minister will not say that the Government will drag their feet on these issues but will commit to ensuring that all citizens of the United Kingdom are treated equally and fairly, as that Act attempts to do.

My final bit of unfinished business—I hope we will have a debate on this in Committee—relates to the role of the Church of England. In the context of the Bill, I should like to know whether it will continue to say yes to same-sex civil partnerships but no to same-sex marriage. In his recent book *Reimagining Britain*, the most reverend Primate addressed the tension between scripture and tradition on the one hand and contemporary reality on the other. He tells us that the Bible's teaching on marriage is profoundly positive but, he notes, the social reality in modern Britain is radically changed today, with cohabiting, blended, single-parent and same-sex configurations. He continues:

"If fluidity of relationships is the reality of our society, then this should be our starting point for building values, because all values must connect with where people are and not where other people might like them to be".

What are these values? According to the most reverend Primate himself,

"in Christian understanding, the core concepts of households and family include holiness, fidelity, hospitality and love above all, because God is holy, faithful, welcoming and overflowing in love, and any human institution that reflects these virtues also in some way reflects God".

Surely, therefore, it is time for couples who wholeheartedly embrace those values to have the right to, or not to be refused, a blessing in their church simply because they are of the same sex.

10.23 am

Baroness Barker (LD): My Lords, I thank the noble Baroness, Lady Hodgson of Abinger, for the way in which she introduced this Bill, which deals with matters of enormous importance and sensitivity to a very small number of people. I am delighted to speak today not least because my father married a lot of people. He was a nonconformist minister, and I must tell your Lordships that the day on which the Church of England took a more enlightened view towards the remarriage of divorced people was a cause of great sadness in our household.

Turning to Clause 1, in 2016, I was absolutely delighted to get married in a beautiful chapel—it was medieval and deconsecrated, I have to say—but it was none the less a wonderful day. During the preparations, my wife and I had to see the registrar, and we all concluded that the fact that we had to tell the registrar who our fathers were but not our mothers was simply and utterly anachronistic.

I am also indebted to my dad for reasons why we should accept the Bill today. Many years ago, my father was officiating at a wedding in Glasgow University Chapel. In fact, it was the wedding of some family friends. When he took the couple out to sign the register, they turned to the groom's mother, who was in fact a professional registrar—and she had forgotten the certificate. So my father and mother had to disappear from the reception to go and get it so they could be married. Until today, few people knew that the pictures of the happy couple are in fact of them signing a bit of blotting paper for the purpose. So it is high time that we leap forward with tech and make the changes to the schedules outlined in Clause 1.

Turning to Clause 2 and civil partnerships, there has been a huge debate about why, given that gay people are now allowed to be married and we have civil marriage, we need equal civil partnership. I have spent a lot of time thinking about this, not least because my dad often married people in church and had to think carefully about whether that was the most appropriate thing to do. He had the right to refuse to marry people—it was a right that he exercised sparingly, but he did think about it. Back in those days, he thought that there were times when it was not appropriate for people have their ceremonies in church.

On the question of civil partnership, I am greatly indebted to friends of mine. I am thinking in particular of one person who at a very young age was party to a violent and traumatic marriage. She managed to escape from that and subsequently spent more than 30 years with another man whom she loved deeply, but the idea of entering into something called marriage was absolutely not right. That is no reflection on the value of their relationship, and for her, a civil partnership would have been highly appropriate. I am indebted to her for getting in touch with me last night. When I told her that we were going to be discussing this, she said, "Look, there is a point in this. People who talk about marriage frequently talk about it being a union of two people. I do not disagree with that at all, but for me, the fact we are talking about a civil partnership—a partnership of two people who are interdependent rather than dependent on each other—is extremely important". She, other friends of mine and others who are a part of the campaign for equal civil partnership have often talked about that point.

I too want to talk about this in the context of the role of religions. I have spent a lifetime observing and wandering around the religious sensibilities of other people. Through all the arguments we had about civil partnership and same-sex marriage, time and again opponents were quick to throw at us the accusation that somehow this was undermining marriage as it is understood by the religious bodies in this country.

No one ever recognised the fact that sometimes, a person falls in love with someone who is not of the faith into which they were born, and part of the process of managing their relationship with their family is that they do not get married. Until now, if those people are heterosexual, there has been no way to enter into a legal commitment with their partner while at the same time juggling sensitivities with their family. This is therefore an important step forward.

Later, we will hear from the noble Lord, Lord Lexden, why we should extend civil partnerships to people who are from the same family, because of the issue of tenancies and property. It is not news to him that I oppose that. I believe it is wholly wrong to take a body of legislation designed to apply to adults who, of their own volition, come together to form a family unit and apply it to relationships which are consanguineous and cannot be broken. I agree with him that there is an

[Baroness Barker]
anomaly in our fiscal law that needs to be sorted, but our fiscal law already makes allowances for children. Those who have children's best interests at heart should go down that route and desist from this campaign, founded and funded by evangelical Christians, to have a go at civil partnerships and same-sex marriage. We are talking about two completely different things.

I will leave it to my noble friend Lady Benjamin to talk—far more eloquently than I could—about the registration of pregnancies that cease before 24 weeks, but I believe that if we can show greater understanding and humanity to people who undergo that trauma, we should.

The noble Baroness, Lady Hodgson, is right that the involvement of coroners is a complicated subject, not least because we would not want to do anything to undermine in any way the duty of candour of obstetricians and gynaecologists in an extremely difficult area of medicine. I think I am right in saying that the largest proportion of liability claims against the NHS are to do with perinatal medicine and what happens during birth, which is one of the most complicated and dangerous areas of medicine. The noble Baroness is right to raise this subject but I do not think that we are quite there yet.

Unlike the noble Lord, Lord Collins of Highbury, and the noble Baroness, Lady Hodgson, I think that Clause 2 needs more work. Most people think there is a need for greater consultation but nobody wants to drag this out any longer, if possible. As when we were working on the original civil partnerships and same-sex marriage legislation, there are couples for whom the need to sort out their affairs is urgent. Nevertheless, more detail is needed.

Finally, I agree absolutely with the noble Lord, Lord Collins. I am pleased to say that in this country, we are still making progress in this area of social reform. It is absolutely wrong that the citizens of Northern Ireland remain set in some 1950s view of the world that no longer pertains to their lives, and it is absolutely wrong that some of our country's citizens do not enjoy the same status as the rest. I thank the noble Baroness, Lady Hodgson, and Tim Loughton for his persistence in moving forward on this issue. I hope that we can achieve consensus today and get this on to the statute book as soon as possible.

10.32 am

Baroness Anelay of St Johns (Con): My Lords, I too thank my noble friend Lady Hodgson for sponsoring the Bill in this House. I endorse her comments about the hard work carried out by my honourable friend Tim Loughton in another place.

I support all the provisions in the Bill but, in the interests of time, given that two Private Members' Bills are waiting in the wings, I will address my remarks only to the first part of the Bill, which enables the registration of the names of the mother of each party to a marriage or civil partnership. I congratulate the right reverend Prelate the Bishop of St Albans, who has worked hard, with good grace and patience, to bring forward this reform. Of course, he started by introducing his own, more narrowly focused, Registration of Marriage Bill last January. I spoke at its Second Reading in strong support of its objectives.

Since 1837, wedding certificates have featured simply the names and occupations of the spouses and the names and occupations of their fathers. Mothers' contribution to family life has been erased from history. Being a witness was the only thing they could do, which is what happened in my case: both my mother and my mother-in-law were witnesses. Now we have the chance to ensure that the details of the couple's mothers can be included on the online version. This would be the first major reform of how marriages are registered since 1837, early in Queen Victoria's reign. This is a Bill to put right what most people would be astonished to find is still the case in 2019. For some years, there has been a cross-party campaign to achieve this move towards equality in the registration of details on marriage. I am very pleased to see that remain; I hope that this cross-party work continues throughout the passage of the Bill.

Previously, it was argued that changing the paper certificates would be too expensive because there are around 84,000 open marriage registers around the country in more than 30,000 churches and religious buildings—plus the ones in register offices—and because, in compliance with existing legislation, physically they feature spaces for only the fathers' names. If the mothers' names were to be added, it was argued that new hard copy registers would need to be provided, at an estimated cost of £3 million. The Bill removes the requirement for paper marriage register books to be held in so many places, creating a digital marriage schedule. That should enable the schedule to be designed in a format that makes it possible to include the names of both parents of the couple.

When my noble friend the Minister responded in Committee on the right reverend Prelate's Bill to Amendment 12, moved by the noble Lord, Lord Faulkner of Worcester—who I see in his place—she said:

> "To clarify, by the names of the parents it will say 'Mother/Father/Parent' for both parents. That will apply to children of opposite-sex couples, same-sex couples and whatever we have to come".—[*Official Report*, 29/6/18; col. 345.]

For the avoidance of doubt and for clarification about the provisions of the Bill, I would be grateful if my noble friend the Minister could confirm that Clause 1(1) and 1(4)(a) make it not only possible, but certain, that her commitment in this House will be fulfilled. Can she confirm that it is her firm expectation that the Secretary of State and the Registrar-General will exercise their powers in a way that ensures that the "Mother/Father/Parent" option appears on the schedule, and that it remains possible for people to leave the section blank if they wish?

In Committee, my noble friend the Minister also said that,

> "the regulations are an early draft and further drafting is required … I will make further drafts of the regulations available in the Library in due course".—[*Official Report*, 29/6/18; col. 341.]

I am grateful to the Library of this House for providing me with a copy of those draft regulations and to the Home Office for providing the Library with an updated version last night so that I could see the latest version. Speed-reading through the regulations on my iPhone last night was quite tricky but, at first sight, they do not appear to refer specifically to "Mother/Father/Parent". Indeed, they seem simply to replicate the provisions of

Clause 1(1) and (4), which gives permissive powers to the Secretary of State and the Registrar-General to prescribe the content of a marriage schedule. It is important that we have a government commitment on the record today that those powers will be used, as I am sure my noble friend the Minister will be able to say quite easily, to enable the entry of the mother's name on the marriage record. I invite my noble friend to provide that assurance.

The road to this stage, where we have a Private Member's Bill that stands a good chance of getting on to the statute book, has been long and winding. Even where there is cross-party support, Private Members' Bills are the most fragile animals in Parliament. After Second Reading on 26 January last year, we made progress on the right reverend Prelate's Bill; it made its way down the Corridor to the House of Commons in late July, just as we rose for the Summer Recess. At the same time, my right honourable friend Dame Caroline Spelman, the Second Church Estates Commissioner, had introduced the mirror-image Registration of Marriage (No. 2) Bill—this gets more complicated, I promise—to the House of Commons on 14 November 2017 and was waiting for its Second Reading.

I congratulate my right honourable friend Dame Caroline for working so assiduously on this matter for several years. She made it clear that she was ready to assist her honourable friend Tim Loughton with his more complex—but I still say welcome—Bill, which last year had been successful in getting a date for Second Reading in the Commons. His Bill successfully completed its Commons scrutiny and is before us today. Dame Caroline offered to ensure that Mr Loughton's Bill contained provisions within it which achieved the same objective as that of her Bill and that of the right reverend Prelate. She was selfless in offering to put the reforms to the registration of marriage before her efforts on her own Bill.

As a result, in Committee on Mr Loughton's Bill in the Commons on 18 July last—that is my wedding anniversary so it was a good day for me—the marker clause in his Bill was replaced with the text from Clauses 1 and 2 of the right reverend Prelate's Bill—I promised noble Lords that this would be complicated—on 18 July at col. 6. Therefore, Clause 1 of the Bill before us today reflects the objective and most of the text of the Bill which was sent to the House of Commons last July. I am very grateful to the Government for their assistance in ensuring that the drafting of the right reverend Prelate's Bill has been amended to take account of the reports of the Delegated Powers and Regulatory Reform Committee and indeed some of the reservations expressed at Second Reading and in Committee on his Bill in this House.

Previous attempts to achieve this reform have failed at every hurdle along the way. This one has got over so many hurdles that it is my hope today that we can continue with cross-party support, leave the hurdles behind and get it into law by the end of this Session.

10.41 am

The Lord Bishop of St Albans: My Lords, I thank Tim Loughton MP and the noble Baroness, Lady Hodgson of Abinger, for bringing this Bill forward in the Chamber today. It is a complex Bill because it brings together a number of different issues and therefore the danger is that it could fall because a group of people does not like one particular bit of it. I know just how hard it has been working on just the focused registration of marriage part of it, let alone the other focuses. For that reason, I will resist the temptation to widen the debate beyond the scope of the Bill; for example, to explore the points made by the noble Lord, Lord Collins of Highbury. I do so because I want us to focus absolutely on what we are trying to deliver. That does not preclude us from having other debates on the points he has made but I do not believe that they are relevant today. Indeed, the danger is that it will confuse matters if we go beyond the scope of what we are trying to do.

As has already been spelled out, the proposals in Clause 1 reflect almost exactly my own Registration of Marriage Bill, which passed through this House with support from your Lordships. Perhaps I may say how grateful I am to the considerable number of people who were immensely helpful. It was only my second attempt to get a Private Member's Bill through. I am a complete novice at this and I discovered just how complex it is to move a Bill on. I was therefore delighted to have the huge help of so many Members of your Lordships' House. As has also been mentioned, we decided to do something which I am told is very unusual. We developed a pincer movement with Dame Caroline Spelman MP introducing a Private Member's Bill with almost exactly the same words in the other place, because we were so determined to move this very focused piece of legislation on and try to get it into law.

The Bill before us today originated in the other place but both the respective Bills have passed through one of the two Houses and both share a core belief that marriage registration needs to be updated and modernised. Clause 1 would correct a clear and historic injustice. When a couple is married and the marriage is registered, currently there is provision only for the fathers' names to be recorded. It is an archaic practice, unchanged since Victorian times, when children were seen as the father's property and little consideration was given to the role of the mother, in particular any sense of them having joint responsibility.

In England and Wales the law currently requires all marriages to be registered once they have taken place. Following the marriage ceremony, the person responsible for registering the marriage, such as a registrar or a member of the clergy of the Church of England, registers the marriage in a marriage register book and handwrites the marriage certificate. I have done that myself many times. Another aspect which features in both my Bill and this Bill is the modernisation of the system of marriage registration. For too long the system has been solely paper-based. Certificates are an exact copy of the register entry, with the prescribed particulars registered for marriages including details only of the fathers but not the mothers of the couple.

Leaving aside the obvious benefits of digitalisation, which is already available to couples in Scotland and Northern Ireland, there have been calls from both within and outside Parliament for the mother's details to be included in marriage registration. For my own

[The Lord Bishop of St Albans]
Bill, the Church consulted internally and won support from senior clergy across the Church. It has also worked for many years with the Home Office and the General Register Office on the finer points of its implementation.

Incidentally, I have been surprised by the unexpected support of groups of people who would not normally spend time engaging with the minutiae of parliamentary legislation. Genealogists, for example, have reacted with a huge sense of relief. I have received quite a number of letters from genealogists saying, "It is about time because it is so much harder to trace families back in this country where the mother's name is not recorded at this key point". Elsewhere, I have been glad to amplify the voices of feminists and women's groups on this important issue.

Last year we marked the centenary of women's suffrage, so surely it is time to bring the registration of marriage into the present age. I hope that we will all support the Bill.

10.45 am

Baroness Featherstone (LD): My Lords, I thank the noble Baroness, Lady Hodgson, and the honourable Tim Loughton MP for bringing this legislation forward. It is about time. I want to say simply to the right reverend Prelate who has just spoken that I find it unbelievable that there is or ever has been any hesitation about putting the mother's name on the certificate. However, I am often shocked by the way the world works.

I will address the part of the Bill which covers civil partnerships. I always say that my nephew was killed by the state. He died aged 35 in the contaminated blood scandal. He had a 10 month-old baby and had been with his partner Olga for 14 years. The financial problems which flowed from that were insupportable.

Noble Lords may or may not be aware that as a Minister in the coalition Government, I was the originator and architect of the same-sex marriage law. My story began right at the end of the journey to equal marriage rights and I stood on the shoulders of giants. The credit for the same-sex marriage law goes to them and to lifelong campaigners, some of them in this House. I mention my noble friend Lady Barker and the noble Lords, Lord Cashman, Lord Alli and Lord Collins, along with many others. But I could never have done what I did if it had not been for civil partnerships. We would not have same-sex marriage if the Labour Government under Tony Blair had not taken that tremendous step forward for equality. But at the end of the same-sex marriage journey, as has been mentioned, an inequality was left; that is, you can get married or enter into a civil partnership if you are gay, but you can only get married if you are straight. I want to take this opportunity to put on the record the history or story of straight civil partnerships. I am not talking out of school because this is all in the public domain in my book, *Equal Ever After*. It had to be approved by the Cabinet because if you have been a Minister you are not allowed to publish a book without its approval.

I cannot say how delighted I am that the Conservative Government are supporting this move. However, I am not surprised, because my Secretary of State was Theresa May and she was always in favour of straight civil partnerships. When I first got it into my head that we should introduce same-sex marriage, even though it was not in the party manifestos or the coalition agreement, I asked my civil servant how I could do this. He said that I had to write the words to be approved by my Secretary of State. She would then use those words to write to the Cabinet. That is how new policy is brought before the Government. The words I wrote were as follows:

> "During the consultation on civil partnerships in religious premises it has become clear that there is a genuine desire on the part of some to move forward to equal civil marriage and equal civil partnerships. The Government will work with those with a key interest in this to examine how we might move forward to legislation".

Theresa May approved my words and they passed the Cabinet write-round to create this new policy. Two Cabinet Members objected but they were overruled by David Cameron. Noble Lords may notice that the original wording did not include religious marriage, which did come to pass, but did include equal civil partnerships, which did not come to pass. How did that change happen? David Cameron supported same-sex marriage because he believed in marriage. As he said to *PinkNews* on 10 April 2010:

> "I told the Tory conference that commitment through marriage was equally valid whether between a man and a woman, a man and a man or a woman and a woman … I want to do everything I can to support commitment and I'm open to changing things further to guarantee equality".

When I read that, I thought he would not object to what I was doing. He was open to it and supported it, but was not so keen when it came to civil partnerships. No. 10's preference was to abolish civil partnerships altogether. The view from No. 10 was that marriage was the gold standard of relationships and that if gay couples gained the right to marry there was no longer any need for civil partnerships. There is a sort of—not very good—logic to that, unless like me and many others you believe it is not for the state to judge. Some people believe in marriage; some do not. It is the state's role not to judge which is better but to facilitate both equally.

Although Theresa was in favour and it had passed Cabinet write-round, there was continued and continual pressure from No. 10 to drop civil partnerships. I confess that my methodology to repel this push was to stomp around the Home Office declaiming that this defining equality policy of same-sex marriage was not only right but would go a long way to detoxifying the previously toxic reputation of the Conservative Party on LGBT rights. Did it really want to wreck its whole reincarnation and detoxification by scrapping civil partnership, such a hard fought-for and hard-won step on the equality ladder?

Conservatives had begun moving in the right direction, mostly supporting civil partnerships, and David Cameron had changed the atmosphere—but whether it was the upset in the Conservative associations at same-sex marriage or he simply did not believe in civil partnerships, I do not know. This came to a head a day or two before the 2011 Liberal Democrat autumn conference, at which I was to have the honour of announcing the new policy and the consultation that would be launched. It had been a year and a half getting to this point and I was so excited about finally going public. No. 10 special advisers and Nick Clegg's special advisers acting

for me were at loggerheads. They rang me to say that No. 10's position was basically that if I did not agree to drop straight civil partnerships, David Cameron would kill the whole thing dead and would not allow same-sex marriage to go ahead. I instructed our special advisers to fight back. But many hours and phone calls later, in the end No. 10's position was final: drop straight civil partnerships or same-sex marriage is dead in the water.

With a heavy heart, I made the decision that same-sex marriage was the big social change, the big equality step forward, and vital to get through in that Parliament. I was also 100% sure that straight civil partnerships would inevitably follow, as we would be left with the inequality of gay couples having the choice between marriage and civil partnerships but straight couples only able to marry. I insisted that a question on this remained in the consultation, and it did. In the consultation responses—the biggest response to a government consultation in history with around 289,000 responses, I think, but I may stand corrected—people overwhelmingly supported straight civil partnerships. Tim Loughton tabled an amendment during the same-sex legislation but it was kicked into the long grass for a review, as it was then regarded as potentially derailing or delaying the same-sex legislation—pretty much the same as happened with humanist weddings—but here it is today, exactly as I predicted. Thank goodness. If it had not come forward, I would have felt guilty for the rest of my life, but happily we have that opportunity today, so I am delighted to support this Bill and equality in marriage and civil partnerships at last.

10.53 am

Lord Hayward (Con): My Lords, I take the opportunity, as others have, to congratulate both Tim Loughton and my noble friend Lady Hodgson on the progress made on this Bill so far. I have given them an indication of the subject on which I want to speak, and it will come as no surprise to many people that it is Clause 2 and the question of same-sex marriage in Northern Ireland. I thank the noble Lord, Lord Collins, for his reference to my Private Member's Bill.

Before I move on to that, I am prompted by a comment made by the noble Baroness, Lady Barker, who referred to her father. We live in a much more liberal and open society than many years ago, and I thank all the different Governments and people who have campaigned on behalf of that. I once sat in the Strangers' Gallery in the Commons with the noble Lord, Lord Cashman, Ian McKellen and Boy George. It was reported in the papers that the four of us were there for a debate on the age of equality. That happened to out me to my parents, so I went back to my parents to discuss the subject with them. My father was completely relaxed about it. He said: "I don't mind what you do in your life, with one exception: please never get mentioned in the same sentence as Boy George again". We have moved on, and are now in a position where we can consider the whole question of same-sex and heterosexual equality in one form or another.

I am today wearing the tie of the Kings Cross Steelers, the world's first gay and inclusive rugby club. I hope not to wear it so often, because I have worn it on each occasion that I have spoken on same-sex marriage in Northern Ireland. Sooner or later, I want to make progress on this. I have pursued it in a number of different ways. As the noble Lord, Lord Collins, said, I have worked with the Member for St Helens in the other place, introducing exactly the same Bill. We have been told over and over again that it is a devolved matter. That is the answer that the Minister, Victoria Atkins, gave when the subject was debated in Committee in the other place. But we cannot go on waiting for ever. Sooner or later we have to say that, because there is no devolved Assembly, we now have the responsibility of changing the law in this place.

It is a common supposition that there is broad support in Northern Ireland for this but no support from the DUP, which blocked the legislation when there was a Northern Ireland Assembly. But I pay credit publicly now to members of the DUP for giving me assistance and advice since 27 March and throughout the last few months, helping and encouraging me to change the legislation in Northern Ireland. It is a real stain on our society that we are in a position where we can say that it is fine for everybody but the people of Northern Ireland. As a member of the Kings Cross Steelers, on a weekly basis I have to face friends of mine from Northern Ireland. Yet we say to those people that they can get married in this country but not in their own community.

When I spoke on this in the debate here in October, I mentioned that the previous week I had been present, very close to here, at a wedding that involved a friend of mine from Northern Ireland and his partner—but they could not have got married in Northern Ireland if they had wanted to. Surely that is an unacceptable position in this day and age and this society. We must find a way of making that change, whether in this Bill—I will raise it in Committee in more detail—or on another occasion in another place. We cannot go on saying to people that they can be equal in one part of the country but not another. It is utterly unacceptable.

It seems that it is our responsibility to say through legislation that it is a human right for everybody in every part of the country to share the same rights on marriage and relationships. As I have indicated previously, when this Bill gets into Committee I will therefore be pursuing the need to change the law as it relates to Northern Ireland. I wish it well, and I hope that, when it comes out, we will have changed the attitude of all those involved so that we can get a fair passage and a speedy change to one aspect of the legislation, about which I and many other people in this Chamber are seriously concerned.

10.59 am

Baroness Scott of Needham Market (LD): My Lords, I add my thanks to the noble Baroness for introducing the Bill today and to Tim Loughton for having the determination to steer it through the Commons. He is building on the work done by others, and I am particularly pleased to see the Bishop of St Albans in his place today after everything he did last year.

The civil registration service is one of the hidden administrative gems in this country. Every year, around 1 million births, deaths and marriages are recorded throughout the country. It happens routinely, without

[Baroness Scott of Needham Market]
drama, and provides the legal evidential base for our very existence, so its accuracy is key. Civil registration as we know it has remained largely unchanged since it was introduced in 1837. It is administered by registrars in local authorities as well as by the General Register Office in Southport. My noble friend Lady Featherstone asked how on earth we were at the point where women were not recorded on marriage certificates. The answer goes back to the fact that, when civil registration was introduced, it moved the system which was already in place for the recording of baptisms, marriages and burials. The prevailing thinking at the time was, frankly, that women did not matter all that much.

The keeping of church registers had been haphazard until 1538, when Thomas Cromwell ordered that every priest should keep a proper record of baptisms, marriages and burials. Later, they were required to be recorded on parchment and kept in secure parish chests. Copies were made regularly and sent to the bishop. The Rose's Act of 1812 standardised all this information on pre-printed forms, which included only the father's name and occupation on baptismal and marriage records. As I have said, civil registration imported that system. As to civil registration, copies of local events do not go to the bishop but go to superintendent registrars and then to the Registrar-General, who holds a repository.

This system is entirely paper-based. In an increasingly digital world, we have a totally paper system of civil registration. Each time these documents are copied, there is scope for error and the current arrangements are complex, as you can imagine, if you want to correct or change them for any reason. Basically, the system has served us well. However, it has not kept pace with technological and societal change. There is never any time for legislative change in civil registration—it never gets to the front of the queue—and yet it is where routine state administration touches some of our most personal experiences. It is therefore important.

I shall confine the remainder of my remarks to the registration of marriage. Noble Lords may have gathered that I am something of an enthusiast for this topic. This comes from my interest, which is shared by millions of people, in family history. As such, I tend to take a long view of these matters. One of the most vexing questions for serious researchers is the standard of proof to which you work. Therefore, adding details to the public record—and particularly the mother's maiden name and occupation to a marriage certificate or baptismal record—would be important extra pieces of validation for future generations of family historians.

It has even more significance because, when you really get into family history, other people often say to you, "How far back can you go?" It is an inane question and not what it is about. You are interested in what your ancestors were like and what they did. Yet we have written women out of the record, which is both morally repugnant and difficult from a research point of view. Genealogy tends to drift towards the male line because the name does not change. Therefore, anything that can help in your research into the female line is useful. To be frank, it is the only line with which you can have biological certainty. There are currently an estimated 2 million single-parent families, of whom 90% are women, and they are absent from the marriage records of their children. Given that, what on earth will future generations make of our attitude to women?

The Government have been moving to digital systems for some time now, and civil registration should not be an exception. We should regard this now as the beginning of a sort of digital parish chest. I hope the Government will give some thought to how we can also deal with registration of births and deaths—not, I hasten to add, in this Bill, but in the future. The Minister in the Commons reflected that there are estimated savings of £33.8 million from the measures in this Bill, and I wonder whether any work has been done to quantify what might be saved from digitising birth and death records.

Not only does the Bill do good things in a range of ways which reflect new attitudes towards the formation of families and the recognition of life events such as a stillbirth, but it also helps us to modernise and future-proof civil registration so that later Parliaments can deal with, for example, how to recognise those with two female or two male parents or no legally recognised father. It is a useful Bill in its contribution to all of these matters. I emphasise the point made by one or two other noble Lords that we must be mindful of the temptation to put too much into this Bill because what is really important is that it passes.

11.05 am

Lord Cashman (Lab): My Lords, it is a pleasure to speak in this debate and to recognise the exceptional work done by Tim Loughton, the cross-party work in the other place and the work done by the noble Baroness, Lady Hodgson, in introducing this important Bill. It is important because it strikes at my very heart—or, dare I say, raison d'être—which is equality and fairness. Equality and fairness define the society in which we live, especially minorities, who are so often misrepresented and defamed.

I am pleased that the noble Lord, Lord Hayward, whom I congratulate on the work he is doing on the Northern Ireland same-sex marriage Bill, reminded me of 1994 when we sat in the Gallery for the age of consent debate. I had forgotten that I was sitting with Boy George, but I remembered that I was sitting with the noble Lord. His father said to him that he did not mind what he did, but he did not want to see him in public again with Boy George. When I led the campaign against Section 28 and I was featured on the evening news, my father, an old docker, said to my mother, "I don't mind him being gay, but does he have to go on the news about it?" How times have changed. They have changed because people have had the courage to leap forward where others have hesitated, to give a voice to the voiceless and to recognise those who might otherwise remain invisible in our society.

This is a simple Bill. It addresses inequalities and unfairness. I welcome Clause 3, but we need to proceed carefully. As the noble Baroness, Lady Hodgson, said, to lose a child is calamitous to a parent. Therefore, in considering whether there needs to be registration below the threshold of 24 weeks, I suggest that this should be a discretionary rather than a mandatory process, because it may ask some parents to face something which is too difficult.

On Clause 2 and the resistance of the Minister in the other place to accept a time limitation to bring forward these measures, I urge the noble Baroness, Lady Hodgson, and Tim Loughton, when the Bill finally resurfaces, to stick to this timetable. I am desperately worried—this is no reflection on the brilliant civil servants that we have—about capacity in our departments. I am particularly worried at this moment about capacity in the Home Office, dealing as it has to with the repercussions of Brexit or possibly no Brexit. An example, which I offer the House as a warning, is that, during the passage of the Policing and Crime Act in January 2017, I introduced an amendment, which the Government accepted, to widen the pardons and disregards to include the criminal records of homosexual and bisexual men who were convicted of actions that are no longer crimes. More than two years down the line, nothing has been delivered. In August 2018, a letter from the then Minister stated that work was under way. Here we are, six months later, and still no work has been done. I know the Minister the noble Baroness, Lady Williams of Trafford, is committed to this, but we do not want commitments; we need delivery. So it is vital that we stick to this.

I equally have to associate myself with the eloquent and powerful contribution of my noble friend Lord Collins of Highbury on unfinished business. In 2006, something happened that I never believed would happen in my lifetime. I stood with Paul Cottingham as we undertook a civil partnership. At that time, I had shared 23 years with him. The ability to commit yourself in public to someone you love is indescribable. Some people wish to do that in a church because of their faith and belief. It is shameful that a church that professes love excludes such people who wish to practise their love and commitment within their faith. We should allow all churches to celebrate and solemnise—all faiths and none. We must move forward.

In view of the time, I wish to move on very swiftly. Civil partnerships and marriages—relationships—are the building blocks of our society. I have never really understood why people want to build civilised, strong societies and to deny commitment. Some heterosexual couples do not believe in the institution of marriage, and therefore including them in the right to civil partnership is vital. I urge the Government not to go down the easy route of transferring civil partnerships into marriage or of dissolving partnerships and passing them into marriage. That would be wholly wrong.

I offer my two final points to the Government, who may not wish to come back with an immediate reply because of the sensitivity and misrepresentation on the issue. We have had a consultation on the Gender Recognition Act. I wonder whether the Government might wish to look at the approach undertaken by the New Zealand Government where changing one's sexual identity, one's gender, can be addressed by seeking a change in the birth registration. That is one route that the Government might wish to look at. They should certainly look at the New Zealand experience.

Finally, I wish to thank—not finally; politicians use that word far too often when we actually mean we are thinking—the noble Baroness, Lady Featherstone, for the generous and open way she has always worked on equality issues and for the ground-breaking and courageous work she undertook in making same-sex marriage a reality.

I said finally, but this is finally. We cannot go on denying people in Northern Ireland, a part of the United Kingdom that we vociferously defend as part of our union, the same rights as are afforded in the rest of the United Kingdom. I congratulate the noble Baroness, Lady Hodgson, and I look forward to working with her.

11.13 am

Baroness Benjamin (LD): My Lords, I, too, thank the noble Baroness, Lady Hodgson, for bringing this Bill to the House. I want to speak on Clause 3 of this important and brave Bill and on the traumatic and devastating issue of baby loss, which sadly affects around one in four pregnancies each year across the UK, resulting in around 258,000 losses. It is estimated that around 38 million baby losses occur globally each year. I am one of those statistics, as I have experienced three miscarriages, and I am sure most women in this Chamber have also experienced a miscarriage or know of someone who has. It is heartbreaking. As in my miscarriages, the majority of people who experience baby loss do so during the first 24 weeks of pregnancy, yet sadly these individuals, couples and families have no formal recognition of their child's life, as current legislation provides certification and registration only for loss that occurs after 24 weeks' gestation.

Thirty-five years ago, I tried to raise this issue by attempting to get a television programme commissioned to highlight the issue, but at the time it was a taboo subject, and the programme was not made. For years, women and their partners have suffered in silence. I am thankful that six years ago the significant and important issues surrounding baby loss were highlighted globally by Zoe and Andy Clark-Coates, the founders of the Mariposa Trust, better known as the charity Saying Goodbye. I declare an interest as one of its ambassadors. They have worked tirelessly to provide crucial support to parents, siblings, grandparents, extended families and friends affected by this type of bereavement. They provide international services of remembrance that allow tens of thousands of families to have their babies publicly acknowledged for the first time. They also provide training to raise the standard of care given to those devastated people and campaign for improvements in how bereaved parents are cared for and supported by the NHS and beyond.

Zoe and Andy formed the charity because of their five-times personal tragedy of baby loss. Those experiences showed them the desperate need for parents to receive better support. They knew that improvements in the care people received at the time of loss, as well as access to information and advice, were essential, so the charity has developed key resources, provided free of charge, that are widely used across the NHS and support groups. They have also pioneered the use of social media to support people effectively. Two years ago, when I heard Zoe's inspirational call for a new baby loss certificate, I pledged to work with her to make it a reality, so I introduced a Private Member's Bill, the Certificate of Loss Bill, in the hope of giving

[Baroness Benjamin]
grieving parents the opportunity, for the first time, to receive a document that would show that their child existed.

It is with this in mind that I want to speak today, given the progress of the Civil Partnerships, Marriages and Deaths (Registration Etc.) Bill introduced by the honourable Tim Loughton MP in the other place. To give some history about where we are, in February 2018, the right honourable Jeremy Hunt MP, the then Secretary of State for Health and Social Care, announced that he wanted to launch a review into the introduction of certificates for babies lost prior to 24 weeks' gestation. This coincided with the Second Reading of Tim Loughton's Bill, which in Clause 3 asks for a review of the registration of baby loss. In March 2018, the Secretary of State appointed Zoe Clark-Coates to co-chair the review, utilising her expertise as a leader in the field of grief and baby loss, as an author on the subject and as a mother who has experienced baby loss.

Following the announcement of the review, the Secretary of State expanded it to include a review of all care relating to baby loss. Over the past 10 months, the national pregnancy loss review has been conducted by Zoe and her co-chair Samantha Collinge, a specialist bereavement support manager at the University Hospitals Coventry and Warwickshire NHS Trust. They have gone to extraordinary lengths to investigate how parents are cared for and supported following the loss of their babies and whether certification should be introduced. They have visited numerous hospitals to speak to front-line NHS nurses, doctors and midwives, conducted forums with bereaved parents around the country and engaged with stakeholders and religious and minority groups, as well as local and national charities, parliamentarians and other experts in the field. They have seen passionate and hard-working midwives, doctors and medical professionals going to extreme lengths to care for people, witnessed both good and bad practice, heard horrific stories of care going wrong and seen the shortfalls in the current provision of care. They are currently finalising their recommendations, which will be published this year.

This review is the start of what should be a major overhaul of how bereaved parents are cared for following loss. The introduction of certification would be a significant move towards providing parents with formal recognition that their child existed, which is what everyone universally is calling for. I have made this recommendation to the right honourable Matt Hancock, the current Secretary of State for Health and Social Care, who, along with others, I hope shares my belief that the findings of this review need to be actioned and not just left on a shelf to gather dust.

I fully support introducing registration and certification for losses that occur before 24 weeks' gestation where the following conditions are met: that the scheme is voluntary and there is no legal requirement for a parent of the child to register the loss; that all loss pre-24 weeks is eligible for registration; that medical verification is optional; and that retrospective registration and certification is available for all future and past pre-24-week losses, which will help people on their bereavement journey.

It has become clear that medical verification might not be available for the registration of all cases of pre-24-week loss. Those experiencing early loss might never have been seen by medical professionals, and early first-trimester loss might have been managed at home outside the medical environment. Therefore, I support the recommendation that medical verification should be optional and that, if no verification is available, that should not prevent parents registering their loss. This would allow the greatest flexibility for applicants and would support retrospective registration where medical verification might no longer be available.

I believe that registration and certification should be as inclusive and generous as possible, and that therefore all loss pre-24 weeks should be eligible for registration should the parents choose to do so, as this offers true compassion. In the spirit of this generosity, retrospective registration should also be available. It is clear from various sampling conducted by the Mariposa Trust and other organisations that there is a high demand for this. In a survey conducted by the trust in January 2017, of the 2,634 responders, 82.4% stated that a certificate being issued to them would have made a real difference and 88.4% stated that the issue was very important to them.

I believe that we are at a crossroads. We could continue to give sub-standard support and not formally recognise these losses for what they are—the death of a baby—or we could acknowledge the long-term negative effects of baby loss, such as trauma, relationship breakdown, and physical and mental health issues, including post-traumatic stress disorder, and do everything we can to address them. I believe that we should embrace the national pregnancy loss review findings and support the implementation of its recommendations to improve care across the NHS, as well as implement certification. I also believe that the current chairs of the review should be engaged to oversee the implementation and outworking across the NHS and beyond. They have the expertise and experience to do so with dedication, compassion and commitment. Clause 3 lays a foundation for certification to be introduced, so I strongly believe that it should be supported on its journey through the House of Lords.

In conclusion, to focus our minds on the importance of this issue and the devastating effect of baby loss, in the time I have taken to speak in this debate today, around five families in the UK and 650 families around the world will have lost a baby.

11.23 am

Lord Lexden (Con): My Lords, this is undoubtedly an important piece of legislation, and we are indebted to my noble friend Lady Hodgson of Abinger for explaining its various aims and purposes to us with her customary clarity. A tribute has rightly been paid to the Bill's progenitor, Mr Loughton, who so skilfully secured its passage through the Commons, showing tenacity and resolve during the considerable period in which it was under discussion.

I must thank the noble Baroness, Lady Barker, for her trailer. We are, sadly, at odds over the main point that I will be addressing—the position of sibling couples—but we are not at odds over everything. I am at one with her and with the noble Lords, Lord Collins

and Lord Cashman, and my noble friend Lord Hayward about the extension of same-sex marriage to Northern Ireland. I have endorsed its extension on a number of occasions in this House over the last few years. As a unionist, I feel very strongly that a common core of human rights should be applicable in all parts of our country. Indeed, the noble Lord, Lord Cashman, and I were on the point of commissioning from a mutual friend of ours, a great expert at York University, a short Private Member's Bill when Mr McGinn MP and my noble friend Lord Hayward came forward with their Bill, which I very much look forward to supporting at every conceivable opportunity.

As regards this Bill, I shall confine my remarks to Clause 2, which would permit opposite-sex couples to enter into civil partnerships instead of marriages, if that is their wish. A long campaign has been conducted to achieve this major change. All those who have participated in the campaign, and the many opposite-sex couples who look forward to entering into the kind of legal relationship that they want for themselves, will rejoice at the further progress that the Bill is making today. I look forward particularly to hearing the Government's position.

A consultation exercise on the extension of civil partnerships is to be held this year, as my noble friend Lady Williams of Trafford confirmed in a Written Answer to me recently. No doubt she will give details of when the exercise will start and finish, and tell us what will happen after it has been concluded, when she comes to reply to this debate. We need to be clear too about whether the Government intend to keep to their original commitment to hold a full public consultation. That is what is needed so that all those who would like to become entitled to civil partnerships can make representations and have their claims assessed, but perhaps the Government have now backtracked and propose to confine the consultation to the legal technicalities of bringing opposite-sex couples within the scope of civil partnerships. I look forward to hearing the details.

I have a simple question to pose in this debate. Now that the extension of civil partnerships beyond same-sex couples has been accepted in principle, have all the appropriate additional criteria for eligibility been included in this important Bill before us today?

For my part, I have for years backed wholeheartedly the widespread view that, by one means or another, eligibility should be extended further so that sibling couples, committed to one another in secure, platonic, long-term cohabiting partnerships, symbolised by the home they have created together, can come within its scope. It is a view that first found strong backing in this House in 2004, when an amendment to include cohabiting family members in what became the Civil Partnership Act was passed, but the Labour majority in the Commons declined to accept it. A clear majority of Conservatives were in favour—something that should be remembered today.

Since 2004, support for the legal recognition of sibling couples has always been present in both Houses. It was expressed most conspicuously on 20 July last year, when my Civil Partnership Act 2004 (Amendment) (Sibling Couples) Bill was given an unopposed Second Reading in this House. The detailed arguments in favour of it were powerfully reinforced by speeches from the Cross Benches, as well as from elsewhere.

A very important point was made from the Cross Benches in that debate by the noble Baroness, Lady Deech, who has been tireless over the years in seeking to extend the rights provided by civil partnerships to cohabiting family members. Referring to the Supreme Court ruling which gave this Bill added urgency, she said:

> "If civil partnerships are to be extended to heterosexual couples by virtue of … Article 14",
>
> of the European Convention on Human Rights,
>
> "the same must be true of sibling couples".—[*Official Report*, 20/7/18; col. 1404.]

Two of the House's leading lawyers, the noble and learned Lord, Lord Mackay of Clashfern, and the noble Lord, Lord Pannick, who could not be present for the debate in July, made clear their full support for the Bill. My Bill would authorise civil partnerships between siblings over 30 years of age who have cohabited in shared property for at least 12 years. It awaits a Committee stage, which it deserves but will not get because the Government will not provide time for it.

The Bill before us today highlights once again the injustice suffered for so long by sibling couples who have decided to make their lives together in homes that are their proud, shared possessions, filled with the memories of two platonically entwined lives. That is the inevitable consequence of extending legal rights to some couples in the form that they want them, while ignoring the just claims of other couples who are so badly in need of them, and in exactly the same form, to protect their common interests.

A crucial point arises here. Civil partnerships were introduced for the express purpose of conferring legal rights on couples who were ineligible to marry. Now the plan is to extend them to all those who possess the right to marry while denying them only to couples who cannot marry. It does not make sense. No one even attempts to argue that denying all legal rights to cohabiting siblings is defensible; yet whenever the issue comes up, government Ministers and other short-sighted politicians everywhere say that this is not the time, the place or the right piece of legislation to address it. This must stop. It is hard to think of anything better suited to dealing with this issue than a Bill to change the nature and purpose of civil partnerships by extending them beyond those for whom they were originally intended.

Let us not mince words about a supposedly overwhelming obstacle to using civil partnerships to bring justice to sibling couples. Delicately and coyly, we are told that civil partnerships are for only those in intimate relationships. Others, like sibling couples, who are living chaste lives together, cannot have a civil partnership. There must be sex. This is a complete canard. There is nothing in the 2004 Act which makes sex a prerequisite. Church of England clergy are allowed to form civil partnerships on the understanding that the couple will go separately to bed.

It is difficult to forgive the indifference shown by a Conservative Government to sibling couples. Their values are Tory values, and the Government should

[LORD LEXDEN]
not be perpetuating discrimination against them. They should be celebrating and applauding the contribution made by devoted cohabiting partners to the well-being of society. Cohabiting partners save the state the cost of social care: they release housing by setting up home together and often look after elderly relatives and children.

Undertaking such responsibilities and providing unbroken mutual support entitles them to the legal rights of civil partners, particularly joint tax allowances, joint pension rights and the deferral of inheritance tax. Many sibling couples have been in touch with me. All are worried, many in despair, about the probable loss of a joint home when the first sibling dies, because of the real risk that the survivor will have to sell up to raise the means to meet an inheritance tax bill—and at a time of deep personal distress. I referred earlier to the constant support given by the noble Baroness, Lady Deech, to the claims of sibling couples. On several occasions, she has been told that deferral of inheritance tax until after the second death must be for only those who have made a legal, binding commitment to each other in the form of a marriage or a civil partnership.

Sibling couples are shut out from civil partnerships because of official insistence that there must be an intimate couple relationship—in other words, sex—for which there is no legal requirement at all. Has discrimination ever been more blatant? The former Attorney-General, Dominic Grieve, whose words I have quoted before, has expressed perfectly the reasons why change must be made:

"The basis for creating civil partnerships is the recognition by government of the value of close, mutually supportive relationships outside traditional marriage. As such the exclusion of cohabiting blood relations from the right to form one is discriminatory and a serious mistake that needs to be corrected".

I come back to the question of whether this Bill does all that is needed to extend eligibility for civil partnerships. It does not remove the discrimination suffered by sibling couples. The law on civil partnerships will not be in a truly satisfactory state until sibling couples are brought within it.

11.34 am

Baroness Brinton (LD): My Lords, I too thank the noble Baroness, Lady Hodgson, and Tim Loughton for bringing forward this Bill. It covers a large number of areas. I will begin with pregnancy loss, an area that I wish to talk personally about, and then cover the others. I start by thanking my noble friend Lady Benjamin for her very moving speech. I also thank the Mariposa Trust, the Miscarriage Association and Sands, the stillbirth and neonatal charity, for all the work they do with parents who face baby loss.

My eldest child would have been 41 this year. I remember, in my early 20s, having a miscarriage in a public toilet in a castle in the highlands of Scotland. When I finally got to see a doctor two days later, the only response was, "Oh, well you've had an abortion". What they meant was a spontaneous abortion, but, for any woman who suffers miscarriage or baby loss, the inconsiderate use of terminology by medics can be very traumatic. It was unfortunately not my first miscarriage; like my noble friend Lady Benjamin, I had recurrent miscarriages. I will come on to why the registration is important for reasons other than the care of parents and the recognition of the loss of a baby.

There is an issue for me with Clause 3(2), and the definition of pregnancy loss as,

"when a person's pregnancy ends and, after being parted from the person".

I will explain. My fifth miscarriage came when I was carrying twins, in my middle trimester. I was seen by a doctor because, by then, everybody knew that I had trouble having babies. I was seen and scanned and, after two weeks, the sonographer said that there was a problem. I was extremely lucky that my consultant, the wonderful Lesley Regan, decided to come and have a look herself. Had she not done so, we would not have known that I had another twin sitting behind the first baby who had died. Lesley said to me, "She is waving for attention; we need to do something about this". I then spent two and a half months on my bed, unable to move. Slowly, as we became confident that I had retained my other baby, I was able to start my life again. Yet under the terms of this clause, I did not lose the twin who had died until I gave birth to my other daughter, and it would have been classed as a stillbirth. That was not the case. I fear—in fact I know, because I have talked to other parents who have lost one of their twins—that this is a real issue around how you manage what has happened. I am concerned that the definition here is too strict; it may miss cases out and may not be helpful.

Interventions nowadays mean that parents know when they are pregnant much earlier than those of us in my generation did. Scans are available from eight or nine weeks or, if you have had problems, as soon as your pregnancy is confirmed. That is why the relationship that mothers, fathers and other family members have with the baby pre-birth is completely different. The arbitrary figure of 24 weeks for the definition of stillbirth and the recognition of baby loss is a real problem. I know this as the grandmother of twins who were born at 29 weeks; throughout the pregnancy, there were warnings that one or possibly both would not make it. Therefore, while I accept the point made by the noble Lord, Lord Cashman, that the matter of whether registration is chosen should be discretionary, the discretion must always remain with the parents. It is vital that that happens.

I have one extra concern. Lesley Regan came to believe that there were causes for multiple miscarriages. My cause—which we did not know at the time because nobody then understood it—was autoimmune disease. I am now on my fifth autoimmune disease, and recurrent miscarriage was one of them. I am sure there are other illnesses that are not obvious which cause miscarriage and baby loss. The point of registration is that there is then a burden upon the medics to track miscarriages and at what point they have happened.

I mentioned the slightly cavalier treatment that I had after my first miscarriage because I am afraid that it still happens today. There are still doctors who pat women on the leg, as I was, and say, "Get up and get

on with your life; you will be able to have another baby". Actually, there may be an underlying cause that needs to be looked at.

On stillbirth, I completely accept my noble friend Lady Barker's important point about the duty of candour for obstetricians and gynaecologists, but, frankly, we have had too many scandals where departments have not looked after mothers and babies and there have been baby losses. The helpful part of having a coroner is to identify bad practice and bad processes where a body outside the NHS needs to be able to identify it.

On marriage registration, I was delighted to hear my noble friend Lady Scott taking us back in history, because it is important to understand why our paper systems exist—and it would not be the House of Lords if we did not go back to 1538 and Cromwell and his parchments. However, we need to change the technology, and I am grateful to my noble friends Lady Scott and Lady Barker for pointing this out.

I also agree strongly with the noble Lords, Lord Cashman, Lord Collins, Lord Lexden and Lord Hayward, and my noble friend Lady Barker that the issue in Northern Ireland is totally unacceptable and needs to be dealt with.

My noble friend Lady Featherstone put on record the story of why civil partnerships were not made accessible to heterosexual couples. The couple who were determined to make this happen, Charles Keidan and Rebecca Steinfeld, went everywhere that they could to campaign, including to the courts and to the Supreme Court for a judgment in 2018. They and more than 3 million unmarried opposite-sex couples now have the opportunity for their relationship, which is profound, deep and interdependent, to exist in law at the level that they want it to. I commend their campaign and those who worked with them to make that happen. I wonder if that is where we need to go with the Northern Ireland issue; it may take going through the courts to resolve it.

Further on the reform of civil partnerships, I have now been to a number of weddings confirming civil partnerships, and they are the most moving arrangements that I have ever seen; my noble friend Lady Scott was right to describe them as a hidden gem. I put on record my thanks to all the celebrants of those occasions, both formal registrars and those who have trained to carry out these moving ceremonies, which 100 years ago we would never have thought of as possible in our society.

As others have done, I want to say that there are some minor points here that I hope the Minister has heard and which we might be able to deal with, whether by amendment or by the Government accepting them. The most important thing is that the Bill progresses, and smoothly, because we need it in law. It would help a lot of people and make them happy, but it would also help those who are deeply unhappy to recognise and come to terms with the loss of their children.

11.43 am

Baroness Thornton (Lab): My Lords, I am pleased and honoured to support the noble Baroness's Bill from these Benches. I congratulate her and Tim Loughton on getting us to this point. I know, having done these things myself, that this is not easy but complex, and I offer the noble Baroness my support and help if she needs it throughout the passage of the Bill. I have enormously enjoyed this debate and the contributions from all noble Lords, particularly those from my noble friends Lord Cashman and Lord Collins and the noble Baroness, Lady Barker.

The Bill has six clauses and would do four things: it would facilitate the move from a paper-based system of marriage registration to a partially electronic system, allowing several connected changes about how marriages are registered, including the presence of mothers, for the first time; it would grant opposite-sex couples the right to form civil partnerships; and it would require the Government to publish reports on whether the law should be changed to allow the registration of pregnancy losses that occur before 24 weeks' gestation, and on whether coroners should be allowed or required to investigate stillbirths.

Clause 1 would give the Secretary of State the power to make regulations enabling changes to be made to the Marriage Act 1949, providing a new system of marriage registration in England and Wales. Various terms have been used throughout the passage of the Bill: "antiquated patriarchal anomaly" is one that I noted from the Commons debates, while "modernise and future-proof" has been said by one noble Baroness today. I do not think I can add to the excellent remarks made by the noble Baronesses, Lady Hodgson and Lady Anelay, and the right reverend Prelate. These changes are long overdue and very welcome, and they have our support.

Clause 2 would require the Secretary of State to make regulations granting opposite-sex couples the same right to enter into a civil partnership as same-sex couples. However, it would not change the other eligibility criteria set out in Section 3(1) of the Civil Partnership Act 2004, meaning that it would not be available to those already in civil partnerships, lawfully married under 16 or within prohibited degrees of relationship—for example, siblings and adopted children. I do not think I need to add anything to the comments made by the noble Baroness, Lady Barker, about the passion that the noble Lord, Lord Lexden, has about that particular issue, and I know that we will return to it again.

Why is that important? Several noble Lords have said this, and I congratulate the Equal Civil Partnerships organisation for the campaign that it has run on the issue of allowing civil partnerships for opposite-sex couples: it is fair, it is popular and it protects children and their families because, contrary to popular belief, there is actually no such thing as common-law marriage in UK law, as a result of which, when an unmarried parent dies or a couple separate, there is no legal entitlement for assets or wealth to be shared or for automatic tax relief, as there is for married couples or same-sex partners. That can and does cause huge distress to parents and children. I agree that the state has a responsibility to ensure that children and their partners are protected, and providing this option would make that easier. Children should not be placed at risk just because their parents are not married.

[Baroness Thornton]

That being said, I wish to return to one or two of the issues that my noble friend Lord Collins regarded as unfinished business. The right reverend Prelate might not want to address these issues today, and I completely understand why he would not, but I have to say that the Church of England cannot keep turning away from the inequalities that still exist. I think it was Tim Loughton who said that the proposal before the Commons would allow registration to be adapted so that mothers' details could be included in the marriage entry, and he described that as,

"the biggest reform of how marriages are registered since 1837".—[*Official Report*, Commons, Civil Partnerships, Marriages and Deaths (Registration Etc.) Bill Committee, 2/2/18; col. 1123.]

I congratulate him and the other MPs, Peers and officials who have brought us to this point, because it is about change in the name of equality. It is on this point that I wish to quiz the Minister.

On 22 November last year my noble friend Lord Harrison asked Her Majesty's Government what plans they had to enable humanist wedding ceremonies. The Minister at the time, the noble Baroness, Lady Vere of Norbiton, said:

"My Lords, marriage is a complex area of law that needs systematic review to enable any reform proposals to be delivered fairly and consistently. We are working with the Law Commission to draw up terms of reference for the wider review of the law on marriage ceremonies … The Government welcome the report of the All-Party Parliamentary Humanist Group … and are carefully considering its findings".—[*Official Report*, 22/11/18; col. 321.]

That, as we know, is government-speak for kicking something into the long grass. It is five years since Parliament said, during the course of the equal marriage Act, that humanist weddings should be made official and should take place, as they do now in Scotland and Northern Ireland but still not in England and Wales. I believe that the Government have bowed to lobbying and pressure from council registrars, who have a vested pecuniary interest, and the Church of England to deny thousands of people the choice of a humanist wedding—including, it has to be said, my own children. This is unequal and unfair, and if I could find some way to amend this Bill to this effect, I would surely do so, but I have promised the Minister that I will help her get it through. However, I make my protest. It shows that when the Government are actually minded to effect fundamental changes in the area of marriage and relationships, they can do so without so-called complexities. I would like the Minister's view on this matter: is this complex or not? Are the Government minded to resolve it?

Turning to Clauses 3 and 4, the noble Baronesses, Lady Benjamin and Lady Brinton, spoke with great passion and explained why these clauses are essential. At present, the law means that coroners are not able to investigate stillbirths. I believe they should be given that power. I welcome the fact that the Government wish to engage with the public on proposals on this matter and support a review being conducted. I also welcome the Government's ambition to halve the rate of stillbirths, neonatal deaths, maternal deaths and brain injuries that occur during or soon after birth by 2025. Of course, we would all support that. I was profoundly moved by the remarks made by my honourable friend Sharon Hodgson in the Commons during the passage of this Bill. She experienced the heartbreak of losing a baby pre-24 weeks and was distressed to find that she and her husband were unable to register the birth or death because the baby had been born a few days before the 24-week gestation threshold. I welcome that the Department of Health and Social Care's advisory panel is carrying out this review.

In conclusion, I reassure the Minister that on these Benches, we will give her every assistance to put this important reform on the statute book. I think one noble Lord said that Private Members' Bills were delicate things, but they are also an important opportunity to raise issues. The Government always say that if a Bill is amended, that will kill it. However, in my experience, that is not always the case. In fact, I understand that this Bill has already been amended quite fundamentally in the Commons, and it has got here; the Government also intend to amend it further in this House. While we certainly would not wish to jeopardise the Bill, I do not think we should dismiss the idea of changing or improving it. With those remarks, I wish the Bill well and thank the noble Baroness for bringing it to our attention.

11.52 am

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, I start by thanking my noble friend Lady Hodgson for bringing her first Private Member's Bill forward so eloquently. It includes many important issues that the Government fully support.

Clause 1 seeks to bring forward changes to the way marriages are registered in the future. Under present legislation, the marriage register entry provides space for the name of the father of each person in the couple to be recorded, but of course not that of the mother and this, unbelievably, has been the case since 1837. As my noble friend said, this topic was the subject of a debate in this House last year—I was the Minister who responded to it—when the right reverend Prelate the Bishop of St Albans brought forward a Bill containing identical marriage provisions. I would also like to acknowledge the long-standing work of my right honourable friend Dame Caroline Spelman, who has been tireless in her efforts to address this anomaly and introduced identical private provisions on more than one occasion in another place to ensure that the marriage certificate reflects the important role of both parents.

Moving to a schedule system is the most efficient and economical way to introduce these changes and bring forward the biggest reform of how marriages are registered since 1837, moving away from the outdated legislation currently in place. It would remove the requirement for paper registers, currently held in over 30,000 register offices and religious buildings, to registration in an electronic register. The noble Baroness, Lady Scott of Needham Market, asked about the savings that would be incurred. I suspect there would be an initial cost, but ultimately, the digitised system would probably bring savings. The basis of a schedule system is that the couple and their witnesses sign a marriage schedule instead of signing the marriage register book. It is worth mentioning here that couples

will still be able to have that all-important traditional photo, but instead of signing the marriage register book, they will sign the marriage schedule with their witnesses. My noble friend Lady Anelay rightly asked me to confirm the ministerial commitment to the "Mother/Father/Parent" intention, and I can confirm that when the content is prescribed by the Registrar-General in secondary legislation, it will allow for the different family circumstances in society today. I think noble Lords would agree that this future-proofs any other changes that might occur as society changes.

The noble Lord, Lord Cashman, asked about lessons from New Zealand on the GRA, acknowledging that the GRA is not a subject for discussion here. We have been looking at Google to see exactly what the situation in New Zealand is like, compared to what it might look like here. I will take that away; his advice is always so welcome. I slightly hang my head in shame to think that it was two and a half years ago that we worked on the other Bill together and some of the changes to it that we both so much want to see have not been made. I want to place that on the record.

A number of noble Lords, including the noble Lord, Lord Collins, and the noble Baroness, Lady Thornton, talked about humanist marriages. Of course, Clause 1 affects only how marriages are registered; it does not enable wider changes to who can marry or where marriages can take place. The Marriage Act 1949 provides for a premises-based marriage system, as noble Lords will know. The Government consider that legislating in this way would create an anomaly for most couples, who cannot marry outdoors and are restricted to marrying in a register office, or approved premises such as hotels. That is all I will say about humanist marriages for the moment. I know the noble Baroness, Lady Thornton, made the point that Private Members' Bills can be amended, but I think the less a Bill is amended, the more likely it is to secure a passage. I think all noble Lords would agree that all the provisions of the Bill should be taken forward.

Turning to Clause 2, the House will be aware that the introduction of same-sex marriage in 2013 resulted in a situation by which same-sex couples could choose between a marriage or a civil partnership, but opposite-sex couples had only the option of marriage to formalise their relationships. Since then, the Government have carefully considered how to ensure equality of access to civil partnerships for same-sex and opposite-sex couples, and on 2 October, the Prime Minister announced that the Government would extend civil partnerships to opposite-sex couples. I am pleased to say that this firmly remains the intention of the Government, and we look forward to opposite-sex couples being able to form civil partnerships as soon as possible.

As my noble friend stated, while we highly value marriage, we know that for many reasons this is not an arrangement which suits everyone. Many opposite-sex couples have told us that they feel very strongly that marriage is not for them, but they would very much like a civil partnership to formalise their relationship. There are around 3.3 million cohabiting couples in the UK, almost half of them with children and all without the protections and security that a formalised relationship can bring. Extending civil partnerships will ensure that opposite-sex couples will be able to benefit from the protections and security that a civil partnership provides. The Bill gives us the opportunity to carry forward this objective of the delivery of a comprehensive and effective opposite-sex civil partnerships regime at the earliest possible opportunity. I am very optimistic that the Bill may provide scope as a vehicle for extending civil partnerships to opposite-sex couples.

Following its amendment at Third Reading in the other place, Clause 2 now seeks to create a power intended to enable the Government to legislate to equalise access to civil partnership between same-sex couples and other couples in their future ability, or otherwise, to form a civil partnership. The clause also contains a duty on the Government to make the necessary regulations within six months of the Bill reaching Royal Assent, and attempts to define what is meant by "other couples".

As highlighted by the Minister of State for Immigration at Third Reading, the Government have doubts about the clause's ability in its current form to deliver an effective and comprehensive opposite-sex civil partnership regime in the time it provides for. In particular, we have some concerns about the lack of detail in the regulation-making power as drafted. We are pleased to be working closely with my noble friend and the Bill's sponsor in the other place, Tim Loughton, to draft a new amendment to the Bill, which we hope to lay before the House in Committee. This will hopefully address the concerns about the current shape of the clause and ensure that the Bill can deliver a comprehensive and robust opposite-sex civil partnership regime as soon as possible.

The noble Lords, Lord Collins and Lord Cashman, my noble friends Lord Hayward and Lord Lexden, and the noble Baroness, Lady Brinton, all talked about same-sex marriage in Northern Ireland. We all support the aim that it should happen, but it is a devolved issue. I am sure noble Lords will feel like groaning at that comment, but it would be for a democratically elected Assembly to decide whether to introduce same-sex marriage. I note very much my noble friend Lord Hayward's comments about the DUP's position on this, but it is why restoring the Northern Ireland Executive remains a top priority. Northern Ireland needs its elected representatives back in government to take these important decisions on the issues that matter most to the people of Northern Ireland.

The noble Lord, Lord Collins, talked about blessings in, for example, the Church of England, which was also mentioned by the noble Baroness, Lady Thornton. We quickly referred to the right reverend Prelate the Bishop of St Albans to provide expert advice on this. It would be a matter for a minister in the individual church. As a divorced Catholic, I was not able to get remarried in a Catholic Church, but my local priest absolutely understood my desire to have a blessing in my local church and absolutely beautifully obliged in that instance.

On sibling civil partnerships, we do not have any plans to extend civil partnerships to siblings—to brothers and sisters. We will ensure that the extension is restricted to opposite-sex couples in intimate relationships. The

[Baroness Williams of Trafford]
noble Baroness, Lady Barker, talked about the fiscal consideration that a lot of the lobbying has come from. We have had previous debates on it. We do not intend to move from this position at the moment.

Lord Lexden: Could my noble friend give an indication of the scope of the consultation that the Government have announced, which she confirmed in a Written Answer to me and I raised in the course of my remarks?

Baroness Williams of Trafford: My Lords, I was just coming to that. At this point, officials are working through all the policy issues before the content of any consultation is determined. Therefore, I have to tell my noble friend that I cannot say any more at this stage.

Turning to Clause 3, the Government are committed to ensuring that the NHS provides the safest and highest-quality care possible. This is particularly true for pregnant women. It can be achieved by instilling in the NHS a culture of patient safety, but also by making sure that, when things go so sadly and tragically wrong, we can provide empathetic care and support to bereaved parents and their families to cope with the tragedy of pregnancy loss. I was totally moved by the stories of the noble Baronesses, Lady Brinton and Lady Benjamin. No parent ever wants to go through what they had to go through.

Registration and certification can be an important part of acknowledging a pregnancy loss for some bereaved parents. The noble Baroness, Lady Brinton, talked particularly about a twin who survives. That can be the only acknowledgement that their bereaved twin ever existed. I thought that was so pertinent. We fully support Clause 3, which provides for a report on whether the law should be changed to require or permit the registration of pre-24-week pregnancy losses. This clause requires the Secretary of State to publish the report.

The Government have already begun work to produce a report on this issue. The pregnancy loss review, commissioned by the Department of Health and Social Care, has engaged with many key stakeholders, including parents with lived experience of pregnancy loss, health practitioners, registrars, charities and academic experts with knowledge and experience of pre-24-week pregnancy loss. It is vital that the Government look into this sensitive and timely issue. I encourage Members across the House to support this important clause.

On Clause 4, under the Coroners and Justice Act 2009, coroners currently do not have jurisdiction to investigate when a baby has not shown signs of life independently of its mother. Coroners can investigate if there is doubt as to whether a baby was stillborn but must stop if inquiries reveal that the baby was in fact stillborn. There have been calls for coroners to do more than this and to be able to investigate stillbirths, providing a transparent and independent assessment that will contribute to learning and improvements in maternity care. Clause 4 places a duty on the Secretary of State to prepare and publish a report on whether and, if so, how the law ought to be changed to enable or require coroners to investigate stillbirths.

The Government support the clause. We have already committed to look into extending coronial jurisdiction to stillbirths and to see whether there is a role for coroners that could support what is already happening in the NHS. Much work has been done to improve the ways that stillbirths are independently investigated, with learning fed back into practice. Recently, for example, the remit of the Healthcare Safety Investigation Branch has been extended to enable investigations of some stillbirths, neonatal and maternal deaths and birth-related brain injuries. But the Government agree that we should look at what coroners can add and produce a report on whether and how they should be involved in investigations.

To that end, officials in the Ministry of Justice and the Department of Health and Social Care have been exploring the issues and engaging with stakeholders. These include coroners and the Chief Coroner, medical professionals and academic experts, as well as bereaved parents and representatives from third sector and voluntary sector organisations. It has been invaluable and I add my thanks to those who have contributed. We are making good progress in developing our proposals and we will publish them soon. The sensitive issues and range of views means it is important that we fully consider everything that people have told us. It is also clear that we need to engage with the wider public to hear their views to make sure that any actions we take are the right ones. This clause is a very important step towards that.

This has been an excellent debate and I know that noble Lords recognise the importance of taking forward these changes in some very key and sensitive areas. The Bill will modernise how marriages are registered, introduce the provision for opposite-sex couples to enter into a civil partnership and provide for reports to be produced on whether there should be provision to register pregnancy losses and whether stillbirths should be referred to the coroner. These are key areas of people's lives.

12.09 pm

Baroness Hodgson of Abinger: My Lords, I sincerely thank all noble Lords for their excellent contributions to this debate. A number of interesting points have been raised—too many to mention them all, although I know that my noble friend the Minister has mentioned quite a few. I also know that other Private Members' Bills are waiting, so I will be quick. I reassure the noble Lord, Lord Collins, who said that consultation can mean the Government dragging their feet. The reviews mentioned in the Bill have actually started, so the horse has already left the stable.

I acknowledge all the previous work put in on the change to marriage registration by the right reverend Prelate the Bishop of St Albans and Dame Caroline Spelman, which has contributed so much to this Bill. It was very interesting to hear from the noble Baroness, Lady Featherstone, about the overwhelmingly positive response to her consultation on extending civil partnerships to all couples. That was very encouraging.

I extend enormous sympathy to the noble Baronesses, Lady Benjamin and Lady Brinton, on their losses. I commend their bravery in speaking out; I too lost a

twin baby, so I know how hard this can be to do. They both spoke so overwhelmingly. I also have huge admiration for all the fantastic work that Professor Lesley Regan has done on miscarriages.

As your Lordships can imagine, we have received many letters on the issues raised in the Bill, particularly on equality and stillbirth. There is a passionate desire for us to get this through and I look forward to going into more detail in Committee. We have had a comprehensive response from the Minister on many of the technical answers to the questions and I do not think I need to add to them. Suffice it to say that my door is open to any Members who wish to discuss any of the issues raised today, so that we can ensure that we return to the Commons a piece of practical and workable legislation.

Overall, I am particularly grateful to your Lordships for being so generous to me and for the wide support for the Bill from across the House. I particularly thank the noble Baroness, Lady Thornton, for her support and my noble friend the Minister for the Government's continued backing of the Bill. I ask that the House give the Bill a Second Reading.

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

Stalking Protection Bill

Second Reading

12.12 pm

Moved by ***Baroness Bertin***

That the Bill be now read a second time.

Baroness Bertin (Con): My Lords, stalking is a terrifying crime; a sinister form of abuse that leaves many victims in a state of total psychological distress. The relentless nature of this unwanted contact can often engulf people's lives in fear. It is a crime that sees a stalker become fixated and obsessed with their victim, who often becomes a prisoner in their own home. Imagine being too scared to leave the house to buy a pint of milk or walk the dog. Now, with the rising threat of cyberstalking, that abuse often continues in the home every time you turn your computer or phone on. The internet and social media can give the stalker access and reach like never before, not only to their victim but to their friends and family. As we know, this crime may escalate to rape and murder and is much more common than many people might realise. The horrifying truth is that one in five women and nearly one in 10 men will be the victims of stalking behaviour in their adult lifetime.

I am therefore proud to promote this Private Member's Bill which, if passed, will give police an additional tool to protect the victims of this crime and deter perpetrators at the earliest opportunity. I also hope that it will serve as a moment to raise much-needed awareness within the police and justice system on how to properly respond to stalking. I pay tribute to the honourable Member for Totnes, Sarah Wollaston, whose grit and determination have taken this Bill through the House of Commons. I also thank and honour the many brave individuals who, as part of this process, have spoken out about their own harrowing experiences. They and campaigning organisations such as the Suzy Lamplugh Trust and Paladin have done a huge amount to help shape this legislation so that it contains what is needed to protect victims from this insidious crime.

I particularly acknowledge those families who have been bereaved as a result of stalking. It is estimated that 94% of femicide cases are preceded by some level of stalking in the year leading up to the murder. I was especially struck when talking to the parents of Alice Ruggles, who was brutally murdered after being stalked by her ex-boyfriend. They strongly believe that had a co-coordinated approach to stalking existed, including the use of stalking protection orders backed up by immediate action to arrest the perpetrator if breached, their daughter might still be alive today. Alice and others such as Shana Grice were terribly let down by our current system. It is with all those victims in mind that I am sponsoring the Bill today, with the hope that it saves lives in the future while going some way to repairing those lives currently being destroyed by this crime.

Before I go on to develop further the case for the Bill, it is right that we nod to progress already made. Two new stalking offences were introduced in 2012: the first being an offence of stalking, the second an offence of stalking involving fear of violence, serious alarm or distress. The maximum sentence for the latter offence has now been increased to 10 years under the Policing and Crime Act 2017. However, it was clear from the responses to the public consultation launched in December 2015 that victims of stalking need to be protected with far more immediacy than is currently available.

These protection orders are not intended to replace a prosecution for stalking where the criminal threshold has been met, but we all recognise that it can take time to fully gather the evidence and present a case to court. During that period, victims can be especially vulnerable. These orders would give that much-needed protection. They can also be used where the criminal threshold has not been met but it is recognised that the acts are at risk of escalating. Earlier intervention is vital in stalking cases; this is not only to protect victims and make them feel listened to, but to address patterns of behaviour in perpetrators before they become more entrenched and cause further psychological or physical harm.

There is a clear gap in our existing regime, particularly in cases of non-ex intimate cases of stalking or where the stalking occurs outside a domestic abuse context. This is often referred to as stranger stalking, although it is important to note that well over 90% of stalking victims have known their stalker in some context, albeit sometimes tenuously. The Bill has widespread cross-party support because it helps to close that gap, giving victims in these cases genuine protections by allowing police and the courts to step in at an earlier stage. While the real-life consequences of stalking are obvious, the nature of this crime makes it challenging to police. Stalking is, by definition, a crime of persistence

[Baroness Bertin]

so it is important to take the evidence in the round rather than as a series of one-off events that may seem harmless in isolation.

The Bill introduces a new power for police in the form of stalking protection orders, a legal mechanism through which police can identify a situation where victims need to be protected and apply to the court for an order even if the perpetrator has not been prosecuted. Stalking protection orders will provide a formal means for us to notify individuals that their pattern of behaviour poses a risk to another person or persons and that it must cease. When applying for the order, police may specify exactly what these harmful behaviours are in any individual case and prohibit the repetition of these behaviours for at least two years by setting out clearly what the stalker must do—stop contacting the victim—and ways in which that might take place. This is a bespoke regime and orders may also contain positive requirements, such as undergoing behavioural therapy, as well as prohibitions of specific behaviour by the perpetrator.

It is important to note a high correlation with mental illness among perpetrators. The orders could contain a requirement that they undergo a mental health assessment. There is also a notification requirement: perpetrators would have to give notifications of all the names and aliases they have used to stalk their victims and their address. They would need to notify police of any name or address change within three days. It is also important to highlight that an order could provide protection for friends and family of the victim where necessary. As we know, this is a common characteristic in many stalking cases.

Although the proposed stalking protection orders would be civil orders, breaching one would be a criminal offence. The penalties here have real bite, with a maximum sentence of up to five years in most serious cases. However, none of these important protections will be of any benefit if the police and CPS do not know about them nor have the required training, expertise or willingness to exercise them. Another purpose of a Private Member's Bill such as this is to ensure that everyone throughout the criminal justice system takes issues such as stalking seriously. Stalking must not be demeaned by references to someone "having an admirer", nor can the police response continue to be as patchy as it is. One victim described to me a police officer's disbelief that she was not flattered by having fresh flowers left at her door every day.

We know that the justice system's response to stalking has fallen short over the years. Some of the findings in a report, *Living in Fear*, produced by Her Majesty's Crown Prosecution Service Inspectorate and Inspectorate of Constabulary, can make for difficult reading at times. It is clear that the police want to improve their response, and there are pockets of best practice in many forces around the country, helped significantly by the drive of Deputy Chief Constable Paul Mills, the national police lead for stalking and harassment. Sussex, Cheshire and Gloucestershire forces have made significant efforts, as has the Met; I thank those officers for their dedication and commitment. It is a step in the right direction that there is now a joint protocol between the police and the CPS on handling cases of stalking and harassment, as we cannot have a situation where improved police work then falls at the final hurdle, either with the CPS or in the magistrates' court, because of a lack of understanding about the nature of this crime.

I recently visited the Metropolitan Police's new stalking threat assessment centre, which is part of the Home Office-funded, multiagency stalking intervention programme. This project brings together a number of agencies—they all sit in the same office—including psychiatrists, mental health services and probation services. The two-year pilot aims to increase early intervention to reduce the risk of offenders becoming violent, while improving the response to victims of stalking and helping the police and other local services communicate and share information. Victim advocates are integral to this work to ensure that the victim's voice is heard and is a core part of each case. Such a multiagency approach has to be the way forward. I sincerely hope that the unit gets long-term funding and is rolled out nationally. I would also like stalking training made mandatory for police officers. This would send a clear signal that action is matching words. It is imperative that every effort is made across the justice system to ensure that stalking laws are used to tackle stalking and to override the institutional memory muscle that often reaches for the power it knows best, harassment law. Stalking and harassment are different crimes. If we are ever to effect real change and understand the scale of the challenge, it is essential that this distinction is properly recognised. I know that a lot of work is going on at the CPS with the stalking leads. I sincerely hope that this Bill helps give its effort oxygen within the wider organisation.

I want to finish by turning away from the legal or practical benefits of stalking protection orders and returning to the wider set of circumstances that makes it important for us to pass this legislation. Stalking affects a huge number of people, both men and women, but women are still much more likely to be victims of this crime. This is yet another example of gender inequality and another reason why women are more likely than men to fear for their own safety. We must confront this as a society and do so in a way that educates people, identifies damaging behaviours and challenges those causing harm to others, deliberately or not.

The need for change is more than clear. The scale of suffering alone means that we cannot afford to do nothing. However, to create change, we have to do more than just prosecute people, however important that is. No doubt more needs to be done, but I hope that this Bill represents a real step forward. Not only does it provide a genuine first layer of protection but it faces up to this crime in a way that acknowledges its excessive nature. It provides a means for our police services to see the bigger picture and helps us intervene where people's behaviour becomes harmful or poses a risk of harm to others.

Stalking cannot be ignored; it cannot be dismissed, and it is certainly not a compliment. This becomes unbearably clear when we listen to the voices of those who have experienced it as a constant and overbearing

part of their everyday lives. That is why I am proud to present this Bill to your Lordships today and hope that you will join me in supporting it. I beg to move.

12.25 pm

Baroness Royall of Blaisdon (Lab): My Lords, I welcome the opportunity to participate in this Second Reading debate and am grateful to the noble Baroness, Lady Bertin, for taking forward Dr Sarah Wollaston's Stalking Protection Bill. I must congratulate her on her comprehensive and excellent introduction to it.

Stalking is an insidious and wicked crime. It has a devastating effect on the physical and mental well-being of the person, usually a woman, who is stalked and it can have a profound effect on their family. It is about fixation, obsession and long-term behaviour. It is a persistent, intrusive crime and it engenders fear, alarm and distress. It results in long-term psychological harm. Typically, it takes about 100 episodes of stalking for victims to come forward and, when they do, too often they are not taken seriously, so the stalking becomes murder in slow motion.

Today, I noticed in the press yet another horrendous case, of a woman who was viciously attacked by her stalker, Malcolm Lockwood, and nearly murdered. Too many women are murdered despite reporting their killers to the police for threatening behaviour prior to their deaths. Indeed, 55 women who had reported an abusive partner, ex-partner or stalker were killed in the three years between 2015 and 2017. Many of those women had reached out to the police for assistance prior to their deaths and could be alive today had their concerns been taken seriously.

Like many of us, I have met many women who have been stalked. They are survivors of stalking and I pay huge tribute to them for their extraordinary courage. I have also met the families of women who were murdered, families who have somehow had the strength to turn their tragedy into positive action campaigning to support and protect victims of stalking—among them, the Ruggles, Gazzard and Clough families.

I know that, like me, the survivors and the families of victims welcome the Bill before us. I support the Bill and the fact that it provides another means of protecting women from the vile actions of stalkers. However, like Katy Bourne, the Sussex police and crime commissioner and a victim of stalking, I regret that the Bill does not go far enough.

I fear that the stalking protection orders, despite their good intentions, will not protect victims as they should. I fear that the police could use the orders instead of convictions and that the orders will not be enforced. Pieces of paper do not protect current or future victims. As it is, restraining orders are not enforced and police say that resources are the problem—I have no doubt that that is the case. At the moment, police give verbal warnings to stalkers and 80% of those warned face no charge. When breaches occur, the victims are blamed. We must have a culture change so that, with restraining orders and the new stalking protection orders when introduced, the focus shifts to the perpetrator.

As the Suzy Lamplugh Trust has said, the Bill,

"must be supported by appropriate training for police officers".

That was recognised by the noble Baroness, Lady Bertin. It further states:

"All criminal justice professionals must be able to recognise concerning patterns of behaviours and the malicious intent that accompanies stalking".

It is absolutely right.

Training to understand the risks and dangers of stalking is vital. When legislation was passed in 2012 to introduce two new stalking offences, we made the case for mandatory training for the police. We were told that it was not necessary, and that guidance to officers would suffice. Since then I have made countless speeches—as have many noble Lords—urging the Government to ensure training for police and the CPS. Some excellent training is taking place, but it is not systematic.

I applaud those forces that have invested in training and the multiagency approach outlined by the noble Baroness, but too many forces have not undertaken training, and some have an appalling record. For example, nine women under the jurisdiction of West Yorkshire Police—the fourth-largest force in England and Wales—have been killed by their partner, ex-partner or stalker over three years, despite reporting them to the police. Two deaths occurred in 2015, four in 2016 and three in 2017. That cannot be right. I pay tribute to my own force in the county of Gloucestershire for the training that it undertakes, and for the way it works closely with the Hollie Gazzard Trust—a charity set up after Hollie was murdered by her stalker.

I also believe that the new orders will work only in conjunction with the register about which I have spoken to the Minister many times on the Floor of the House and in private meetings, for which I am very grateful. Currently there is no duty on police services to flag serial stalkers and domestic abusers, which is why the disclosure scheme is not working. It relies on victims asking questions about their perpetrator's history. The onus should not be on them to ask about the perpetrator's past. It should be ingrained in the police via infrastructure, systems and training that these are the most dangerous cases and that most perpetrators are serial offenders. If they keep getting away with the actions that feed their obsessions, they will keep doing them.

Perpetrators currently do not fear the consequences. Research shows that when there is a real-life consequence, they will change their behaviour. Some people say that a register will drive them underground—but they are already underground and invisible. Some people have questioned whether such a register is value for money. What is the cost of a woman's life? I mentioned that 55 women were killed in three years after they had reported domestic abuse and stalking. One murder costs between £1.54 and £2 million to investigate. I understand that the register would cost £1.4 million in the first year. It would save lives and money.

The system already exists: the violent and sex offender register. There is an urgent need for this register to be expanded to include serial stalkers and domestic abusers. This is the only way to deal with the 25,000 serial offenders who commit 80% of the abuse, and to offer appropriate protection to victims and future victims. Of course, they will also be helped by the new stalking orders. As I said, the domestic violence disclosure

[Baroness Royall of Blaisdon]
scheme is simply not enough: it is reactive and slow and depends on a victim, their family or their friends asking the police about someone's history of violence, with no duty on the police to identify serial abusers or input the information about serial perpetrators.

I will take this opportunity to highlight the case of suicides that are a consequence of stalking. At least 10 women a week commit suicide because of abuse, and some of them are victims of stalking who have reported many incidents to the police. A register would have allowed their perpetrator's history of offending to be visible, and perhaps the victims would have been believed and their complaint taken seriously.

I am proud to be associated with the Unfollow Me campaign, spearheaded by VICE, which supports the calls by the excellent charity Paladin to introduce a stalkers register in the UK. I am also proud to be a friend of my fellow campaigner John Clough, who was awarded a richly deserved MBE in the New Year Honours List. John and his wife Penny—also an MBE—have been tireless campaigners since their daughter Jane was murdered by her stalker in 2010. They have been catalysts for new laws and for changing the law. We should listen to their voices, alongside those of the families of victims such as Alice Ruggles and countless survivors, in support of the register and of this important Bill.

I have huge regard and affection for the Minister, who probably thinks that I sound like a broken record, constantly repeating the same tune—but I again ask for her assurance that the register will be included in the forthcoming domestic violence Bill. If it is not in the Bill when it is introduced, I am confident that, thanks to the power of campaigners and their advocacy, it will be included by the time the Bill is enacted. I would also be grateful if she could inform the House when we can expect that hugely important Bill.

My natural inclination was to do what we have successfully done in the past and seek to amend the Bill before us in respect of the register. But that would take time, and I do not wish to impede the Bill's progress at a time of great parliamentary instability. While it is a good Bill, it is inadequate—but it is another tool in the toolbox, and I hope that the police will be trained to use the new orders so they will have the maximum impact in protecting victims of stalking, Like the noble Baroness, Lady Bertin. I hope that the Bill will also raise awareness among the police, the CPS and the general public. I am grateful to the noble Baroness for promoting the Bill, which I fully support.

12.35 pm

Baroness Brady (Con): My Lords, it is an honour to contribute to this debate today on so vital and grave a subject. Stalking is a menace that takes an intolerable mental toll on its victims—and sometimes, tragically, a physical one. For far too long it has fallen between the cracks in our criminal justice system, leaving victims cruelly exposed and perpetrators free to continue causing misery and distress.

The evidence has now piled up that stalking is often misreported, misdiagnosed and even misunderstood by law enforcement and criminal justice policymakers. Where stalking is a proxy for domestic abuse, the law affords the necessary protection, and prosecutions are made and justice served. However, we now know that nearly two-thirds of cases do not involve a close relationship gone awry, so domestic abuse does not always apply. This leaves victims exposed to strangers, colleagues or loose acquaintances.

How then do we act on stalking to prevent and stop it, and to ensure that it cannot escalate into more violent and abusive behaviour? The stakes are high, with one in five women being affected by these behaviours, and one in 10 men. The Bill before us takes an innovative and, I believe, effective approach to tackling the problem. Since the Protection of Freedoms Act 2012, stalking has been an offence, defined as inciting a "fear of violence" and carrying a maximum sentence of 10 years. However, prosecutions are few and convictions fewer.

This Bill's preventive approach is welcome, to prevent and end this abusive behaviour. A stalking protection order, filed by the police, can enforce negative or preventive measures on the perpetrator, to prevent them following, contacting or indeed publishing material related to the victim—as we can all appreciate, a vital measure in the digital age. Indeed, I would be grateful if the Minister were able to confirm that the Bill will be fit for purpose when it comes to online stalking as well.

More radically, the Bill can also enforce positive actions on the perpetrator, such as attending an intervention programme, attending a mental health assessment or participating in a restorative justice programme. Both aspects are essential if justice is to be done, and I hope that the police will not hesitate to issue these orders wherever they can protect victims.

I know that colleagues in the other place raised concerns about training for police—this has been raised again today—and it is essential if these SPOs are to be an effective tool. As we have heard today, stalking is often misunderstood. That is why I am pleased to see the definition being expanded from the relatively narrow one concerning a fear of violence, where surely the burden of proof has been too high, to a longer list including watching or spying, loitering or monitoring of any kind. These behaviours still take an intolerable toll on victims, even if they fall short of the fear of violence or violence itself. The police must not hesitate to deploy them in all circumstances defined by the Bill, and they must have access to the right advice and training in doing so.

We must recognise that any one instance of these behaviours might not seem menacing or criminal—but stalking is about repetition, so these patterns of behaviour must be identified and stopped before they escalate in number. When it comes to online stalking we must be just as vigilant. Not only does this cause distress, but it, too, can escalate into physical stalking or violent behaviour.

Noble Lords may be aware of the Netflix drama "You", which demonstrates the ease with which the information we keep online in our social media presence can be manipulated by criminals and psychopaths, with very real consequences. This is not a point about

censorship, only that we should be careful before we trivialise or even glamorise such dangerous and criminal behaviour.

The Bill goes a long way to finally enable our criminal justice system to account for stalking, protect its victims and their families, and punish criminals. We must make sure that it does not fall short. As we saw with the 2012 Act, legislation is perhaps the easy part. Implementation is more difficult. I hope that we all remain vigilant to ensure that the police deploy these new tools actively and are provided full training and support to do so. I commend the work of the Suzy Lamplugh Trust to drive this agenda and I know that it will not hesitate to speak out if delivery falls short in any way of what the victims of this awful criminal behaviour deserve.

12.40 pm

Lord Wasserman (Con): My Lords, I commend my noble friend Lady Bertin for agreeing to steer this short but extraordinarily important Bill through your Lordships' House. I draw your Lordships' attention to my entry in the register of interests, in particular, my interest in police technology.

One of the reasons I am such an enthusiastic supporter of the Bill and the new stalking protection orders it introduces is because I believe that these orders could provide the basis for permitting the police, with the permission of the courts, to use the latest technology to tackle the scourge of stalking. I will say more about this later. I want to begin, however, by expressing my disappointment about how long it has taken to get this important Bill to this stage on its route to the statute book. The process of developing legislation to tackle stalking began a long time ago. In December 2015, the Government launched a public consultation exercise with a view to understanding better the nature and scope of stalking, particularly stranger stalking, and whether a new civil stalking protection order would be useful in dealing with this problem.

The Government's response to this consultation appeared in December 2016. At that time the Government stated clearly that a gap had been identified in the protections available to the victims of stalking and that there was strong support for a new stalking protection order. They promised to legislate,

"as soon as Parliamentary time allows … The order will address the legislative gap and allow the police and the courts to intervene early".

However, sadly, the Bill was not introduced in another place until 19 July 2017 and did not have a Second Reading until January 2018. Its Third Reading did not take place, as noble Lords know, until last November. During this time tens of thousands of innocent people have become the new victims of stalkers. Their lives have been made a misery on an almost daily basis. I have direct personal knowledge of cases where individuals have had to move away from their jobs, their families and their homes in an attempt to get away from a stalker who had become obsessed with them, despite the fact that they had had no previous relationship whatever with their stalker. Every day that the passage and implementation of the Bill is delayed is another day on which the police are deprived of this tool to help them deal with such offences. I very much hope, therefore, that the Bill can be dealt with expeditiously and can be fully operational before the summer, at the very latest.

While preparing for this debate, I read a fascinating article in the October-November 2018 issue of *Magistrate* magazine by Katy Bourne, who has already been mentioned by the noble Baroness, Lady Royall. She is the police and crime commissioner for Sussex. I am very sorry that this short but important piece is not mentioned in the excellent briefing produced by our Library. Katy Bourne has a passionate commitment to keeping her community safe and she has been doing a great job since becoming Sussex's first PCC in November 2012. When it comes to stalking, particularly stranger stalking, her passion and determination are most clearly demonstrated. She probably has a greater understanding of the scourge of stranger stalking than anyone else in authority and a stronger commitment to tackling it. This is because she was herself the victim of such stalking for six long years. As she says in the article to which I referred, her stalker waged,

"a 6-year relentless and fixated campaign against me that has been truly awful. At first I was prepared to ignore the false, offensive postings of a local man who set himself up to hold me to account. Perhaps because I didn't respond or complain, his postings became more extreme, including accusations that I was responsible for murder and child abuse. He began a concerted campaign to 'bring me down' that also involved a group of like-minded individuals. After five years of relentless online and social media harassment and two incidents of being followed and filmed, I was granted an injunction against him. I had also made a criminal complaint but, despite hundreds of pages of evidence showing a sustained five-year campaign, the Crown Prosecution Service said there was insufficient evidence. Some of the material has now been taken down from online platforms but enough remains to appear in search engines as a damaging, distressing presence. The Committee on Standards in Public Life said that online and social media platforms had a responsibility to act more quickly and I would urge them to do so. It seems wrong that, despite an injunction, I still have to prove to the online providers that my stalker's postings breached their guidelines".

Incidentally, her stalker breached the injunction which PCC Bourne had been granted against him and in October last year received a four-month custodial sentence, suspended for two years. As a result of this horrible experience, Katy Bourne really understands the psychological and physical costs of stalking. As she goes on to say in the same article:

"Many people think stalking is confined to spurned lovers or obsessed fans: sad, slightly pathetic but relatively harmless. Although reports of stalking have rocketed, it is still regarded as a nuisance rather than a crime. Too often, victims are told 'don't look at the online abuse' or 'just ignore it, they will get bored and go away' or 'somebody keeps leaving you flowers and chocolates? What's not to like?' But if you were subject to a cumulative pattern of unwanted attention, as I was, relentlessly repeated by an obsessive, fixated individual, you wouldn't appreciate the attention and would probably be fearful".

At the beginning of this speech, I said that I believed that technology could play an important role in tackling stalking. What I have in mind is GPS proximity tagging, of the kind that is in widespread use around the world in the context of domestic abuse. Such tags, worn by perpetrators, coupled with a piece of kit carried by the victim, notify the victim, the police or any other monitoring agency when the perpetrator is about to breach the conditions of his or her order in relation to

[LORD WASSERMAN]
entering certain locations or areas where the victim resides, works or frequents. This equipment is well tested and, as I said, is in widespread use abroad. A large number of companies can supply it, and experience has shown that it saves lives.

I very much hope that the use of such tags will be permitted as part of the stalking protection orders provided for in the Bill. I say this because Clause 1 states that the SPO could prohibit the defendant from doing something, as far as is necessary, to protect the other person—the victim—from the risk of stalking. According to the Explanatory Notes, among the things the order can prohibit is,

"entering certain locations or … areas where the victim resides or frequently visits".

The Explanatory Notes also state that the SPO could require the defendant to do something,

"to protect the other person from risk of stalking".

Examples of such requirements are attendance at an intervention programme or a mental health assessment. But surely it is not unreasonable for the Bill to permit the SPO to require the defendant to wear a GPS proximity tag to ensure that he or she does not enter locations or areas where the victim resides or frequently visits. Without such technology to enforce it, the requirement to keep out of the way of the victim is a hollow threat.

I very much hope that once the Bill is on the statute book, the Government will encourage the police to learn how to use proximity tagging and will ask the courts to include such tagging as a requirement imposed on the defendant as part of their stalking protection order. But first, we must get the Bill on to the statute book. To that end, I urge the House to give it a Second Reading.

12.49 pm

Lord Low of Dalston (CB): My Lords, I crave your Lordships' indulgence to speak briefly in the gap; I will take a slightly different tack from that which has been taken up to now.

I make it absolutely clear at the outset that stalking is unquestionably a kind of behaviour against which it is entirely appropriate—indeed, necessary—to legislate. I would not want the noble Baroness, Lady Bertin, to think that I do not regard her Bill and the case she has made for it with the utmost seriousness. But anti-stalking legislation can be abused, and it has been the subject of criticism. It has even been suggested that it might in some respects run counter to the European Convention on Human Rights. Questions have been raised about the appropriateness of a maximum sentence of five years' imprisonment for offences that can be committed through mere negligence. Some magistrates have felt that criminalising harassment might lead to unfounded accusations from complainants who are mistaken about another's behaviour or are even being vindictive. Prosecutors agree that it is necessary to be alive to the possibility that the putative victim may be reading more into another's conduct than is warranted. I have had experience of this myself, when someone overreacted—to put it at its lowest—or, more likely, used stalking legislation with the willing complicity of an unscrupulous firm of solicitors, to ventilate a grudge.

When drafting legislation in this area, we need to be careful not to collude in such behaviour. As an example of what I mean in relation to the present Bill, I am particularly concerned about Clause 1(4)(b), which states that a risk associated with stalking,

"may arise from acts which the defendant knows or ought to know are unwelcome to the other person even if"—

I emphasise—

"in other circumstances, the acts would appear harmless in themselves".

This weights the scales too much in favour of the complainant as against the defendant. It is not enough for the complainant to allege that the defendant knew or ought to have known that the acts complained of were unwelcome. There ought to be a test of reasonableness. The complainant should have to show not just that the defendant knew or ought to have known that the acts complained of were unwelcome but that they knew or ought reasonably to have known that they were unwelcome, and it was reasonable for them to be so.

I will be anxious to move amendments in Committee to make sure that the Bill gets this balance right. However, I would be glad to hear from the Minister that she takes the force of my argument and will give sympathetic consideration to accommodating it as the Bill progresses.

12.52 pm

Baroness Brinton (LD): My Lords, I thank both the noble Baroness, Lady Bertin, and Sarah Wollaston in another place for bringing forward this Private Member's Bill, which continues to improve the tools available to the criminal justice system to deal with the scourge of stalkers.

I will start by responding to the noble Lord, Lord Low. I have sympathy with the principle that any law can be abused, but the evidence that victims of stalkers—even the handful who might be malicious—are causing a problem for the current stalking law arrangement is absolutely unfounded. Working with the charities and many individuals who are fighting for the rights of victims of stalking, we still find that the problem is that the police, the CPS, and the criminal justice system more widely do not take seriously the issue of stalking. I am sure that the bar is still set high enough for some of the concerns set out by the noble Lord, Lord Low, to become apparent during any police investigation and in a court examination.

I am very grateful to the Minister for agreeing to meet in advance of today, and I have already warned her about some of the points I want to raise. As other noble Lords have said, the most urgent thing is to get this Bill through its various stages and Royal Assent, so that it can be on the stocks and available as a tool.

I start with a point about what stalking actually is. The noble Lord, Lord Low, referred to Clause 1(4)(b). The definition, as outlined by other noble Lords, is absolutely clear: it is contact that is unwanted and unsolicited; the effect of the contact is to cause stress, alarm or anxiety; and it occurs on at least one and usually two or more occasions. The average number before a complainant goes to the police is still in the

tens, so when they arrive at a police station, having rung in, there is already a clear history of a perpetrator's behaviour towards them.

I pay tribute to the Susie Lamplugh Trust, Paladin, Action Against Stalking and individuals such as Tracey Morgan, who after more than two decades is still facing the consequence of her stalker not obeying the law and for whom, frankly, even a stalking protection order would not do the trick because other attempts have been made. Stalkers are fixated. The idea of behavioural therapy is right and important, but the really malicious stalkers are fixated people for whom it is almost impossible for their behaviour to be changed by the criminal system on its own. That is something that we as a country need to face up to.

I shall ask the Minister three or four points about the Bill. Clause 2(2) states at the end:

"only if satisfied that the prohibition or requirement is necessary to protect the other person".

Can the Minister confirm that it is not just the other person, it is their family, their work colleagues and others? Some of your Lordships know that I myself was a victim of harassment and stalking, along with my colleagues, including, at the latter stage, my noble friend Lady Thornhill. My worry is that it will be a bit like a game of snakes and ladders. You might have a stalking protection order in which a particular victim is named, the person starts on another member of their family and you have to go right back down to the beginning of the process and start all over again, when we all know that stalkers tend to find others in order to affect their principal target, even if indirectly.

Although the victim is rightly not involved in the process of establishing a stalking protection order, will the victim's voice be heard by the magistrate at a magistrates' court? By the time we get to a stalking protection order there are likely to be witness statements, if not court transcripts, for what has happened to the victim. If someone has already been convicted—I am afraid that this is all too common; stalkers keep coming back—there will have been a victim statement prior to sentencing. It is important that magistrates understand the impact on the victim of the stalker's behaviour.

The definition of both the stalking protection order and the interim order in Clause 2(3)(b) and Clause 5(4)(b) states:

"Prohibitions or requirements must, so far as practicable, be such as to avoid",

interference with work. I am reminded of the case of Clare Bernal, who was murdered at Harvey Nichols. Sometimes work colleagues are the stalkers. I seek reassurance from the Minister that it would not be possible to trump stalking activity by saying, "I have my right to go to my place of work"—or church or educational establishment.

In Clause 10(5), the list of items that the police officer can take after a stalker has notified that they have moved into an area, there is one notable omission: DNA. It is fine to,

"take the person's fingerprints … photograph any part of the person, or … do both of these things",

but in this day and age, where stalking has often been a repeated habit over a period, DNA is a tool that the police can use and have used. It might be available and important. Again, I cite the case that I was involved in. We know that he licked envelopes. Although he wore gloves so there were no fingerprints, there was DNA on envelopes, which would have been a tool to enable the police to move very quickly.

I am also concerned more generally. I echo many of the points made by the noble Baroness, Lady Royall; she and I have been here from the start of the stalking inquiry and the initial Bill that went through your Lordships' House in 2011-12. It is all too easy for the CPS to downgrade stalking to harassment because it has more confidence in that charge getting through the courts and ending in a conviction. I ask for confirmation that the granting of an order would not halt, diminish or delay ongoing police investigations, because we know that there is evidence of the police using police information notices instead of investigation in some cases as a way to put a shot across somebody's bow. The point is that stalking is a completely different order of offence.

I echo the comments made by the noble Baroness, Lady Royall, about mandatory training for the police and everybody involved in the criminal justice system. Often, police officers are not the people taking calls in call centres. The initial conversation must be handled by somebody who understands the difference between someone being bothered by somebody who will not go away when they keep asking them out and someone saying that for the past 10 days somebody has repeatedly harassed them on social media, been to their door or sent them letters. It is important that everybody in the criminal justice system knows and understands this. The courts need that mandatory training as well.

Finally, I echo the points made by the noble Lord, Lord Wasserman, about GPS technology. It is not used just in the criminal justice system now; for example, the Neatebox app is used at Edinburgh airport, so that as disabled passengers arrive they are greeted by staff who can find them because they can identify where they are. It seems that the old idea of a panic button in the house is superseded somewhat by technology, which must be a tool for the criminal justice system.

In summary, I am sure that some cultural issues cannot be addressed in the Bill, but I believe firmly that we need to move forward with it as fast as we can to get it on the stocks.

1.01 pm

Baroness Gale (Lab): My Lords, I thank the noble Baroness, Lady Bertin, for bringing this important Bill before us today and for her eloquent introduction where she explained what it is all about. I thank all noble Baronesses and the two noble Lords who have taken part in the debate—this is not just a women's issue; it involves both men and women, and we must work together to try to resolve these big problems.

The Bill is an additional measure in supporting victims of stalking. It is welcome and, I believe, necessary, especially when one looks at the statistics. The noble Baroness, Lady Bertin, mentioned the 2016 Crime Survey for England and Wales, which showed that one in five women and one in 10 men had experienced stalking since the age of 16. Statistics show that 80% of

[Baroness Gale]
victims are female and 70% of perpetrators are men. We know that stalking often leads to horrific crimes, including domestic violence, sexual assault and murder.

The description of stalking from Paladin, the anti-stalking charity, sums up what this is all about:

"Stalking is one of the most frequently experienced forms of abuse. It is insidious and terrifying and can escalate to rape and murder. We need to treat stalking with the seriousness it deserves. There are many misconceptions about what stalking is about. It is not romantic. It is about fixation and obsession. It is a crime. It destroys lives. Stalking is a pattern of repeat and persistent unwanted behaviour that is intrusive and engenders fear. It is when one person becomes fixated or obsessed with another and the attention is unwanted. Threats may not be made but victims may feel scared".

Criminal justice professionals must be able to recognise the concerning patterns of behaviour and the malicious intent that accompanies stalking. A number of noble Lords have mentioned how important it is that police officers and those from the other agencies involved are trained. That is essential if the Bill is to work effectively. The need for training is highlighted in the joint report *Living in Fear – The Police and CPS Response to Harassment and Stalking*, which was published in 2017 by Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services and the Crown Prosecution Service. The report said:

"stalking … was misunderstood by the police and the CPS. … it often went unrecognised. The police sometimes mis-recorded stalking offences, or worse, did not record them at all. Prosecutors … missed opportunities to charge stalking offences, instead preferring other offences, particularly harassment … As a result, we consider the harassment and stalking legislation should be reviewed to ensure it is as effective as possible in protecting victims of stalking and bringing perpetrators to justice".

The police and other agencies are saying that so, as other noble Lords have said, there is a need for training. I hope that the Minister could give some sort of guarantee that resources will be given to ensure that the aims of the Bill can be put into practice.

One thing we can all agree on is that stalking protection orders will be a useful measure to combat the terrible crime of stalking and will go some way to assist victims when stalking occurs outside the domestic abuse context or where the perpetrator is not a current or former intimate partner of the victim—so-called stranger stalking. But I think we can all accept that that is not the whole picture. My noble friend Lady Royall, with her great experience in this field, pointed this out.

Laura Richards from the Paladin advisory service has told me that a warning order on its own will not stop a stalker. She says that there have been hundreds of cases which highlight this. Trimaan Dhillon was given a police information notice prior to murdering Alice Ruggles, a case mentioned by other noble Lords. Martin Bunch was issued a restraining order prior to murdering Jeanette Goodwin, while Deborah Langmead was murdered, along with her best friend, after her ex was given a PIN.

Although a stalking register is not part of this Bill, I am mentioning it because, as my noble friend Lady Royall also said, several organisations feel that it is essential, including Paladin and VICE, which have some very compelling evidence in this field. They believe that lives can be saved by protecting women from serial stalkers and domestic violence perpetrators by introducing a register which would enable the police to proactively identify, track, monitor and manage stalkers.

Currently, there is no framework which can track or monitor serial stalkers and the perpetrators of domestic violence. Instead, the police rely on a series of victims to report multiple crimes, and often it is the victims themselves who are forced to modify and change their behaviour, flee their homes and disappear in order to stay safe. I am sure the Minister will agree that there could be an opportunity in the new domestic violence Bill, when it is published, to review victim support services and that the victims of stalking could be included in that. I also hope that the Minister will have another look at the idea of a register—a point that has been made a number of times in this House—and give it serious consideration. Perhaps that is for another time rather than today because it is not included in this Bill.

We support the Bill, but we feel that there are other things that we also need to do. However, we welcome it and give it our wholehearted support. I again thank the noble Baroness, Lady Bertin, for bringing it forward today and all noble Lords who have taken part in the debate. I look forward to the Minister's response, and we wish the Bill a safe passage.

1.09 pm

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, I again thank noble Lords for their contribution to this debate on a much-needed Private Member's Bill. I thank my noble friend Lady Bertin for bringing it before the House and for her powerful speech, but that is not to take away from the powerful speeches of other noble Lords today. I echo the tribute by the noble Baroness, Lady Royall, to John Clough and the families of other victims who cannot lend their own voices to the debate today. I also pay tribute to Dr Wollaston for introducing the Bill and successfully steering it through the other place, and to the Parliamentary Under-Secretary for Crime, who spoke on behalf of the Government in that Chamber. Their commitment to this has helped garner the cross-party support needed for this Bill to successfully conclude its passage, which—I am pleased to say—has been reflected in today's debate. It has been very valuable to hear today from so many colleagues who have real-life experience and expertise in this subject.

Speakers today have described very well just what a terrible crime stalking is and the truly devastating effects it can have not only on the victims but, as I have just mentioned, on their families. It is a crime whose individual manifestations can sometimes seem harmless, but where the pattern of behaviour is anything but. It can encompass a large range of behaviours—not only the physical pursuit of a person, which people might tend to think of first, but interference in every aspect of that person's life. The figures released by the ONS last November on calls to the National Stalking Helpline by people stalked by a family member or former partner make chilling reading. Some 48% of callers had been stalked by text, 41% by letter and a third on

social media. Cyberstalking is a particularly unpleasant and uniquely modern manifestation of this crime, and it does not require sophisticated IT skills. In answer to my noble friend Lady Brady, who asked if the Bill is future-proofed to capture just this type of stalking: yes, it is.

The Bill will give society an essential extra tool in tackling stalking. Victims will be spared the pressure of having to apply for an order themselves and the risk of perpetrators threatening them if they do. Orders can be tailored very precisely to the defendant, targeting the particular ways in which they damage their victim's life and the particular motivations that drive their actions. To answer my noble friend's question about tagging or other electronic monitoring, I can say that the SPO issued will be particular to the individual. It is not in the Bill because it has a financial implication, but that is not to say that an SPO cannot reflect that a person might have to be monitored.

Those who suffer from mental health problems—many do—may be required to attend a mental health assessment, which should not just help the victim but prevent the stalker's own behaviour becoming entrenched. The duration and geographical scope of the order may vary, depending on the particular risk the stalker poses. Immediate protection may be provided by an interim order while a case for a longer-term order is assembled. If a person, without good reason, breaches their order or fails to notify their details to the police, they are likely to be prosecuted.

Most importantly, these orders are preventive. Left unchecked, stalking behaviour can become chronic or worsen—as the noble Baroness, Lady Brinton, and I talked about yesterday—in the worst cases leading to terrible results, the sort we have heard about today. Stalking protection orders will allow the courts to intervene early to stop this behaviour at the outset. The regime will be fair and proportionate. Wherever possible, the conditions of an order will not interfere with a person's work, study or faith. The noble Baroness, Lady Brinton, made an important point about which is trump—the perpetrator's ability to work or the victim's ability to be protected and safeguarded against the stalker? It is clear that the victim's safety and well-being comes first. I can confirm that today.

Defendants may challenge their orders, seek to vary their conditions and appeal against them. The Government will publish statutory guidance which will help to ensure consistency in their use. It will be a balanced system.

Some specific points were raised when this Bill was most recently debated in the House of Commons. A couple of Members considered that the Civil Nuclear Constabulary, which protects civil nuclear sites and material, should be able to apply for stalking protection orders and the Parliamentary Under-Secretary of State for Crime undertook to look at this. Having done so and having consulted with one of the assistant chief constables of that constabulary, we do not consider that there is a need for it to be able to apply for these orders. I know this issue was not mentioned this morning but I thought noble Lords would like an update on it. The CNC does not deal with routine reporting of crime or with criminal investigations. If when on counterterrorist patrol its officers encounter an ordinary criminal incident, they will deal with it only until the local territorial force is able to do so. That force would be able to apply for a stalking protection order should the need arise.

The Minister also undertook to examine the drafting of Clause 1(3), in particular its reference to a person in respect of whom the police may apply for a stalking protection order. Having considered the matter we believe that the drafting is consistent with other provisions in the Bill and does not need amendment. In the statutory guidance on the Bill, which we will publish as mandated by Clause 12, we will provide further clarity on this, as well as making clear the need to share information with the police area where the victim lives if that is different to the area whose force applied for the order.

On the points made by the noble Baronesses, Lady Gale and Lady Royall, about a register of stalkers, I pay tribute to the noble Baroness, Lady Royall, for her commitment to tackling stalking and for bringing to me people whose lives have been so horrifically affected by it. I again pay tribute to the work of the Cloughs and others to this end. I know that Paladin has been campaigning for a register. The irony of this argument is that the noble Baronesses, Lady Royall and Lady Gale, and myself all seek the same end—that stalkers are captured and their activities minimised—and that is the basis of this Bill. Where we differ is that I do not think we need a bespoke register to achieve that. It would be a unique development.

I agree that there is not, for example, a national register solely for sex offenders but there is the dangerous persons database, otherwise known as ViSOR, for offenders who are convicted of specific sexual offences, those convicted of other serious offences for a year or more and those otherwise assessed by the police as potentially dangerous. I have always argued that ViSOR would capture such people. The noble Lord, Lord Hogan-Howe, commented in a Question on this subject at the end of last year that it is likely to be impractical to create more registers and he questioned whether a new register would help. The focus should be on making better use of existing systems—which I am committed to doing—rather than creating new ones.

The noble Baroness, Lady Royall, asked about the domestic abuse Bill. I can guarantee that the draft domestic abuse Bill and the domestic abuse White Paper will be published in this Session and that the White Paper will mention the issue of a register. I hope that gives her some hope. We will beg to differ about the method, but not the eventual intent of capturing these dreadful perpetrators.

Almost every noble Lord brought up training. This goes to what some noble Lords mentioned today and something that the noble Baroness, Lady Brinton, and I talked about yesterday, which is cultural shift. Five, 10 or 15 years ago, the police were ill equipped to deal with this type of activity. My noble friend Lady Brady talked about legislation being only part of the solution. She is right. This requires all sorts of interventions, and police training is one of them. To ensure that the front-line response is as good as it can be, the College of Policing will shortly publish refreshed guidance for

[Baroness Williams of Trafford]
the police on investigating stalking and harassment, which, as noble Lords have mentioned, are two entirely different things. Training might help police awareness of that.

We will use statutory guidance on the order to increase police understanding of stalking, what stalking behaviour looks like and how it differs from harassment. The recent inspection of HMICFRS and the CPS Inspectorate of the response of the police and the CPS to stalking and harassment showed that there is more to do to ensure that the criminal justice system's response is as robust as it can be. We are working closely with the police, the CPS and others to address the findings of the report, including through a Home Secretary-chaired national oversight group. We will continue to work with the police and others in the criminal justice system to raise awareness of stalking and to ensure that the appropriate guidance, training and responses are in place.

One or two noble Lords mentioned the importance of a multiagency response. I absolutely agree. My noble friend Lady Couttie is not in her place, but the approach that Westminster has taken to this is not only ground-breaking but is seen as best practice, and I commend the way it operates.

The noble Baroness, Lady Brinton, talked about the orders covering friends and family and mentioned the way in which, having started on an individual, a perpetrator can then intensify the stalking behaviour to affect friends and family. That could be covered, if the court was satisfied that there was a stalking-related risk to those people, which in the example the noble Baroness gave me yesterday there absolutely would be. She talked also about work, and I have addressed that.

The noble Baroness asked me yesterday about the use of DNA as well as fingerprints and photos. I am afraid the answer is no, because the only purpose of this provision is identification. I know exactly the point she was making about future-proofing and future information, but photos and fingerprints enable swift identification and DNA would take some days. The identification requirement in the Bill mirrors those in other notification regimes, such as for sex offenders and people covered by the CT Act 2008, which do not include provision for DNA to be used for identification with notification requirements.

The noble Lord, Lord Low, asked about the reasonableness test and whether the defendant should know that their actions are unwelcome. It is the same test as in stalking criminal legislation and the Protection from Harassment Act. The court must consider necessity, proportionality and Article 8 rights, and the defendant has a right of appeal.

I am very proud to respond to this Second Reading today and proud of some of the actions that the Government have taken to date. We introduced the first specific stalking offences in 2012. We are working with the police and the CPS to ensure that their response to stalking continues to improve, and are overseeing that response through an oversight group led by the Home Secretary. We are also funding a number of really good projects—for example, the national stalking helpline and the Suzy Lamplugh Trust. They are a real lifeline for people who may feel that they have literally no one else to turn to. Through the tampon tax fund, we have given funding to three projects that address stalking, including Black Country Women's Aid, which is piloting the first specialist support service for victims of stalking in that part of the country and doing research.

I hope that everyone will feel able to support this Bill. The signs so far today are very good. Coupled with the continued improvements in the criminal justice response, it provides an opportunity for us to transform our approach to safeguarding these victims at the earliest possible opportunity. I hope that the Bill will make steady and speedy progress through the House.

1.25 pm

Baroness Bertin: I thank all noble Lords for their powerful contributions today. The quality of the debate in this Chamber and in the other place is testament to how seriously we in Parliament take stalking. The legislative gap that victims are falling into is unacceptable, and I sincerely hope that this Bill, with its cross-party support, will receive a successful passage.

I thank the Minister for her very thorough summing up. I will not take too long, but I want to raise some points. The noble Baroness, Lady Royall, has great expertise in this area and I thank her for all the work she has done. I very much enjoyed getting to know the noble Baroness, Lady Gale, a little more, with our shared interest in protecting women. Both noble Baronesses raised the issue of the stalking register. It is right that it is not part of this Bill, because we obviously have to keep it prescriptive in order to get it over the legislative hurdles. However, the noble Baroness, Lady Royall, and others, including the noble Baroness, Lady Gale, are absolutely right that the management and tracking—for want of a better word—of stalkers are incredibly important. It is an issue that we must keep returning to to ensure that we have the correct measures in place, and I look forward to working with her and others on that.

The noble Baroness, Lady Royall, and others also talked about a culture change. That is very important and it particularly applies as well to domestic abuse. People tend to ask, "Why didn't she leave?", "Why didn't she do something?", or "Why didn't he do something?", but the onus should be on the perpetrator, with an emphasis on changing the culture across the board.

I thank the noble Baroness and others for their commitment not to amend the Bill. We all know that that would seriously delay it and possibly kill it, which would be a huge disservice to the many victims who need action as soon as possible.

The noble Baroness, Lady Brinton, spoke movingly about her own terrible experiences, and I extend my heartfelt sympathy to her and her family for what she went though. I thank her, too, for her valuable support.

Mental health is at the core of many stalking cases, and I am very pleased that positive restrictions will be able to be put in stalking protection orders to ensure that perpetrators undergo mental health assessments. That, as well as the multiagency approach that we are

seeing across many police forces, will be very important. Police services have to work with mental health services to try to stop stalking in the first place.

My noble friend Lady Brady made a very thoughtful speech and was absolutely right to raise online stalking, as the internet is now a key weapon for stalkers. It is right that stalking protection orders should extend to the internet. I reiterate her point that far too much information about people is now too easily available. It is very easy for someone to track another person. By searching for someone's name on the internet, you can get a huge amount of information, thanks to many websites. I am very pleased that orders could contain prohibitions on certain uses of the internet, and software could be placed on perpetrators' devices to ensure that they did not breach that. Companies and platforms have a responsibility to respond properly to victims when they are being stalked and to take blocking requests seriously in order to help the authorities in good time where necessary.

My noble friend Lord Wasserman spoke eloquently on this issue and with a huge amount of knowledge. I agree wholeheartedly with him: I am sorry that there are not specific measures in the Bill, but I listened with interest to the Minister's answer on that and I will work closely with him to try to include it in the domestic abuse Bill. He is also right to flag up the important work of Katy Bourne; she is a very effective police and crime commissioner. I would like to thank the Home Office and its officials for their diligent and committed help with the Bill; they have been a Rolls-Royce team.

I hope that all victims of stalking will take some comfort from knowing that better help and support should be on the way. This Bill is not a silver bullet, but I hope that it adds another building block to help our justice system properly to tackle a crime that, for far too long, has gone under the radar. I listened with interest to the points made by the noble Lord, Lord Low, on which I echo what the Minister said. I want to make sure that we do not amend this Bill; I would like to meet with the noble Lord to reassure him that, as the Minister said, there does, absolutely, have to be a reasonable test for whether the defendant knows their actions are unwelcome. Proportionality, necessity and Article 8 rights would of course be taken into account.

In this week of all weeks, where we see political discord reach all-time lows, I hope that we will stand as a small symbol of unity on this important issue and, as a result, do the right thing for society. This Bill is dedicated to all victims, past, present and future; I ask the House to give it a Second Reading.

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

Parking (Code of Practice) Bill

Second Reading

1.32 pm

Moved by ***Lord Hunt of Wirral***

That the Bill be now read a second time.

Lord Hunt of Wirral (Con): My Lords, it is a great honour to be piloting this important Private Member's Bill through your Lordships' House. Its promoter in the House of Commons was the right honourable Sir Greg Knight, MP for East Yorkshire, who is himself an unusually committed and elegant motorist. He has been most dedicated and committed in his work, which will have such a positive impact on so many of his constituents and on everyone who drives a vehicle and needs to park it from time to time.

I cannot remember having been directly involved with a piece of legislation that has provoked so favourable a reaction in everyone I meet since 11 February 1977, when I moved the Second Reading of the Passenger Vehicles (Educational and Other Purposes) Bill, which eventually became the Minibus Act 1977. So I have some experience of how difficult it is to manage the procedures of the House, and I salute Sir Greg for his diligence and for successfully captaining this small but beautifully made Bill through the other place. I also thank the excellent government Bill team for its ready and first-class assistance and support.

I am so pleased to see so many important Members of the House participating in this debate. I recall that it is almost exactly 30 years ago that my noble friend Lord Kirkhope successfully introduced a Private Member's Bill that became the Parking Act 1989. In the House of Commons, that Bill required no debate at all on Second Reading, while Committee lasted just 75 minutes. I cannot promise such brevity today, but I am greatly heartened by the many expressions of support that I have received from all parts of the House.

With its focus on emerging technologies, the 1989 Act was certainly ahead of its time, but new legislation is now urgently needed. The Bill addresses the need for fairness and consistency for motorists who park on private land, and seeks to codify for the first time the standards that should be expected of all private parking providers. Currently, the private parking industry operates under a system of self-regulation. The system is good in parts, but it cannot provide the clarity that motorists rightly crave.

The Protection of Freedoms Act 2012 banned the controversial practice of wheel clamping and, in Schedule 4, made the keeper or hirer of a vehicle liable for any unpaid parking charges associated with that vehicle. Since then, any private parking company seeking to enforce a parking ticket against a motorist has needed details of the home address of the registered keeper, which it can obtain only from the DVLA. The DVLA will disclose that data only if a parking company is a member of one of the two parking trade associations, the British Parking Association or the International Parking Community.

To be a member of a parking trade association, a company must abide by a code of practice that sets out operational requirements by which a parking operator must abide. Each association has its own code of practice and different standards to which it holds its members. This has led to a degree of consumer confusion, with different rules applying on different sites and the inherent risk of a race to the bottom in code standards. A single code of practice would give us an opportunity to create a consistent standard across the industry,

[Lord Hunt of Wirral]
and to make best practice the standard practice for parking operators. I am pleased to say that these measures will apply in Scotland, England and Wales, giving motorists confidence that the same rules will apply whenever and wherever they park in a private car park on the UK mainland.

I shall go through the clauses. Clause 1 sets out the basis of the proposed code and Clause 2 the procedure for establishing it, including comprehensive consultation of interested parties and a significant role for Parliament in acceding to the draft code. Clause 3 requires the Secretary of State to keep the code under review, and Clause 4 sets out the basis for the publication of the code.

Clause 5 covers the intended status of the code, establishing that it will be admissible in legal proceedings and that adherence to it will be a requirement for a parking provider seeking access to the DVLA register. Clause 6 deals with the delegation of functions so far as policing the code is concerned. I will return to Clause 7 in a moment. Clause 8 establishes a levy on the accredited parking providers in order to fund the new system. Clauses 9 and 10 relate to regulations and interpretation, and Clauses 11 and 12 deal with the application to the Crown of the legislation and commencement.

This Bill comes to us with comprehensive support from all quarters, including the trade bodies for the private parking industry and motorists' groups. Andrew Pester, chief executive of the British Parking Association—one of the two existing membership organisations with a self-regulatory code and access to the DVLA database—has supported,

"a single standard body, single code of practice and a single independent appeals service".

In his words, the Bill,

"provides a unique opportunity to deliver greater consistency and consumer confidence".

No one is arguing that there is no problem. Highly undesirable practices in the private parking industry range from threatening letters sent to motorists, poor signage in car parks and aggressive debt collection practices. One particular bugbear has been the failure to provide a transparent, fair appeal system when a motorist feels that a ticket has been issued unfairly. Motorists who wish to challenge a parking ticket are often uncertain about how to proceed; where to lodge an appeal is unclear and changes from site to site and company to company. The existing appeals processes lack transparency, and the cost of paying a ticket can rise if an appeal is made, as early payment options just melt away. Consumers feel pressurised into paying unfair parking tickets, because they fear the increased costs, should an appeal be unsuccessful.

Thanks to an amendment in the House of Commons, the provisions in this Bill now cover the appointment of a single appeals service, in Clause 7, which sets out the process by which the Secretary of State will be able to establish a single, independent appeals process. This will improve transparency and give motorists confidence that if they appeal against a parking ticket they will know where to go, in the confident and well-placed expectation that their appeal will receive a fair hearing. Steve Gooding, the director of the RAC Foundation, has said:

"We particularly welcome the proposal for a single, independent appeals service, which, together with a single, clear code of practice should establish a better, clearer framework and a level playing field that is fairer for all".

The RAC Foundation is already making an invaluable contribution to producing the first draft of the code, for which it deserves our thanks.

Parking operators that operate in a fair and transparent manner, of which there are many, will not suffer from a code of practice coming into force, but it will stop those who undermine the whole sector with poor practices. Providers who already work to the standards of best practice will find that little or nothing changes for them. In time, the best practice that exists in many areas of the industry should become the standard. I believe that is why industry bodies have welcomed this Bill, supporting the Government in considering the areas a code of practice should cover.

This Private Member's Bill, a great example of non-partisan co-operation, offers an excellent opportunity to significantly improve the conduct of the private parking sector, creating a fair, transparent, consistent system that motorists can confidently use whenever they need to. I close by again underlining the deep appreciation of all of us for the dedication and commitment of this Bill's parent, Sir Greg Knight.

1.44 pm

Baroness Thornhill (LD): My Lords, I wholeheartedly thank the noble Lord, Lord Hunt of Wirral, and Sir Greg Knight for their work and commitment to get the Bill thus far. If anything is designed to raise the temperature and noise level in the local pub, it is discussions about parking.

I rise to support the Bill in its genuine attempt to create a level playing field for all private parking providers. It appears to be largely uncontentious and to have the support of trade bodies such as the respected British Parking Association, which has regularly called for a single standard body, a single code of practice and an independent appeals service for all operators, regardless of the trade association the individual operators belong to. That is an important point.

The noble Lord has outlined the Bill in detail so I will not repeat that, but I take the opportunity to lament the narrative around parking controls. In general, it goes something like this: the motorist is king—or queen—and it is those rotten councils and nasty landowners trying to stop us parking where we want, when we want, for free, anywhere. It is also regrettable that the language and actions of some of the media have endorsed this view. I exaggerate for effect, but I am sure we all recognise the picture.

This attitude and approach to a valuable and much-needed service is at best unhelpful and at worst could be behind the levels of aggression and abuse that parking attendants face every working day. That is shameful and largely goes unnoticed, and I feel very strongly about it. It is the actions of those private companies at the bottom of the league table—if there is such a thing—that give rise to this. The noble Lord is correct: self-regulation clearly has not worked.

My daughter having experienced a really dreadful parking incident, I know its effects. To cut a long story short, she was intimidated into paying up there and then by the kind of chap, to coin a phrase, you would not want to meet in a dark alley. On further investigation, it turned out that the strip of land she had parked on was adjacent to a legitimate car park that she had paid for and believed she was parking in. However, she was not—it was a kind of ransom strip, and a ransom was indeed demanded. When we went to check the so-called notices and signs to demarcate the difference, you needed a ladder and a set of binoculars to see them. So I assume that signage will be part of the code.

News of this incident was quoted in our local paper, where I, like several MPs during the Bill's passage, used words like "cowboy" and "rogues". I was then invited to meet a local private parking company, which dutifully pointed out to me, as their mayor, that I should know that not all companies are rogue or cowboys and that they provide a legitimate service and provide it well. My wrist was duly slapped. Thus, for companies such as these, the Bill will be welcomed and consistency and fairness will be hallmark words. But for the very rogue and very real cowboys will it be business as usual, hopefully with a lesser degree of success, leading to more of them going out of business? That said, as my daughter discovered, intimidation makes you just pay up. My precise concern is that, as I understand it, the code will not apply to those who do not belong to one of the accredited trade associations and those who issue tickets outside the current framework. How will we deal with these? Perhaps the Minister could clarify that it is they that give the rest of the sector a bad name.

Controlling and enforcing parking will never be popular. Council parking services have been under attack in recent years in many ways, having to defend themselves from various claims, not least that they are responsible for the closure of shops and the demise of the high street due to parking charges. Thankfully, evidence has now firmly rebutted that claim, but it is still true that there is much government pressure through statute to ensure that councils do not profit—that is the word used—from their parking service, as if a well-run, effective council service actually catching people who are contravening the law is a bad thing. Councils are still not allowed to use surplus revenue to subsidise other public services to survive in a time of diminishing budgets.

Thus, while the Bill seeks to make it a level playing field for all private contractors, there will not be the same rules that local government have to abide by, rules that could change at the whim of the next Secretary of State—and they do. So my next question to the Minister is this: when the code is drawn up, could there be a degree of synergy with the rules that local government have to adhere to? Otherwise, the Bill will clarify matters for the public in part but not entirely, and we will still have a two-tier system.

The real test, however, will be in the enforcement of the code—I mean real enforcement—particularly in the early days, to lay down a marker that this code is not a crocodile with rubber teeth but has some bite. The penalty of not being able to get driver data from the DVLA should be enough of a deterrent to ensure that standards rise across the board, but therein lies an area of concern: the DVLA handing over our personal data to myriad private parking firms. It is a legitimate view, held by some of my colleagues, that in this instance, private companies should not have access to any of our data. Can the Minister reassure us as to how this will be monitored, and what safeguards might there be to prevent the abuse of this data? I am sure we will discuss that at a later stage.

As the code is developed, there will be much more to say on matters such as the amount of fees. I genuinely feel that a lot of the animosity towards parking is due to the disproportionately high fees charged by private companies. The level of fees local authorities can charge is prescribed by government; there is no such control over the private sector. If, say, a person parks in a legitimate parking space in a hotel car park, attends a conference held there but fails, in rushing in late, to give their registration to the hotel reception, a fine of £100 may be given. This is surely disproportionate when compared to parking that jeopardises safety or causes an obstruction, enforcement against which is still unsatisfactory, and is far in excess of what any local authority outside London can charge.

I hope there will be an opportunity to look at this issue, the appeals process, grace periods and much more in Committee. But as was said earlier, the closer the local government regime and this new regime come together, the less confusing it will be for the public—the motorist—and the fairer for all. Parking control is not popular but it is a vital service and services have to be paid for. When my residents used to ask me regarding controlled parking zones, "Why should I pay for a permit to park outside my own home?", my reply was, "You are not paying to park outside your own home. You are paying to stop everybody else parking outside your home all day, for free, which prevents you parking". I learned quickly, though, that you can never win with parking.

With the caveats that I have raised, we support the Bill and wish it a speedy passage.

1.52 pm

Viscount Goschen (Con): My Lords, I too thank my noble friend Lord Hunt and Sir Greg Knight for their work in introducing this Bill to another place and now to your Lordships' House. It is important and highly focused legislation. In these times when our legislative system is grappling with some of its biggest ever issues of recent times, it is extremely satisfying to see Parliament doing its job by correcting injustices which directly affect the lives of very many people.

Over recent decades, great strides have been made with regard to the rights and protection of the individual but there is one area where, in my opinion, the situation has moved backwards. It can be best described in the context of legalised unfairness. We see this phenomenon in so many situations, from hidden charges in car-hire agreements to technology-enabled contracts which are fiendishly complex and difficult to cancel, or to the use of premium-rate phone-lines to correct the mistakes of service providers in a wide variety of situations. It is very easy now for companies to help themselves to the

[Viscount Goschen]
wallets of the customers whom they deal with, often enabled by technology. This has become known by the shorthand of "the rip-off culture", in which surcharges are buried in the small print and the consumer is really only a receiver of unclear and punitive contractual terms.

Among the worst of these practices are perpetrated by rogue elements of the private parking industry, a situation made far worse by the fact that it is facilitated by a government agency, the DVLA. Where government is involved in effectively doing the dirty work, we need to set the bar high for it. I welcomed the remarks of the noble Baroness, Lady Thornhill, who said that parking regulation and enforcement are an important service and that if it did not happen it would be a free-for-all and we would all be in a complete pickle. The industry is populated largely by responsible companies doing a proper job and charging a reasonable amount of money for it.

However, there is a significant rogue parking element which through its lack of integrity is in danger of bringing the whole industry into disrepute. It is therefore in the interest of the high-integrity, high-quality operators to ensure that those who do not abide by those standards are prevented operating. For parking to work properly, it is clear that there needs to be clarity in the rules and the tariffs, fairness in how motorists are treated and proportionality in the terms of penalty fares and fines—here, again, I agree that a charge of £100 for being one second late is entirely disproportionate; I hope that the code will cover that area, with penalties expressed as a proportion of the original charge. There needs also to be transparency as to the nature of the fine or penalty. Tickets are often dressed up to look like official criminal tickets when in fact they are notices of breach of contract, as I understand it. Finally, there needs to be strict control of the use of DVLA data in how those companies go about recovering penalties.

The most unfair part of all this is that the objective of the exercise is often entrapment—we have heard the description of a ransom strip, which indeed happens. We must stop the objective of the exercise being to trap motorists and then to sting them with wholly disproportionate penalties. The objective should be the provision of parking to facilitate people's everyday lives, when they go to shops, to government offices or to whatever else would draw them into town, city and village centres. They should pay a fee to park, but the objective of the exercise should not be to trick them into penalties. That is iniquitous and I hope that the code will focus on it.

Progress has been made already. Reference was made by my noble friend Lord Hunt to the abolition of clamping on private land through the Protection of Freedoms Act 2012. Parking operators would lurk around the corner in a van and an intimidating individual would spring out, apply a clamp and basically threaten to hold the vehicle to ransom until a very large sum of money was paid up. That injustice has been corrected through the welcome provisions of the 2012 Act, but it has been replaced by a technologically enabled variant of exactly the same process. There is no longer the physical intimidation, but there is now the technology and government-enabled pursuit, often through aggressive means, of individuals who have overstayed their parking. Very large sums are demanded and people are intimidated into paying up rather than face the prospect of county court judgments that could be ruinous.

So we have come a very long way from the days when the traffic warden—that uniformed public servant—was in charge of these matters. It is probably fair to say that these individuals were not universally considered or portrayed as sympathetic characters, but at least the rules were simple and straightforward. Now we have private companies, some of which in their correspondence masquerade as official enforcement agencies and charge disproportionate penalties.

I very much welcome the Bill, which is a commendably simple and straightforward piece of legislation, at the heart of which is the development and deployment of a code of practice for private parking operators. Non-adherence to the code will have a terminal effect on an operator's ability to access official DVLA data and to maintain its accreditation. As has been said, if it fails to abide by the rules, it will be put out of business—and that is the most powerful sanction imaginable. The bar for the code of practice really should be set high.

One measure of a good Bill is that one is surprised that it is not already the law of the land. This Bill falls directly into that category. When I read the account of proceedings in another place, I was struck by the total support from all sides of the House, as well as from representative organisations outside in whose interests it is to ensure that the issue is properly dealt with. It is a great example of Parliament standing up for the rights of the individual, and I give it my full support.

2 pm

Lord Leigh of Hurley (Con): My Lords, I am delighted to see this Private Member's Bill in your Lordships' House for us to consider, and I congratulate my noble friend Lord Hunt of Wirral and Sir Greg Knight on its reaching this stage. Although some may think that politics is fairly quiet in the Westminster bubble, it is good to see that your Lordships' House can turn its attention today to three Bills that are of great importance to people's lives and can make a difference to them.

As the noble Baroness, Lady Thornhill, said, parking is a subject that seems to be at the core of some people's lives, and I suspect that I might be guilty of being somewhat overzealous about it myself. I recall that, when the announcement was made of my elevation to the peerage, even before I entered your Lordships' House I received congratulatory letters, not least from someone who said how jealous they were that I would have free parking in SW1.

Like others, I get irritated by those who seek to profit unfairly from motorists seeking to park. The culprits are not limited to car park operators. Motorists sometimes have to use car parks because of restrictions imposed by the likes of local authorities, which force them there through the imposition of restrictions on their roads. Often one sees a gradual, insidious loss of space.

I will elaborate on my parking credentials and overzealous nature. A few years ago I noticed that a large number of single yellow lines in Westminster had

been turned into double yellow lines, such that parking after 6.30 pm was no longer available. In June 2014, I put in a freedom of information request to Westminster Council, asking for this to be quantified. The council refused to provide the information for the whole of Westminster, so I got the council to do it for the preceding three years for just one ward, the West End. I discovered that some 433 metres of single yellow line had been lost to double yellow line. It is a great loss to motorists and to businesses, which would otherwise benefit from late-night shoppers, particularly in this difficult retail environment—not to mention restaurateurs, theatres and the like.

I cannot help but comment en passant that Westminster Council has form in being anti-motorist, with its unsuccessful attempt in 2011 to force all-night parking into its own car parks, and its successful removal of free parking on Saturday afternoons, which is a great shame for West End retailers.

Meanwhile, back in Hurley, where my nomen dignitatis indicates that I am from and where I have an interest, another parking situation arose. The Royal Borough of Windsor and Maidenhead sought to impose all sorts of ugly signage and parking restrictions in no lesser place than Hurley high street. Fortunately, we have an excellent MP, who helped the village reach a satisfactory compromise on its parking and signage.

It was during these important and critical negotiations with the council, with the enormous help of the local MP—who was then Home Secretary; she does win some arguments against authorities—that I had the chance to get to know the regulations that became Statutory Instrument 362, the Traffic Signs Regulations and General Directions 2016. I am sure that all noble Lords have had the chance to review these regulations, which cover the precise nature and size of parking signs allowed. At 545 pages, they pretty much cover the entire landscape and all you need to know. I hope that the Minister is able to give us some comfort that the legislation before us today, which is only enabling legislation, will not lead to a code for signage that is markedly different from that laid out in Statutory Instrument 362, so that there will be some compatibility with the signs and information that the motorist is getting used to, while at the same time keeping regulation, as always, to the barest minimum.

There has clearly been some abuse by some operators. Second Reading in the other place evidenced a wave of unacceptable practice. Not to be outdone, when I read the debate it brought to mind my local press, the *Henley Standard*, which reported that visitors to the town and its memorial hospital were being fined £160 by a company called Smart Parking when they were eligible for a free 20-minute grace period. They were being fined even when they drove through the car park without stopping—such is its configuration that one can drive through it.

Clearly, the success of the Bill will depend on the detail of the new code of practice and the terms it contains. I note that the Bill requires the Secretary of State to prepare the code. In other areas, the Government have passed that obligation back to the sector. For example, in the charity sector, where I have been involved both in charities and in the legislation, the Government created the Fundraising Regulator and invited the sector to self-regulate and, in effect, create its own code. In this instance, I support the different route that has been selected.

Some areas to be included in the code were very helpfully set out for us by the Minister in his letter of 14 January. He did not mention the situation where operators in a private residential area might first need to get approval from all, most or maybe some of the residents before implementing a scheme, and this may also require the inclusion of guidance from the Government in the code.

Finally, I have to put on record for full disclosure that, in a professional capacity, my employer has advised companies in the sector. As the noble Baroness, Lady Thornhill, said, there are good companies: we advised Creative Car Park Ltd and there are others that behave profitably, ethically and properly. It is up to us to ensure that good operators are allowed to thrive and others are curtailed. It is now time to ensure that the estimated 250 billion vehicle miles travelled in the UK in any one year are not subject to rogue opportunists taking advantage of the need to park at the end of those trips.

2.08 pm

Lord Kirkhope of Harrogate (Con): My Lords, while listening to the earlier part of this debate, which I welcome, I wondered what a group of enthusiasts or interested parties in relation to parking might be called. The term "nosy parkers" might do very well. Certainly, there a quite a lot of noble Lords here who have some experience.

I cannot myself go back to 1977—I am sure that all noble Lords will observe that I must then have been only in my infancy. To be more understood and believed I should rather say my political infancy, which would be correct. My noble friend was quite correct to say that 30 years ago, almost to the day—it was 21 January 1989—the Second Reading took place in the House of Commons of my own Private Member's Bill, which became the Parking Act 1989. It was not exactly similar to this excellent measure now, but it gave a legal basis for the first time in this country so that parking could be paid for in other ways than merely by coins. That, of course, as we all know, has now developed into quite a dramatic technological advance, but in those days that was the situation. It was certainly important at the time, but it also included some other measures, hoping that it would improve the standards in this area.

Thirty years have now passed; some things have changed, and some things have not. On a recent observation of my very good friend the right honourable Sir Gregory Knight, I can see that he has certainly not changed over the last 30 years. However, his interest in this matter has continued, as has his interest in historic vehicles, in which we both have a great interest. His interest, which has now developed into this excellent measure, was indicated in 1989, when we were dealing with the Lords amendments during the passage of my Act. Incidentally, those were the days when Lords amendments were actually welcomed in the House of Commons. He said to me:

[Lord Kirkhope of Harrogate]

"I hope that my hon. Friend will agree that it is unreasonable to expect a motorist in a queue of traffic to stop at the barrier to read the information on the ticket before he drives under that barrier. Will my hon. Friend assure us that he proposes that this information will be displayed not only on tickets, but on signs that can be seen from a distance?"—[*Official Report*, Commons, 7/7/1989; col. 594.]

That was very much in advance but was certainly part of his whole interest in transparency and further information. When it came to this, his own Bill, he said:

"Motorists should have the certainty that when they enter a car park on private land, they are entering into a contract that is reasonable, transparent and involves a consistent process. Poor signage, unreasonable terms, exorbitant fines, aggressive demands for payment and an opaque appeals process … have no place in 21st-century Britain".—[*Official Report*, Commons, 2/2/18; col. 1149.]

Of course, they had no place in 20th-century Britain either, but unfortunately they prevailed. Therefore, I very much welcome the Bill and I congratulate my noble friend Lord Hunt on his introduction of it today, as much as I welcome what my right honourable friend Sir Greg Knight has done.

All this is terribly important in recognising the changes that have taken place over the last 30 years. Now we have some 38 million vehicles on the road; 19 million of them need to park virtually every day. When my Act went through there were substantially fewer—I think under 24 million vehicles—of which a much smaller proportion needed to move around and park each day. Public transport tended to be more the norm in those days; fewer people used their vehicles quite as regularly as they do now. Because there were neither those demands nor the demands on the planning arrangements, local authorities, for instance, and others who were building residential developments and office developments were not then under obligations, as they are today, to have parking taken into full consideration. The scene we had was therefore very different. As my noble friend said, wheel clamping, which was one of the most appalling things occurring on private land, was abolished through the 2012 legislation, which was a great development.

In 1989 we wanted a code of practice about the way in which people were allowed to offer parking facilities. Frankly, that was not totally successful, so I am particularly pleased to note that, as part of these provisions, there is a requirement for a new code of practice to be introduced. Of course, in a way these things are often voluntary, but I am pleased and heartened to know that the official parking agencies—the parking associations—all support not only this excellent Bill but the need to make sure that there are standard arrangements, good-quality parking facilities, and complete transparency with regard to the information provided to those who wish to park their cars.

I shall not go through individual items in the Bill, because in general I very much support it. It is taking things forward in the right way, and it is difficult for anyone to indicate lack of enthusiasm for those measures. I conclude by saying that, as far as I am concerned, whether it is 30 or 40 years or whatever, we are moving in the right direction. I hope that we will be able to provide the right facilities for the future for those who will not be moving their cars at all times but wish to ensure that, when they park them, they are safe and secure in doing so.

2.15 pm

Lord Lucas (Con): My Lords, it will not surprise anyone that I, too, welcome the Bill. I have some history in this area. I have a long involvement with an organisation called the London Motorists' Action Group, mostly concerned with fighting Westminster and Camden. My noble friend Lord Leigh will share my views on their attitude to motorists who wish to park. I am delighted that things are better in Watford, although not at Waterfields, I notice, which has one of those private car parks that operates a cliff edge: two hours free; for the first second after that, £85. One thing that must be got right in the code is that operators whose finances depend on extracting penalties from motorists, as many of these companies do, should not be allowed to continue in business. If they are operating parking and basically running it off the fees that they get for parking at a steady rate, that seems all right. If they are getting very little from that and most from extortionate penalties, that seems to me a very antisocial way to behave, and I very much hope that that will not be allowed by the code.

In regard to that, I very much hope that the Minister will offer us a meeting between Second Reading and Committee. That would help cut down the amount of talking and amendments that we have to get through at that stage. We all support the Bill, but we all have ideas, and we would like a better understanding of the details than we can get from a short speech by the Minister at the end of Second Reading.

Like others, I want clear and fair rules. It should be clear that waiting is not parking. That is something I have been on the wrong end of in a private car park. Given my history, I tend to be quite competitive about these things and in the end they give up and go away, but it is not fair that people in general should be subject to threatening letters just because they have paused for a moment while remaining entirely in charge of the car. Setting someone down in a hospital car park is not parking, and the code should not permit it to be charged for.

For this to work, we need a good flow of information. Rather than push this through some bureaucratic mechanism, we should require information to be published. Anyone running a private car park should be required to publish on the website—which they must have to enable appeals and so on—information about how many people park there, how many fines they issue, what is going on in that car park which affects the motorist and how they should look at the consequences of parking there. Public indignation is the cheapest and best way to ensure that, in a very diverse and scattered industry, we get good performance.

On penalties, there seems to be an idea that £100 is a reasonable amount to charge people for overstaying in a car park. Mostly, that is done by mistake. Yes, it is certainly reasonable to charge a fee to cover the cost of digging the money out of someone who has forgotten to pay, but it is absolutely unreasonable that that could be £100: £30 might be more like it, I guess. Again, that

matter should be in the code; we should not allow excessive premia for people who have merely forgotten to pay.

Indeed, in everything we do, we should encourage compliance. Noble Lords may remember the early days of the London congestion charge, when the system was designed to catch people out and incur fines. Then, the system became compliance-friendly: you could sign up so that if you drove into the congestion charge zone, you were automatically charged that day's fee. Modern technology from several competing companies out there enables this to be done on a small scale in private car parks. We ought to insist that any space for more than a few cars should use these motorist-friendly systems to charge people for parking. You should be able to register, particularly if you use a car park or an operator with any regularity, and be charged automatically when your vehicle is recognised going in and out of the car park. The system is simple and reliable; we ought to insist on it.

On the internal appeal system—the bit before the external appeal system—we ought to insist that companies document what is going on so that their performance can be reviewed. It is not right that appeals get rejected on principle; people do not want to risk adding 50% to their penalty by going to the external system. The internal system must be well run and fair, and it must be possible to check that. The external system needs to be effective and cheap, which is difficult to achieve. We ought to allow the external system to be pretty robust in saying when an appeal is hopeless and dismissing it in short order, otherwise it gets far too expensive to operate.

On the other hand, the person reviewing the system ought to have legal expertise. In my one involvement with Poplar, I was astonished by how little the person conducting the appeal understood about the law of the land. I do not think that they had any legal training at all. The appeal system needs some kind of quality control—someone to review and check things to make sure that what is going on is up to the standard we expect.

The key to this is building a self-improving system with a clear and strong flow of information on what is good practice, what is going wrong and what is being done to improve things so that, over time, we can push towards better practice and not be satisfied with anything like the current system. I am delighted by the way the Bill has been drafted, which offers us the opportunity to get where we need to go. I look forward to my conversations with the Minister.

2.23 pm

Lord Kennedy of Southwark (Lab Co-op): My Lords, I am delighted to give the Bill my full support. Car ownership, parking, the charges associated with parking, disputes over charges and appeals can cause considerable disagreement, as we have heard. To put it mildly, people can get very angry about these issues, as the noble Baroness, Lady Thornhill, said. The noble Lord, Lord Hunt of Wirral, set out the problems that some motorists have had to contend with in dealing with those who operate poorly in the industry. I also endorse the comments made by the noble Baroness about the abuse directed at parking officials, which is totally unacceptable. They are doing their job; she is absolutely right that certain elements really wind that sort of thing up. I very much support her comments on that. The noble Viscount, Lord Goschen, was absolutely right to comment on how some of the worst elements in the private industry are ripping people off. I fully endorse his comments, and that is why the Bill is so welcome.

We need a system that is clear, consistent and deals with people fairly. What we all want to see is fairness. As we have heard, the situation at present is not as good as it could be. Many people in the industry operate perfectly fairly and do their job properly, but of course, as always, there are those who do not. Where people have not paid their parking charges, the owners of private car parks need their details and so they need access to the DVLA database. To do that, they must be members of one of two accredited trade associations. As we have heard, both trade associations have codes of practice, but they have different terms, standards and appeal mechanisms, and it is confusing to say the least. That is not a good place for us to be. The confusion and inconsistency have led to different standards and things not being right, so we need to get this right.

I strongly support the comments of the noble Lord, Lord Kirkhope of Harrogate. He said that when drivers enter a car park they should be clear about the contract they are entering into and that the terms should be absolutely transparent. If they do not like them, they should be able to leave quickly. The Bill is welcome in dealing with the inconsistency and confusion by creating a single code of practice which would apply to all operators and seek to deliver best practice. That is good for car park operators and, more importantly, it is good for motorists.

Proper consultation with car park operators, the trade associations and other relevant organisations must happen before the code is produced. I am sure that will happen. It should then be laid before Parliament before coming into force. I am also pleased to see that the Bill allows for the code to be regularly reviewed because practices change over time. It is only right that we should be able to get the code looked at quickly and amended as necessary. It is also right that the Bill provides for the ability to levy the accredited associations in order to pay for the cost of the scheme, as is the ability for a single independent person to be authorised by the code to deal with appeals brought against parking charges and to be able to charge fees to persons operating private parking facilities. It would be very good to get that consistency in place.

It has been an extraordinary week in Parliament to say the least, so I will not detain the House for much longer. I am delighted to learn that the Bill has the support of the British Parking Association, the RAC Foundation and others in the industry. I look forward to it making swift progress through your Lordships' House. In order for that to happen, I do not intend to table any amendments and I hope that no other noble Lord will do so. That is because a well-meaning amendment which would make the Bill even better than it is now would risk, at this late stage of this

[Lord Kennedy of Southwark]
Session of Parliament, wrecking the entire Bill and it falling. We do not want that to happen. It is important, no matter how tempted we are, that we do not table any amendments. We must leave the Bill as it is so that it can move swiftly through the House.

I put on record my thanks to the noble Lord, Lord Hunt of Wirral, for taking the Bill through the Lords. I also offer my thanks to the right honourable Sir Greg Knight MP, who first brought the legislation forward in the other place. I very much endorse the comments made by the noble Lord, Lord Hunt, about the Member for East Yorkshire. As I said at the start of my contribution, the Bill has my full support. I look forward to seeing its swift passage through the House and it becoming an Act of Parliament shortly.

2.28 pm

The Parliamentary Under-Secretary of State, Ministry of Housing, Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, I thank all noble Lords who have taken part in this debate—a very consensual debate, I am pleased to say. I will try to deal with the points that have been raised. This debate on Second Reading has been wide-ranging in many ways. It has been full of important content and some very interesting and important points have been made. In so far as I cannot deal in detail with any of the issues which have been raised, I will make sure that noble Lords get a detailed response. I will write to noble Lords and place a copy of that letter in the Library.

I want to thank very sincerely my noble friend Lord Hunt of Wirral for his hard work in promoting this Bill. It is a matter for which the whole House is most grateful. I also thank my right honourable friend the Member for East Yorkshire, Sir Greg Knight, for introducing this Bill in the other place. It is pleasing, as the noble Lord, Lord Kennedy, has just said, that in these times of discord to have before us something on which we are so totally in agreement and have reasonable concerns. This is the Lords at its best, just as it was on the Tenant Fees Bill earlier this week.

My noble friend Lord Hunt has shown considerable determination in ensuring that this comes to us and is navigated successfully. I very much endorse the comments that the noble Lord, Lord Kennedy, has just made on the need for no amendments to this Bill. I will endeavour to deal with some of the issues that have come up on council car parking and so on, but that is without this Bill. I want noble Lords, if they would, to remain focused on this issue.

My noble friend Lord Hunt gave us an effective overview of the Bill and why it is needed—for consistency and clarity. There has been an increase in private parking tickets. I endorse the point that many noble Lords have made that there are many ethical operators which are operating quite appropriately and where there is no concern. But there are others. We all have our horror stories; I too have suffered from a cliff-edge car parking charge—as my noble friend Lord Lucas, mentioned—so there are concerns. We all have our examples or—in the case of the noble Baroness, Lady Thornhill—our close relatives' examples to consider and quote.

This is in essence a very simple Bill. It facilitates bringing in a code of practice for private operators to ensure we have consistency, clarity and a proper appeals system. I will nail this at the outset, but will probably come back to it as I go through my speech: there will be a code of practice with an advisory committee drawn from people with expertise in this area. That code of practice will be consulted on and there will then be appropriate parliamentary procedures on the detail.

On the point made by my noble friend Lord Lucas about a meeting, I am happy to facilitate that—hopefully along with Sir Greg and my noble friend Lord Hunt of Wirral—to talk about some of these aspects and provide reassurance. The important point is to provide the focus to ensure that this measure, which is simple and straightforward and should command our support, goes through unamended.

The code of practice will deal with matters such as appeals to ensure that there is clarity and consistency; that is important. It seems appropriate—this is subject to the consultation exercise—that it mirrors appeals procedure elsewhere. I am sure that is at the forefront of people's minds. On notices and the points made about signage, that should reflect best practice and the same process as in local authority car parks and on Network Rail land—where there is a slightly separate regime with slightly different considerations, but it very much mirrors what we have here.

I am sure fines would be considered in the code of practice, particularly in those cliff-edge cases. You see the sign telling you how long you can park for, then if you overstay by a short amount you are very often subject to some horrific charge and the ransom types of situation that the noble Baroness, Lady Thornhill, referred to. My department has been made aware recently of somebody accidentally mistyping their registration number into a parking system and for the sake of a 50p ticket receiving a £45 charge. This is unacceptable and the sort of thing that would be dealt with.

The noble Baroness and others raised the issue of those that are unlicensed and do not receive the appropriate laying-on of hands as a registered provider. They will not have access to the DVLA data, so will not be able to enforce the charges at all or to operate successfully. I am sure the code of practice will reflect this, but clearly the sanctions would not necessarily go for denial of access to the DVLA data straightaway if it is a very minor breach, but that would be appropriate in some situations. It could be the case that it would be like endorsing a licence.

Signage will be dealt with. Noble Lords have raised the issue of contractual signage before you actually go into the car park. It is a basic principle of contract law that you can only be subject to terms known to you and agreed by you, either expressly or implicitly, at the time the contract is concluded. I will look at that, but I am sure it will be borne in mind by those putting together the code of practice. After the contract is

concluded, you cannot then seek unilaterally to put in extra terms, as per the case of Olley v Marlborough Court. If I may, I will cover that in more detail in the letter.

My noble friend Lord Goschen referred to county court judgments. There is certainly an issue there that we want to take care of. There have been instances of people having notices sent to their old addresses when they have made known their present address, and such cases should also be covered.

I have covered the issues of unlicensed operators and fine levels, and the use of debt collectors will no doubt be covered in the code.

I shall deal now with one or two of the issues that have been raised. My noble friend Lord Hunt referred to the fact that he first entered this arena through passenger vehicles legislation—the Minibus Act 1977. It says much for the contribution he has made to public life that he is still firing on all cylinders and helping us with these issues. I put on record my thanks and the House's thanks for that.

The noble Baroness, Lady Thornhill, referred to the local pub test in Watford. I will not ask how she is aware of what is being talked about in the local pubs but we all recognise that unfair car park charges fire people up, and we all have our horror stories to tell about them and I thank her for her contribution and support. She referred to the synergy with local authorities. Many people would suggest that local authorities often make hefty charges but I will deal with that issue in separate correspondence with her. I agree that sometimes people are unfair in the abuse and attacks they direct at people who are responsible for enforcing the rules, a point also made by the noble Lord, Lord Kennedy.

I am grateful to my noble friend Lord Goschen for his comments on this focused legislation. As he said, it seeks to deal with legalised unfairness. I am also grateful to my noble friend Lord Leigh of Hurley for his contribution and his broader discussion of car parking. We recognise some of the issues he raised, particularly about the need for compatibility. He said that many companies behave perfectly properly and ethically. They have nothing to fear. We want to make good operators the norm, the universal situation.

My noble friend Lord Kirkhope also goes back some way on this issue of parking and I thank him for his expert knowledge and for his support of the need to move forward with this legislation. I also thank my noble friend Lord Lucas for recognising some of the challenges. He referred to the cliff-edge operators. I have been a victim and note that it is very unfair on people.

All we are seeking is clarity, consistency, transparency and fairness. This is a process measure rather than a substance; it is to make sure that people are dealt with fairly.

In particular I thank the noble Lord, Lord Kennedy, for, as always, putting his finger on what needs to happen here—which is support from around the House to ensure that this sensible legislation, which has universal support in the Lords, goes forward without amendment. In the meantime, I am happy to write to noble Lords on some of the issues that have been raised and, indeed, to facilitate a meeting if that is felt appropriate. With that, I again thank my noble friend Lord Hunt for bringing forward this legislation.

2.38 pm

Lord Hunt of Wirral: My Lords, this has been a marvellous debate. It has been overseen by the author of the Parking Act 1989 and by the parent of this most important Parking (Code of Practice) Bill, Sir Greg Knight, who has listened to every word that has been spoken. I hope that Sir Greg will have been bolstered by the determination, foresight and enthusiasm for all that he has proposed and that it will help to deal with what, as the noble Baroness, Lady Thornhill, pointed out, is a perceived problem. Her description of that ransom strip echoed so many of the experiences I have heard of from other colleagues. I cannot match her knowledge of what happens in her local pub, although I might try a bit harder in future because that is where you discover what is going wrong.

My noble friend Lord Goshen described this as legalised unfairness. I strongly agree with him, particularly about the rogue parking element. I hope the message that goes out from this Chamber is that their days are over. We are not going to stand for any such nonsense in the future.

I can only apologise to my noble friend Lord Kirkhope of Harrogate for the fact that nobody has taken up his challenge about the origin of nosy parker. I hate to disappoint him, but it has nothing to do with parking but everything to do with Matthew Parker, an Archbishop of Canterbury in the 16th century, who kept querying the qualifications of the clergy and looking into them with a zealousness that appalled all his colleagues. I will go no further.

My noble friend Lord Leigh of Hurley is quite right to worry about the way in which single yellow lines are suddenly becoming double yellow lines. There are serious problems with parking in the West End, and I will go from here to look up immediately Statutory Instrument 362 just to make sure we get this right.

My noble friend Lord Lucas, that well-known fighter on behalf of the London Motorists' Action Group, has come forward with a number of ideas. People must not be allowed to profit from penalties. That has been a theme that has echoed through the debate.

There are ways in which we can continue to improve what is proposed in this legislation, and I warmly welcome the positive response. In particular, if my noble friend Lord Bourne of Aberystwyth does not mind, I praise the noble Lord, Lord Kennedy of Southwark, because together across the Dispatch Box they have given this Bill tremendous support, which I hope will mean that it can make a speedy passage on to the statute book and we can then see an improvement in the overall situation.

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

House adjourned at 2.42 pm.

Volume 795
No. 238

Friday
18 January 2019

CONTENTS

Friday 18 January 2019