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

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House of Lords

Friday 10 September 2021

10 am

Prayers—read by the Lord Bishop of Oxford.

Status of Workers Bill [HL]

Second Reading

10.06 am

Moved by ***Lord Hendy***

That the Bill be now read a second time.

Lord Hendy (Lab): My Lords, Covid-19 has highlighted many of the failings in the law of the workplace in the UK. Working people have found that their workplace rights have not secured their jobs, their incomes or their health. One particular injustice is that many hundreds of thousands have only very few of the rights that Parliament has legislated that employees must have, such as rights to the minimum wage and to unfair dismissal protection. This is because "armies of employers' lawyers", to use a phrase used by the Court of Appeal in one case, have constructed contracts that seek to categorise these workers as something other than employees. The proper interpretation of such contracts has provided meat and drink to lawyers and judges for decades. The Bill is intended if not to remove then at least to narrow the grounds of contention by unifying the classification of workers into a single status, subject to an important exception.

Let me deal with a preliminary point on my use of the term "worker". There is a definition in the Bill but, for the purposes of my speech today, I use the term loosely and generically: I mean a person who works for a living. This is close to the generic meaning in international law as used by the International Labour Organization, the Council of Europe and the European Court of Human Rights. The current problem is that there are subspecies of worker and this gives rise to the injustice that the Bill is intended to cure. Each subcategory—I identify six—is entitled to a different set of statutory rights. That means that employers, understandably, have an incentive to downgrade the status of staff so as to diminish the rights that they enjoy and hence the costs inherent in the provision of those rights. By creating a single status, this possibility is removed. In consequence, the effect of the Bill would be to give entitlement to all statutory employment rights to all workers from day one of their engagement, although I would gladly accept an amendment to remove or reduce waiting time for rights to be effective, such as for unfair dismissal. The Bill does not affect rights, such as to holidays, that increase over time.

I have said that there is an important exception in the Bill. This is my first category. Those who are genuinely self-employed, in business on their own account, with their own clients or customers, will be unaffected by the Bill. These are, by and large, the professionals. Examples are the owner-driver of the London taxicab or Hackney carriage—"mushers", as they are known in London—the self-employed painter and decorator, the jobbing electrician, the gigging musician, the novelist, the barrister, of course, and many more. Their status and their rights will be untouched by the Bill. Some of these professionals have established a personal service company, a PSC, through which they find it convenient to work. This is a limited company in which the professional or a member of the family is the major shareholder and director. The professional is the sole employee and is content that his or her rights as an employee are exercisable only against their own company. Such genuine PSCs, my second category, will also be exempt.

The Bill is intended to stamp out abuse of these first two categories. It will therefore regulate my third category, bogus self-employed workers. These are workers whose arrangements are dressed up to look as if they are self-employed, but who are in reality employees. Unless they challenge their status in successful litigation, they are not entitled even to the national minimum wage or paid holidays—not even some health and safety protections. Bogus self-employment is rampant in the construction industry but by no means confined to it. Drawing the line between bogus and genuine self-employment is not easy, but the courts will be aided by the Bill placing the burden of proof on the employer who claims that the relationship is genuine.

The Bill will also regulate my fourth category: those forced into PSCs. This is where a worker is told by the real employer that if she wants to work, she must set up a personal service company to make a commercial contract with the real employer to supply her services and to make a contract of employment with herself. This contrivance is often arranged by the employer. On the face of it, the worker has full employment rights, but only against her own personal service company; the real employer is insulated against any responsibility for her rights. Such abusive PSCs are common in parcel delivery, construction and many other sectors. I will not dwell on the technicalities, but the Bill endeavours to draw a clear line between the genuine and the abusive PSC.

The fifth category are the so-called limb (b) workers. The term derives from the definitions in Section 296(1)(b) of the Trade Union and Labour Relations (Consolidation) Act 1992 and Section 230(3)(b) of the Employment Rights Act 1996. These are workers who have a contract but not a contract of employment. They are a subspecies of the self-employed. They get only some of the rights that employees have—for example, the national minimum wage and paid holidays. They do not get protection against unfair dismissal, parental leave and so on. This is the status that the Uber drivers achieved in their Supreme Court victory earlier this year. Limb (b) workers are common in food delivery, taxi driving and other service industries.

Finally, there are the employees. They are entitled to all the statutory rights that Parliament has provided, so long as they have been employed for long enough.

The Bill takes up issues identified in the Matthew Taylor report some years ago, but by proposing a single status it goes beyond Matthew Taylor's recommendations. I wanted to give your Lordships a sense of the scale of the problem, but the statistics are limited. What can be said is that at present there are about 28 million employees, a figure that includes the

[LORD HENDY]
single employees of up to some 700,000 personal service companies. In addition, there are just under 5 million self-employed, but the statistics do not distinguish between those who are limb (b) workers, those who are bogus self-employed and those who are genuinely self-employed. What is clear is that the number of those in PSCs and self-employment is proportionately greater and growing faster than elsewhere in Europe.

Though some opportunistic employers will not welcome the Bill, it would in fact benefit employers generally by preventing greedy or uncaring employers from undercutting good employers who are prepared to confer full employment rights on their staff. It would also stop the worst employers free-riding on the rest of us by using categories for their staff that avoid payment of national insurance, tax and pension contributions. The Bill is obviously intended to benefit workers and I am pleased to say that it is supported by the Trades Union Congress. It will, if passed, extend employment rights to hundreds of thousands who do not currently enjoy them. It will protect those who already have such entitlement from the danger of being degraded, downgraded to or undercut by workers with fewer rights.

I have one last point. Employers often try to persuade workers of the benefits of a lesser status on the basis that it provides flexibility for the worker, but this is a false argument, since legal status has nothing whatever to do with whatever flexibility employers confer on their workers. That flexibility can just as easily be enjoyed by employees if the employer is prepared to concede it. If the Minister supports the Prime Minister's avowed levelling-up objective, here is a measure that he can and should support. I beg to move.

10.16 am

Lord Blencathra (Con): My Lords, I rise to support this Bill and applaud the noble Lord, Lord Hendy, for his excellent introduction. I must confess that I have paid attention to this Bill only because the noble Lord serves on the Delegated Powers Committee, of which I am chairman, and I have learned to respect his excellent contributions. I hope I do not do an injustice to his Bill today.

I take the view that there are only three types of employment: employer, employee and self-employed. I do not want to see any funny middle category created such as "independent worker". We can all recognise genuine self-employed people—plumbers, joiners, electricians, window washers, et cetera—but we must ensure that businesses are not compelling individuals to set up these bogus personal service companies just to get round employment rights.

I go further than the noble Lord; I want my noble friend the Minister to consign the Matthew Taylor review to the dustbin. It is utterly irrelevant since breakfast—I mean Brexit—

Noble Lords: Hear, hear!

Lord Blencathra (Con): It is irrelevant since breakfast as well, actually. It was based on the employment situation in this country in 2016. It is now all ancient history and I am delighted to see that the free market is driving up wages for those workers at the bottom end of the scale, whose skills are now in great demand—the lorry drivers, white van men, cooks and shelf fillers. I take particular delight that an HGV driver for Waitrose doing an essential job may earn more than a lawyer living off the misfortune of others—I make only a small apology to noble Lords and noble and learned Lords present.

Two weeks ago, I read an article in which a restaurant owner was saying that it was outrageous that he was now having to pay commis chefs—I understand that they are not French socialists but vegetable choppers—£11 an hour and asking what the Government were going to do about it. I hope that my noble friend will say, "Absolutely nothing". The free market has been used for the last 20 years to keep wages down. Now it can drive up the wages of low-paid essential workers.

Some of the evidence to the Taylor review was spot on. Leeds City Region said:

> "It is good jobs that matter—where people feel a sense of stability, have a say in the workplace, know that their effort is recognised and rewarded, have the skills to do the job but also to develop their own potential, and trust that they will be treated fairly. And most critically, that they are paid a decent wage for the work that they do."

How can anyone disagree with a word of that? The Taylor review had a chapter called

> "key labour market challenges ahead",

identifying poor wage growth and poor productivity. That was in 2017. Now wages and productivity are increasing rapidly, which means that companies will be forced to end the abuses of the so-called gig economy and fake self-employment status. There was only one item in the Taylor review that was accurate, the comment that

> "we have to examine why, with employment levels at record highs, a significant number of people living in poverty are in work … if they have no guarantee of work from week to week or even day to day, this not only affects their immediate ability to pay the bills but can have further, long-lasting effects, increasing stress levels and putting a strain on family life."

Again, who can disagree with that?

Way back in 2017, the review wondered why, with employment at record levels, so many people in work were in poverty. I think that we now have the answer, which has revealed itself over the last few months. While we had 2 million to 3 million cheap EU workers, companies could get away with zero-hours contracts, minimum wage and sometimes not even minimum wage, as we have seen in Amazon warehouses, Deliveroo, Uber and others, which have been committing flagrant abuses of workers' rights by calling them self-employed. I am completely in favour of flexible working hours—after all, we have it here on a daily basis—but people on flexible hours must have proper legal contracts setting out those hours and their terms and conditions of employment.

Let us stick with employers, employees and genuine self-employed. Let us see wages and productivity rise. I say to restaurant owners, supermarkets and others, "Dry your eyes"—there is no God-given human right that we must have cheap takeaways or cheap eating-out food. If we cannot get strawberries from Morocco, iceberg lettuces from Spain or avocados from Brazil at

Christmas—I am almost finished—then too bad. That will be a small price to pay for the huge benefits of the poorest in society earning more. Pay your staff whatever it takes, with proper contracts which may have flexible hours. Train up apprentices and raise prices accordingly. Food is already too cheap in this country for the vast majority of people; if those on low wages are paid a proper wage, they will be able to afford any increase in food prices.

Finally, why should I as a Conservative support this Bill? I believe in caring capitalism and a fair day's wage for a fair day's work. After the Prime Minister's announcement this week, I think that we are all a bit pink on this side now. I wish the noble Lord success with his Bill.

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, before the next speaker, I should say that we need to try to keep to the advisory speaking time, because otherwise it cuts into the Minister's summing up at the end.

10.22 am

Lord Whitty (Lab): My Lords, I strongly support this Bill and, slightly to my surprise, I agree with almost every word the noble Lord, Lord Blencathra, just said. That indicates the recognition of the injustice and confusion that the present situation causes.

First, like the noble Lord, Lord Blencathra, I strongly refute the suggestions that the complexities of defining what is clearly a worker simply reflect or facilitate changes in the labour market or, alternatively, changes in technology or worker expectation. There is absolutely no reason why the gig economy, the digitalisation of so many jobs or changes in standard hour expectations and flexibility requirements of individual workers in companies should require multiple definitions of what a worker is and multiple statuses of what they are entitled to. An individual usually sells their labour subject to the direction of a single employer. An individual may have multiple clients, but there is usually a de facto employer and a de jure employer, whether that is a stand-alone company or an agency. Those workers should, therefore, have the same rights and protections, and indeed the same access to employment tribunals.

Secondly, this Bill discriminates between workers who are essentially in the same situation. Its prime purpose is to resolve that anomaly, discrimination and injustice—and, indeed, that confusion for employers and the courts. The distinction between "employee" and "worker" must be abolished. In terms of protection and entitlement, there should be no distinction.

But that is the easy part. As my noble friend says, there is also the situation of certain agency workers and, particularly, of bogus self-employment. Whether you work for a single employer, several employers, an agency, a labour-only subcontractor or a gangmaster, you should have equivalent rights as a worker—or as an employee, as in the current situation. Whether you are a traditional bogus self-employed person like many in the construction industry used to be, on the lump, a single-client owner-driver or a new-fangled self-employed person in the gig economy, you all deserve the same equivalent protection and rights. The Uber cases clarified some of this; this Bill, I hope, generalises it. But I also hope that it will go further in practice. It will clarify the law and make it easier and more straightforward for employers. Frankly, it will also allow more equitable raising of taxation, thereby helping the Government in their current difficulties.

Bogus self-employment undermines not only workers but the genuine self-employed—and, indeed, the tax authorities. The proposed "dependent contractor" would not really clarify that issue. Most of those who might be so designated are workers by any other test and should be entitled to the full rights.

Finally, to make the Bill work and to ensure that all workers in the economy, however they are currently designated, have similar rights and expectations, we need proper enforcement. One of the problems of the labour market in this country is that there are multiple agencies responsible for different parts of different sectors and different aspects of the employment situation. They range from obvious agencies such as the HSE and the gangmasters licensing authority—I was the Minister who set that up—right through to the Pensions Regulator and the DVLA for drivers. We need a fully fledged employment inspectorate backed by an employment tribunal which should be free at the point of access.

I hope that the Bill goes through its subsequent stages and passes, but I also hope that it is accompanied by a rationalisation and an increasing effectiveness of the enforcement aspect.

10.26 am

Baroness Greengross (CB): My Lords, I thank the noble Lord, Lord Hendy, for introducing this important Private Member's Bill, which seeks to clarify in law the definition of "worker" and "employee" in the Employment Rights Act 1996 and the labour relations Act 1992. The world of work has changed considerably since these two pieces of legislation were passed in the 1990s and is set to change even more radically in the coming years.

We know that, under the current legal definitions, someone deemed to be a "worker" is not entitled to the same level of employment rights as an "employee". Specifically, entitlements such as sick pay, maternity and paternity leave, and protection against unfair dismissal, among other things, are not legally enforceable for those defined as workers. Throughout my working life I have worked as an advocate for the rights of older people, yet much of my volunteering work has been trying to help young people. These two groups are often the most vulnerable in employment, both being overrepresented in unemployment or precarious work statistics. Updating these legal definitions will give both these groups greater legal protection in employment.

Although I support the Bill in principle, it also needs to be understood by the trade unions and others that we cannot turn back the clock, as the world of work is changing fast. One positive of technology has been the ability for greater flexibility in work, something that often suits employers and employees. Often this flexibility comes with trade-offs where the frameworks used in the past are no longer appropriate, such as

[Baroness Greengross]
inflexible rostering systems. An example of this is Uber drivers, who haveexpand-col3 flexibility to decide when to work—something that suits the drivers and the company. Trying to impose older models of employment practice on this model will not work. Instead, we need to seek new ways to ensure that these workers still have some income protection if they cannot work due to sickness.

Another definition that is not addressed in the Bill, but in my view is also out of date, is "pensioner". While the Equality Act banned discrimination against older workers in 2010, people over the state pension age are defined as "pensioners" and are all too often not treated equally to other workers. With 1.28 million people over 65 still working in the UK, categorising people in this group as "pensioners" is both outdated and wrong. They should be called "older workers" and treated as workers.

Technology change, longevity and changes in attitudes have seen a radical shift in how people work—something which has increased considerably during the pandemic. Until the Summer Recess, the House of Lords showed leadership in this new way of working through hybrid proceedings, although sadly we have reverted to the old way of working for now. The way people work is changing fast, and we must adapt to this. Updating the legal definitions used in employment legislation is an important part of adapting to this inevitable change.

10.30 am

Baroness Blower (Lab): My Lords, it is a pleasure to speak in this Second Reading debate on a Bill which is so urgently needed to create fairness and coherence for workers.

As the TUC has said, our legal framework for workers' rights is not fit for the 21st century. Indeed, it has not really been fit since well before the turn of this century. My noble friend Lord Hendy has outlined with clarity and precision the aim and intention of the Bill, which would of course leave unaltered the arrangements for those who are genuinely self-employed on business on their own account, either through a genuine personal service company or as professionals. However, it would address the situation of so many workers who find themselves in so-called self-employment—bogus self-employment—which leaves them with none of the statutory rights, such as they are, enjoyed by employees.

In the context of building back better, in the period beyond the worst phases of the pandemic—which is where we hope we at least find ourselves—we must surely want to ensure that all workers are entitled to at least the minimum wage, paid holidays and protection from unfair dismissal. Building back better must also of course mean building back fairer. The Status of Workers Bill would give millions of workers in insecure and precarious situations across England, Wales and Scotland greater rights by the creation of this single-worker status and equivalence therefore with employees. The claim is sometimes made—as has been referred to by other noble Lords—that bogus self-employment is about flexibility for the worker. Unscrupulous, bad employers might well make this case, but good employers can and do negotiate flexible working arrangements without recourse to eliminating workers' rights. That should be the position for all workers.

Much more can and should be said about the range and number of workers—the TUC calculates 3.6 million—whose working lives would be improved by the Bill. I look forward to speaking during the later stages of its passage through this House and I offer it my full support.

10.33 am

The Lord Bishop of St Albans: My Lords, I too congratulate the noble Lord, Lord Hendy, on tabling this Private Member's Bill. It echoes the Judaeo-Christian teaching that workers deserve proper remuneration, and I support it.

I recognise that there are many advantages in having a flexible labour market which allows for individuals to tailor their work to their lifestyles. However, I and I know many others take issue with those times when employers curtail other people's rights in an exploitative manor to reduce benefits costs. The Taylor review's suggestion of replacing the category of working with a more positively defined "dependent contractor" was a positive step in preventing companies from unscrupulously categorising an employee as a worker while elevating the bogus self-employed into this category along with the increased rights it affords and the national insurance contributions that would accompany it.

When I read the very helpful brief from the House of Lords Library, I was struck by the estimates that bogus self-employment and the savings companies make by not paying national insurance probably result in the Government losing about £7.8 billion annually in national insurance contributions. While that is a guesstimate, it raises prescient questions about whether strengthening employment laws could raise some of the shortfall in national insurance that the Government hope to receive by means of their proposed 1.25% levy. Has the Treasury undertaken any internal economic modelling on the potential tax benefits in national insurance contributions of introducing a more clearly defined category of dependent contractor?

Of course, many of those who find themselves in the bogus self-employed category have been elevated to worker status on a case-by-case basis. However, the problem is that the legal onus is on those workers, in very precarious situations, to prove that they warrant those rights rather than on the immensely well-resourced companies. I therefore welcome the provisions in the Bill that place the duty to demonstrate that an individual is not an employee or worker on the company, not on the worker themselves. Shifting this responsibility—this legal duty—on to the employer is morally better than placing a burden on the least resourced to pursue legal recourse.

The CBI's response to the consultation on employment status tried to defend these practices by highlighting that 53% of workers in the gig economy said that they were very or fairly satisfied by their work. That brings to mind some of those early-19th-century pamphlets which sought to claim that many slaves loved being in servitude. Just over 50% is not much to brag about, and, having tried to find the levels of UK job satisfaction

in the rest of the population, which seems to be about 60% to 70%, the message is that gig workers have a much lower job satisfaction than other workers in the UK.

I hope Her Majesty's Government will work with the Bill so we can see a new definition of dependent contractor or something else similar that deals with the current ambiguities and the problems they create. I believe this measure will end practices that exist within the UK labour market, and I give it my support.

10.37 am

Lord Monks (Lab): My Lords, I add my congratulations to my noble friend Lord Hendy on both his excellent preparation of the Bill and the clear presentation of it that he has made. This is a horrendously technical area that has become more complicated over the years, and clarifying and simplifying it is in everybody's interests. A Bill along these lines should have been in the Queen's Speech but for some reason or other it has been omitted, despite promises from the top of the Government that they would "protect and enhance" workers' rights post Brexit. As we wait for the Government to act, my noble friend Lord Hendy is doing their job for them; I hope he will get an appropriate vote of thanks for doing that and that the Government will follow the advice of the noble Lord, Lord Blencathra, embrace his Bill and get on with it.

According to the TUC, as the noble Baroness, Lady Blower, just said, 3.6 million people are in some kind of insecure work. They could be on zero hours, on temporary or seasonal work or classed as self-employed, and in all these categories they often earn less than the minimum wage. They need levelling up, and an end must be made to the four different statuses of categories of working people.

I first came across part of this problem in the 1970s, when labour-only sub-contracting became the norm in many parts of the construction industry. Regular employees were reclassified as self-employed, and unscrupulous employers—in the end followed by those who wanted to do the right thing but who were being undercut—led the way in avoiding national insurance, PAYE administration, employment rights, pensions entitlements and training obligations. Bogus self-employment drove out regular contracts of employment. Older Members here will recall the practice being termed the "lump".

Variations on the "lump" have now spread well beyond construction, not least into sectors defined as the gig economy. It can even be found in the NHS and in public services; the Finance Sub-Committee of this House has been finding out about the role of personal service companies, which has led to all the problems with the loan charge. A major tax-evasion operation has been under way, and so far we have not got to grips with it. The Bill could be a contributing factor in helping that.

Exploiting the gaps between those classed as employee and those classed differently has become an unattractive feature of our labour market in this country. Although Matthew Taylor's report is now out of date in certain areas, and I would have liked him to have gone further, he did a job in bringing a lot more people's attention to the problem. It is time to put an end to those practices. They are a blot on our landscape, and the Bill can help consign those practices to history. I hope the Government will give it a fair and supportive wind and that this House sends its smartly on its way today.

10.40 am

Lord Holmes of Richmond (Con): My Lords, it is a pleasure to take part in this Second Reading. I congratulate the noble Lord, Lord Hendy, on his Private Member's Bill and the way in which he introduced it. It is high time that clarity was brought to this area, and the Bill brings that clarity.

I shall focus on a particular category that I will be speaking on at a later stage of the Bill; I hope that the noble Lord, Lord Hendy, will welcome that. That is the situation for unpaid interns, those who are asked to give of their labour for zero pay, a pernicious practice that persists and, unfortunately, has been only exacerbated over the Covid crisis. Here are some of the statistics: 83% of college students say that they have had to undertake unpaid internships, and 52% of university students. Even more worrying, 62% of young people said that they have had to undertake unpaid internships for longer than four weeks, and a shocking 16% of young people said that they have undertaken unpaid internships for more than six months.

Social mobility is yet another casualty of the Covid pandemic. The statistics tell their own story. We are in the midst of a skills crisis, yet companies are still asking people to give of their labour for free. If the individual wants to bring a case, the onus is on them to bring that case. As well as supporting the Bill, I urge all noble Lords to get behind the hashtag #payinterns. It is not just a question of social mobility; we can do so much using all the powers of social media.

Wilberforce brought an end to and slammed the door on slavery in the 19th century. The national minimum wage came in in the 20th century. How can it be that, in 21st-century Britain, the fifth-largest economy on the planet, we still allow unpaid internships to persist? I ask my noble friend the Minister whether he believes that we should bring forward legislation to end unpaid internships, and whether he sees the Bill of the noble Lord, Lord Hendy, as an opportunity to extend that possibility.

Unpaid internships, begone; underpaid workers, receive proper pay; underpaid employment, begone. This Bill brings clarity to an area urgently which has needed it for decades. I urge all Members to support it and give it swift speed through the Lords. It is not a question of party politics; it is a question of economic, social and psychological benefit. It ties in to the Covid build back; it ties in to the levelling-up agenda; in short, it is about making Britain work better for all.

10.43 am

Baroness Donaghy (Lab): My Lords, I congratulate my noble friend Lord Hendy on his Private Member's Bill, and on making the issues so clear and understandable. When I chaired ACAS, it was a humbling experience to listen to the helpline and see the reality of how human beings can be treated in the UK.

[Baroness Donaghy]

I shall concentrate on why the Bill will be good for employers and government revenue. When I was invited to employers' groups during my time at ACAS—I accept that they were the conscientious employers and probably at the better end of the labour market—they wanted fairness and a level playing field, not to be undercut by less scrupulous employers. They wanted clear guidance as to their obligations and responsibilities.

If we could deal with bogus self-employment in the construction industry, referred to by my noble friend Lord Monks, we might get a more settled workforce, encouraged to improve their skills and report health and safety incidents. If workers have no job security, they are unlikely to report dangerous work practices on the Friday, to find they have no job on the Monday.

I had the privilege to serve on the Personal Service Companies Select Committee, under the exemplary chairmanship of the noble Baroness, Lady Noakes. The committee expressed its concern that individuals working through personal service companies might not be aware that they had forgone at least some level of employment protection and benefits to which they would be entitled if they were in conventional employment. As my noble friend Lord Hendy said, the real employer is insulated against any responsibility whatever for their rights.

Were the Government concerned about the Select Committee's work? The Treasury Minister refused point blank to attend the committee, despite requests from the noble Baroness, Lady Noakes. In the seven years since the report came out, things have got worse. The right reverend Prelate the Bishop of St Albans referred to lost revenue to the Exchequer. The taxpayer is subsidising the payroll bills of the unscrupulous employer.

The noble Lord, Lord Callanan, has written that the

"three-tiered Employment Status structure provides the right balance for the UK Labour Market".

It certainly does not provide any balance for women, the BAME community, the disabled and those seeking job security. Self-employment can be brilliant for those who want it, but 1.85 million so-called self-employed earn less than the national minimum wage, more than half of them women. The Government have said that bogus self-employment should be determined by individual cases at employment tribunal. That is all very well, but it comes over as a bit cynical, given the backlog of cases at employment tribunals and their geographical inaccessibility. There is no fairness or justice here.

Finally, the extreme flexibility in the labour market can come back and bite the economy. The shortage of HGV drivers will lead to distortions in pay and conditions. A care worker who decides to work in a supermarket or a warehouse will not help the hundred thousand vacancies. It leads to low skills, low expectations and little loyalty. There is a chance to build and progress in the Bill, and I urge the Government to accept it.

10.47 am

Baroness Wheatcroft (CB): My Lords, I welcome the Bill and thank the noble Lord, Lord Hendy, for presenting it in such an effective way. The law can sometimes be an ass and, looking at the distinctions which currently exist in employment law, you can hear it braying. It is time for change. That in 2021 our law still preserves the right of businesses to treat those who labour for them in the way that 19th-century mill owners did is something of which we should all be ashamed. It was in 1819 when the cotton factories Act was passed, and among its provisions was that workers had to be nine years old. We have moved on from there, but nowhere near far enough. At that stage, mill owners argued that any changes to the labour laws would hit productivity and increase prices. What they meant was that they would lower profits. We need businesses to make profits, but not through unfair exploitation of labour. We should have moved on to something much better than that.

In fact, though, the problems are still huge. The Joseph Rowntree Foundation found in 2017-18 that 4 million workers lived in poverty, and half of the workers living in poverty were in full-time employment. Nobody can sit in this Chamber and feel comfortable with that statistic. The way things still work in far too many businesses is that companies pay their chief executives and other top staff huge salaries, and pay generous dividends to their shareholders, yet many of their workers are having to claim universal credit. How can that make sense? The taxpayer is subsidising the chief executive's salary and the dividends. I find that very hard to justify.

We need businesses to compete fairly, and some of them are cheating—there is no other word for it—by taking on people on terms that they will not even understand. How many people really know the difference between being an employee and being a worker? It is a totally bogus distinction. Those companies are out to defraud the country and to defraud their competition, and we must stop them being able to do that. This Bill is a wonderful way to do it.

The Bill also plays absolutely into the levelling-up agenda. It must be fair to make sure that workers who provide their labour do so on equal terms unless they choose to be fully self-employed. I absolutely respect and applaud the right of some people to be self-employed. If you work from home and are self-employed, why not live somewhere in the sun, as many youngsters are now deciding to do, and be in charge of your life, with the work/life balance that you want? But not many people can afford that sort of luxury. They want the security of full-time employment, albeit with flexible hours. If we believe in compassionate capitalism, that is what we should guarantee. I have heard many speeches this morning that I am sure will have swayed the Minister, but I look forward to hearing how, if he does not support the Bill, he can justify that.

10.51 am

Lord Browne of Ladyton (Lab): My Lords, I too commend my noble friend Lord Hendy on bringing forward this Bill, on his excellent introductory speech, on the very accessible briefing that he provided to us all in advance, which I found really valuable, and consequently on providing the opportunity to debate this important issue. I am pleased to stand here able to say that every speaker before me, from all sides of the

House, has supported this Bill. It urges me to remind the Minister that in 1998, when I came into Parliament, the Conservative Party was on the wrong side of history on the national minimum wage and kept me up all night on many occasions trying to defend the indefensible. I urge him not to get on the wrong side of history on this and have his Government tarred with that brush, because at some point in the relatively near future they will have to backtrack, as they have done already.

Perhaps my noble friend Lord Hendy would not have had to do this had Theresa May not lost office before she was able to fulfil her Government's commitment of 2018 to legislate in this area, or if Boris Johnson had not broken his promise to bring forward an employment Bill, set out in the December 2019 Queen's Speech, no less. Clearly, the Government understand this problem and the implications of it for millions of hard-working people. Why else would they have set out plans in the December 2019 Queen's Speech to introduce an employment Bill, among other things, to tackle it? Instead, they chose to leave workers' rights behind, not only by leaving this out of the most recent Queen's Speech but by backtracking altogether, with the Minister outlining the Government's new belief, as my noble friend Lady Donaghy said, that the current system

"provides the right balance for the UK labour market".

The experience of the most important element of that market, the labourers, is that this is not true. If the Minister intends to deploy this argument in a response of resistance to my noble friend's elegant solution, please will he not just reassert it but direct us to the evidence that supports it. It is directly contrary to the reasoned analysis, conclusions and recommendations of the Taylor review, published in 2017, and the consultation on employment status, run in 2018, which in turn led to the May Government's commitments.

Like other noble Lords, I am grateful for the briefings that I received from the Library, the IER and the TUC, not to mention from my noble friend Lord Hendy. They are redolent with evidence of injustice and potential and actual abuse, which demands redress. In the current context, if the pandemic has taught us one lesson, it is the importance to well-being, to productivity and consequently to the economy of people feeling safe, secure, and valued in their work. My noble friend made this very point, but with respect, it was expressed better by Andy McDonald, who in July wrote:

"Millions of workers have had no access to statutory sick pay, both worsening the impact of the pandemic and exacerbating financial insecurity. In-work poverty is the highest it has been this century, with one in six working families on the poverty line. Approximately 3.6 million people are in insecure work, meaning they don't know when they will work or how much they will earn … Throughout the pandemic, the devastating consequences of unsafe working conditions, financial insecurity and the lack of a strong worker voice have made the need for urgent change clear."

However, the pandemic has also seen us adapting to new flexible ways of working. I accept that we need a system which allows this flexibility. None of us is arguing against that. As other noble Lords have made clear, the Labour Party supports the creation of a single status of worker, to ensure that all workers receive the rights and protections that Parliament has said that employees should have. My noble friend's Bill offers a solution that is entirely consistent with that ambition. I fully support it. I have no doubt that in its later stages there will be debate about the finer details. I look forward to further education on those details. If we can get this Bill right, which we should be able to do, many fewer people will have an experience of work that is challenging to their well-being, mental health and productivity, and consequently, to our economy.

10.56 am

Lord Moylan (Con): My Lords, I rise with considerable trepidation to disagree with the noble Lord, Lord Hendy, on a matter of employment law in which he is such an expert whereas I am not even a lawyer. I had not expected to find myself in disagreement with everyone who has spoken so far, but I have genuine concerns about this Bill.

I start with a small technical issue which I may well have got wrong; the noble Lord may correct me. It seems to me that someone who is serving as a non-executive director of a company or a public body, as I do on the Ebbsfleet Development Corporation, would be caught by this Bill and effectively have to be made subject to a contract of employment, thus becoming an employee of the body that they were meant to be supervising. I cannot imagine that was the noble Lord's intention and I may well have got it wrong; it is a point that can be dealt with at later stages of the Bill. I use it to illustrate the fact that the argument for this Bill, that the current situation is messy, with four, five, six, seven or however many different statuses you count for people who work, fails to recognise how messy and complicated real life actually is. If anything, to catch up with the modern labour market, this Bill would create more categories rather than trying to reduce them, in effect, to two or, at maximum, six, depending on how you cut the noble Lord's cake.

On the point about changes in the labour market, I was very comfortable to hear what the noble Baroness, Lady Greengross, had to say, because we cannot go back to looking at the labour market in terms of a monolithic industrial market from the 1960s and 1970s, with a small number of large employers and a very large number of more or less substitutable industrial workers. Yet that seems to be the sort of lens through which this Bill is being looked at.

I am surprised that so far in the debate there have been no comments about the effects on employment, particularly youth employment, that this Bill might have. We may all be assuming that the very welcome consequences for the labour market of Brexit, mentioned by my noble friend Lord Blencathra, and rising wages and tightness of labour markets, will mask any of those effects, so that, net, we will see very few, but none the less, we must factor that in. It is very surprising that nobody has mentioned it.

My next point is slightly more difficult and is about the dignity of work. If work is one of the curses we take from our expulsion from the Garden of Eden, the dignity it can confer on humanity is part of that recompense. There are many people in this House—I

[Lord Moylan]
am one of them and I venture, without absolute certainty, that as a practising barrister the noble Lord, Lord Hendy, is another—who have been what he would regard as genuinely self-employed for much of our lives. We have not had the protective benefits of a contract of employment, but nor have we had the downsides: that is, being told what to do, having a boss and having people who now take it as their responsibility, in some cases, to decide what you can do in your private life and your social media. But we decide and assume that this is what other people want and would benefit from.

I regard this as essentially a backward-looking Bill that does not embrace changes in the labour market and makes rather patronising assumptions about what is good for other people that we would not accept. I hope that we can reflect on that, consider whether it should proceed and how it might be amended in future to remove those objections.

11 am

Lord Sikka (Lab): My Lords, I congratulate my noble friend Lord Hendy on this much-needed Bill. He has my full support. It seeks to modernise employment law—something the Government have failed to do, despite numerous promises. It would give millions of long-exploited gig workers greater rights, including a statutory minimum wage, statutory sick pay, statutory paid holidays, maternity and paternity pay, protection against unfair dismissal, minimum notice periods for ending employment and much more. As other speakers have pointed out, it would also improve the collection of income tax and national insurance contributions as well.

The Bill is more than just a piece of employment legislation; it is a bedrock for rebuilding our society by improving workers' rights and, with it, the distribution of income and wealth to lift millions out of misery. Zero-hours contracts and fake self-employment have been used to reduce workers' share of GDP, in the form of wages and salaries. It now stands at around 49.4%, compared to 65.1% in 1976. This rate of decline is unmatched in any other industrialised nation and must be reversed. This Bill provides small beginnings for that.

Some 14.5 million people, including 4.3 million children, live below the poverty line. It is a serious indictment of our society that people in employment have to rely on food banks. Eight in 10 people claiming universal credit are in work or looking for work. Too many find it difficult to pay their rent and their energy, water and broadband connection bills. Millions of schoolchildren go hungry. Children living in poverty are more at risk of being exploited by or becoming victims of criminal gangs.

The current pandemic has shown that thousands of people have died because they lacked access to good food and housing and could not take time off for emergencies. Employment rights are the key to addressing so many of our social problems. Improving the employment rights of just one person improves the quality of life of the whole family. It reduces chances of homelessness and improves possibilities of nutritional food. Greater worker rights reduce anxiety and insecurity, which improves mental health and reduces pressure on social care, the NHS, GPs and the healthcare system. Greater worker rights reduce pressure on the social security system, so fewer people will need social security benefits. Better distribution of income flowing from better employment rights lifts people out of poverty permanently.

The Government have a history of opposing emancipatory change in employment laws and elsewhere, but I hope they will curb their instincts and support the Bill for the enormous social benefits it will bring.

11.04 am

Baroness Bennett of Manor Castle (GP): My Lords, it is a great pleasure to follow the noble Lord, Lord Sikka, and to offer the Green group's support for the excellent Bill introduced by the noble Lord, Lord Hendy, which he so clearly and powerfully outlined. I was standing in this very spot yesterday, speaking in the debate on the £20 cut to universal credit. As many speakers highlighted then, the majority of people affected by that are in work. The fact is that we have created a legal framework in the UK in which work very often does not pay.

The noble Lord, Lord Blencathra, in offering his very welcome and perhaps slightly surprising support for this Bill, gave some anecdotes about where he has seen wages rise in response to a shortage of labour supply. That is true in some parts of the country, for some kinds of jobs, but there are still many parts of the country where that is not the case and where we see a situation in which people are forced into any job they can find, at any wage rate.

In his introduction, the noble Lord, Lord Hendy, said a simple definition of a worker is a person who works for a living. Of course, we have a society at the moment where people are forced to do that or starve, and we do not regulate that work to ensure that it gives people decent conditions. If we had a universal basic income society, which gave people a genuine choice about whether to engage in employment and on what terms, we would be changing the balance of power in that relationship on an individual basis. But that is not where we are: we have benefits that apply high levels of conditionality, so people are forced into exploitative jobs. That is where we are now, and the Bill would go some way towards addressing that situation.

One of the other things that workers can do, sometimes under extreme difficulty, is organise and get together. In contemplating this Bill, I thought back to various picket lines I have been on, particularly with the Independent Workers' Union, the IWGB, with cycle couriers, who are the kinds of people who have worked for the same company, sometimes for decades, under extremely insecure conditions. Back in 2015, I was on a picket line with some who had not seen their pay rise in 15 years. I am not talking here about rises in real levels; I am talking about pounds and pence—people paid the same money over 15 years, unable to raise it. That is the situation we have now.

I will focus particularly on the construction industry because, both in your Lordships' House and in society in general, there is very little awareness of the extreme

precarity and forced fake self-employment circumstances in which 60% of manual construction workers find themselves. Now, my father was a builder; I know something about what life is like in the building trade. It is hard and still terribly dangerous, and I echo the comments of the noble Lord, Lord Whitty, about our utter failure to regulate so many aspects of employment, not just wages and conditions. The comments of the right reverend Prelate the Bishop of St Albans highlighted the way in which we have put so much pressure on workers to negotiate with their employers in conditions of extremely unequal power, knowledge and resources, and so are forced into unfavourable situations.

Finally, I will pick up on the point from the noble Baroness, Lady Wheatcroft, who, as other Peers have said, stressed how exploitative, unscrupulous companies are then advantaged against those that might want to be or are doing the right thing. We are talking here about some of the largest multinational companies in this land, which behave differently in other nations but exploit the workers of the UK.

11.09 am

Lord Davies of Brixton (Lab): My Lords, I join in the tributes to my noble friend Lord Hendy for introducing this Bill. I am also honoured to follow distinguished colleagues from the trade union movement who set out so clearly why this Bill is required.

I support this excellent and essential Bill, but I will refer specifically to what it will do to end what I call pensions arbitrage—there is always a pensions angle. My noble friend identified the different categories of worker. It is important to recognise that they accrue different pension rights. This problem is recognised. The OECD, in the latest edition of its regular report on pension trends, *Pensions at a Glance*, concluded:

> "The emergence and expansion of new forms of work has amplified the pension issues related to non-standard work, especially among low-income earners."

It is correct to say that we cannot turn back the clock on the development of pension trends, but new forms of work must not leave people worse off in retirement.

In the UK, the issue is mainly about automatic enrolment, which is broadly seen as a success, but one of its deficiencies is that the self-employed are excluded. It is a live issue; considerable thought and attention are being given to the knotty problem of how you automatically enrol self-employed people. The process of automatic enrolment depends in practice on there being an employer but in reality, most of the problem with automatic enrolment and the self-employed, as identified by my noble friend, is bogus self-employment. My belief is that, by sorting out bogus self-employment, many workers will end up with a better pension in retirement. There is a direct connection between the conditions at work and the incomes people receive in retirement. I urge noble Lords to support the Bill for a range of reasons, but improving pensions is key.

11.12 am

Lord Balfe (Con): My Lords, I think that as the last Back-Bench speaker, I am the last of the people to congratulate the noble Lord, Lord Hendy, which I warmly do on this excellent Bill. It is significant that, with just one exception, it has received support from all parts of the House. I add to that support.

In particular, I draw attention to the fact that the way the Bill is determined and done will stop employees being able to enter into bad situations where their employers do not pay national insurance and, as the noble Lord, Lord Davies, just mentioned, pension contributions. In so doing, they are of course putting a charge straight back on to the state. National insurance and pension contributions, if not paid, will end up being the state's liability, so it is in the interests of the Government, of whichever party, to close these loopholes. This very well-thought-out Bill does exactly that.

I have a couple of questions. One is for the Labour Front Bench. Does the Labour Party support this Bill? Will it carry on supporting it? I have lived through a lot of opposition and I am well aware of parties taking the easy opposition position of saying, "Oh yes, we support it", but I would like to have it on the record from the Labour Front Bench that they support the Bill.

Even more so, I hope that the Government will look at ways they can support the Bill and its aims and help to get it through this House. As we all know, getting a Bill from Second Reading to the end of its passage is an enormously difficult procedure. It does not work very often in this House. We will need a lot of good will and help. I am sure that the noble Lord, Lord Hendy, will be willing, in so far as compromises or amendments are needed that strengthen the Bill and maybe change it slightly, to give them his full support. They will certainly have mine.

My final point—I have said this many times—is that we have to stop regarding the rights of workers as the sole province of one political party. Workers in trade unions and outside them support all the political parties of this country—the major ones, but also the Greens, Plaid and the like. We have to start looking at labour legislation much more directly, rather than saying, "Oh, it's from the noble Lord, Lord Hendy; he's Labour, therefore we oppose it." We have to start saying, "What does this legislation actually do?" From reading the Bill, it benefits workers of all political persuasions, all nations and all parts of this country. We owe it to all those workers to pull together and do the best for all of them.

11.16 am

Lord Etherton (CB): As Master of the Rolls, I presided over the Court of Appeal hearings in the Uber case and its predecessor, the quite well-known Pimlico Plumbers. Our judgments were upheld in the Supreme Court. It is my experience in those cases that has led me to agree with and to support the Bill, in particular the designation of a single status for employees and workers. The specific problem that arose in those two cases, as many Members of the House will appreciate, was that the contractual documents of engagement presented the arrangement as one of self-employment, but that did not fit the facts on the ground.

The problem was exacerbated by the fact that the documents were drawn up, particularly in the Uber case, by banks of lawyers, in that case lawyers in both

[Lord Etherton]
the United States and Holland. I personally found it almost impossible to understand exactly what was being said in the documentation. It led, in the Uber case, to a division of view and a 2:1 decision. My view, which was upheld in the Supreme Court, was that the Uber drivers were workers, but it meant that one had first to try to understand literally pages and pages of legalese, which was well beyond the competence of any ordinary member of the public or, I would say, any non-lawyer, and many lawyers as well.

This type of difficulty has led to the necessary invention of a principle peculiar to such situations in labour relations, whereby one can look through the terms of a contract to try to understand what the actual reality is on the ground. This is not good for the law. One of the crowning glories of the law in this country is its certainty, which rests on contract. There are very limited circumstances in which one can ignore the terms of a contract, whether fraud or sham or whatever it may be.

The situation that has arisen, which can give rise to, as in those cases, very long, extremely difficult and expensive hearings, is that you are effectively left looking at the contract but ignoring it where you think it ought to be ignored. This leads to unfairness, a lack of certainty in expectations, unfairness on the worker or expensive and protracted litigation. For those reasons in particular I support the Bill and I hope others will too.

11.20 am

Lord Bassam of Brighton (Lab): My Lords, I rise from the Labour Benches to support this excellent Bill from my noble friend Lord Hendy and to congratulate him, as all others in the House have, on his excellent and forensic introduction of it. It is, as one noble Lord described it, a very elegant solution. I say to the one dissenter in the House this morning, the noble Lord from the Conservative Benches, that he should probably have a discussion with the noble and learned Lord, Lord Etherton, having heard what he said to us about the state of the law in its current form.

It is unacceptable that millions of workers face insecure employment with low pay, few rights and few protections. The fact that this particularly affects key workers, whose efforts have got the country through the pandemic, is even more distressing. As we have heard today, around 3.6 million workers are in insecure labour. Employers are increasingly scheduling and cancelling shifts at short notice, and 84% of zero-hours contract workers are offered work at less than a day's notice. Some 15.6% of caring and service workers are insecurely employed, and disabled workers, women and black and minority ethnic workers are all more likely to be in insecure labour too.

How can it be right that so many people face such insecurity? How can it be right that, as we have heard today, so many workers in the UK live in poverty and on poverty wages propped up by universal credit? How can it be right that this situation exists? How can the Government claim to be at the helm of a functioning economy when the existence of food banks has, sadly, become the norm throughout the UK? This insecurity is bad for working people, damaging for the economy and, as we have seen through the pandemic, devastating for public health.

This insecurity stems directly from the statute book. Even the Government recognise this, or seemed to, and had promised to bring forward an employment Bill, but that promise, like many others, has been broken with the legislation seemingly dropped from the Queen's Speech earlier this year. Perhaps the Minister can explain whether that Bill will ever see the light of day, let alone be introduced to Parliament.

Turning to my noble friend Lord Hendy's elegant solution, his Bill seeks to fix flaws in our current law where separate employment statuses exist, such as employee, limb (b) workers and the bogus self-employed. Each of the three existing categories has separate accompanying protections with qualifying periods for rights such as statutory maternity, adoption, paternity and shared parental leave. There have been many cases where employers actively exploited the separate categories by falsely putting workers in a category with fewer rights.

For example, concerns have been raised for many years about the extent of bogus or false self-employment in the gig economy where individuals are registered as self-employed although they should qualify for employee or worker status. As we have heard today, this was seen in Uber v Aslam, where Uber drivers argued that they were workers while Uber maintained that they were self-employed contractors. This unfairness must end and all workers must receive the proper rights and protections.

Therefore, we on these Benches support this legislation to create a single status of worker. It would replace existing employment categories and remove qualifying periods for basic rights and protections to give workers day-one rights in the job. This would ensure that all workers receive rights and protections, including statutory sick pay, national minimum wage entitlement, holiday pay, paid parental leave and protection against unfair dismissal. It is important to stress that those who are genuinely self-employed would retain their status as being self-employed.

Does the Minister agree that this would be a positive step forward, or does he believe that, as he recently said, a three-tiered employment status structure provides the right balance for the UK labour market? If it is the latter, can he explain what he means by the right balance? I think the House deserves to hear an answer to that. It is a question that many have asked.

We need to tackle working arrangements that leave millions without a regular wage, key rights and important protections. Workers should and must receive them from day one of their employment, and that is what a Labour Government would do and what this Bill seeks to do. Can the Minister really be on the side of the worker if he opposes this legislation?

It is clear that we need to go much further than this Private Member's Bill. That is why we are calling for additional rights and protections for the genuinely self-employed, including statutory sick pay, the right to flexible working for all workers as a default, the right to switch off from work outside working hours and new rights to protect workers from remote

surveillance. Do the Minister and the Government support those proposals? Does the Minister now see the need for a full and broad-based employment Bill to be introduced as soon as possible? Does he see protections for workers as part of the levelling up agenda? The noble Lord, Lord Holmes, and many other noble Lords today clearly do.

We need a new deal for working people, and my noble friend Lord Hendy's proposals in this Bill should be front and centre. I hope that the Minister and the Government agree. We will be listening very closely to his reply.

11.25 am

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, I congratulate the noble Lord, Lord Hendy, on securing a Second Reading for his Private Member's Bill. I thank all noble Lords who have contributed. We had contributions from all sides of the House, except, surprisingly, from the Liberal Democrats. We had no contributions from the Liberal Democrat Front Bench or Back Benches. Perhaps it is a subject that they think is not so important.

Let me begin by recapping how our current employment status framework operates. Individuals' employment rights are determined by their employment status. Employment status is based on the nature of the relationship between an individual and the person for whom services are provided. In the UK, there are three employment statuses. Is "statuses" a word? I think it is. Employees are entitled to all rights, subject to qualifying periods, and have responsibilities towards their employer. Limb (b) workers—which I realise is an unusual term but is how they are defined in legislation—are entitled to only some rights but have increased flexibility with more freedom over when, how much and where they work. Self-employed individuals generally have no employment rights but have complete flexibility in their work since they are in business for themselves. Agency workers can have any of the employment statuses I have described, but they benefit from additional protections under separate legislation.

I agree with many of the points made by my noble friend Lord Moylan and believe that our three-tiered employment status framework provides the right balance for the UK labour market by allowing flexibility, for both employers and individuals, while ensuring workers have fundamental protections, such as entitlement to a national minimum wage and the right to holiday pay.

Turning to the contents of the Bill, I understand that the noble Lord, Lord Hendy, introduces this Bill to ensure that vulnerable workers are protected from exploitative practices. The Government share his concerns, which were also expressed by a number of other Peers including the right reverend Prelate the Bishop of St Albans, and it is clear that everyone deserves to be treated fairly at work and rewarded for their contribution to the economy, in terms of both fair pay and fair working conditions. However, the Government do not believe that this Bill is the best way to achieve this goal. I believe that creating a single worker status would inevitably stifle the flexibility and dynamism of the UK labour market when it is most needed to help the economy recover from the pandemic.

As the noble Baroness, Lady Greengross, observed, the world of work is changing. Recent case law, such as the Uber Supreme Court judgment—I listened with great interest to the excellent contribution to the debate by the noble and learned Lord, Lord Etherton—has acknowledged that those who work in less conventional ways, including gig workers, can work flexibly and have fewer responsibilities to their employers and still be entitled to a number of important rights.

I believe that, rather than protecting vulnerable workers—here I disagree with the noble Lord, Lord Hendy—removing the limb (b) worker status may create a bigger cliff-edge between a single worker status and self-employed status. It could introduce a stronger incentive for businesses to opt for self-employment models, potentially even leading to a number of current limb (b) workers losing entitlement to employment rights rather than gaining more, and I am sure that that was not the noble Lord's intention.

However, the Government recognise that it can be difficult to determine the employment status of some individuals with less traditional employment relationships, including in the gig economy. As the noble Baroness, Lady Donaghy, said, individuals need to understand their rights. We will continue to consider options to improve clarity around employment status, engaging externally with interested parliamentarians and across government on how best to address those issues in a post-Covid scenario.

Finally, I remind noble Lords—in particular my noble friend Lord Blencathra, who asked about this—of the number and range of actions the Government have taken, and are committed to take, to protect vulnerable workers while maintaining the flexibility of the labour market. Our comprehensive economic response to the pandemic has protected something like 14 million jobs and people through the furlough and self-employed schemes at a cost of £88.5 billion.

We took action to make sure that workers on zero-hours contracts have not been stopped from looking for or accepting work from another employer, and banned the use of exclusivity clauses in zero-hours contracts to give workers more flexibility. When parliamentary time allows, the Government will also bring forward a measure to request a more predictable contract to give qualifying workers greater certainty around their hours and income.

We will extend the permissible break in continuous service for employees from one week to one month. This measure will make it easier for those who have intermittent or flexible working patterns to access employment rights and will deter businesses from engineering breaks in employment to deny individuals important employment rights.

I will respond directly to the point from my noble friend Lord Holmes of Richmond about unpaid interns. The existing legislation and enforcement are sufficiently robust to ensure that workers undertaking work experience or internships should get the national minimum wage. If anyone thinks they should be getting the national minimum wage and are not receiving what they are entitled to, they can complain to HMRC or call the ACAS helpline; complaints are anonymous. I hope that deals with the point made by my noble friend.

[Lord Callanan]

In conclusion, I thank the noble Lord, Lord Hendy, for bringing the Bill to the House and enabling this debate. I have not been convinced that the Bill is the right solution to further protect those in insecure work, but the Government will continue to take steps to protect vulnerable workers where needed, including through the forthcoming Employment Bill.

11.32 am

Lord Hendy (Lab): My Lords, I am grateful for and humbled by the support around the House for the Second Reading of the Bill. I am grateful to all speakers who have contributed, particularly the noble Lord, Lord Moylan. Were it not for him, the heroic defence of the current situation by the noble Lord, Lord Callanan, would have stood alone.

It will be understood that I mean no disrespect by not summarising the elegant arguments put forward both for and against the Second Reading of the Bill, but I will take up just a couple of points. First of all, I would like to say how grateful I am for the support of the noble Lord, Lord Blencathra, and his reference to caring capitalism. Personally, I prefer caring socialism, but caring capitalism appears to be an achievable aspiration that is appropriate to aim for with this Bill.

I am grateful to the noble Baroness, Lady Greengross, for pointing out the particular vulnerability of young workers and older workers, and to the right reverend Prelate the Bishop of St Albans for expressing Christian support for the Bill and drawing to our attention the benefit to the state in increased tax and national insurance that would follow from the adoption of the Bill—a point reiterated by the noble Lord, Lord Balfe.

The noble Lord, Lord Holmes, raised a point about unpaid interns. I looked again at the Long Title of my Bill, and unfortunately I do think I would be able to persuade the authorities to include an amendment that dealt with unpaid interns—but I completely agree with him that unpaid internships should not be permissible except as a certified part of a formal educational course.

I loved the reference by the noble Baroness, Lady Wheatcroft, to the current law as a braying ass. That is a phrase I shall remember and cherish. She reminded us of the continuous struggle over centuries for the dignity and rights of workers to be protected by statute. This Bill is simply the latest attempt to achieve that.

The noble Lord, Lord Moylan, made an important point about the status of directors. Currently, directors may or may not be employees. Indeed, under this Bill they may or may not be workers; it will depend on the arrangements. I would be happy to accept an amendment to clarify the status of directors, but I am not prepared to accept Uber drivers having their contracts rewritten to make them all directors of some fictional Uber company. The noble Lord, Lord Moylan, pointed to the messy complexity of real life, but the noble and learned Lord, Lord Etherton, for whose judicial support I am grateful, pointed out that the messy complexity is in fact created by the state of the law and the exploitation of it by employers' lawyers.

I indicated that I was not going to deal with those who kindly supported this Second Reading, but I must just mention my noble friend Lord Davies of Brixton's intervention drawing attention to the way the Bill would protect pensions. The noble Lord, Lord Balfe, also drew attention to the fact that the protection of workers ought to be a cross-party issue; I agree with him on that.

The opposition to the Bill from the noble Lord, Lord Callanan, really boils down to an assertion that the current state of the law provides the right balance, which no other speaker apart from the noble Lord, Lord Moylan, accepts. He says that is based on the preservation of flexibility and the fundamental protections that currently exist for workers. So far as flexibility is concerned, I am afraid I cannot understand why it can be said that flexibility depends on the absence or restriction of employment rights. Flexibility is perfectly possible with full employment status and the rights that go with it. There are thousands, tens of thousands, hundreds of thousands—if not millions—of workers on flexible contracts who are still employees, so that argument simply does not hold water.

As for fundamental protections, I regard one of the protections of workers to be a right to complain if they are, or believe themselves to be, unfairly dismissed. I have not heard a justification for delivery riders such as those employed by Deliveroo, or the Uber drivers the noble and learned Lord, Lord Etherton, spoke about, being denied the right to make a complaint to a judicial authority that their engagement was unfairly terminated.

I did a case in the Court of Appeal a few years ago concerning a lap dancer, Quashie v I forget the name of the nightclub that engaged her. She worked three nights a week, week in, week out, over a period of years. An allegation was made that she was in possession of drugs; her engagement was instantly stopped. We tried to bring a claim for unfair dismissal but were met with the argument that she was not an employee but an independent contractor. We lost in the employment tribunal and won in the Employment Appeal Tribunal. Unfortunately, we lost in the Court of Appeal because of the complexity of the current law, as explained by the noble and learned Lord, Lord Etherton. I turn back to the fundamental point: why should she not have the right to say, "This allegation was false and unjustified, and my termination is unfair"?

In conclusion, I thank all noble Lords who have contributed to the debate.

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

Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Bill

First Reading

11.40 am

The Bill was brought from the Commons, read a first time and ordered to be printed.

Education (Assemblies) Bill [HL]

Second Reading

11.41 am

Moved by ***Baroness Burt of Solihull***

That the Bill be now read a second time.

Baroness Burt of Solihull (LD): My Lords, I am honoured to be in a position to introduce this Bill to your Lordships' House. I am indebted to all noble Lords who have taken the time to attend and speak today, and to Humanists UK for its help in drafting and briefing.

When I was 13—over half a century ago; time flies—it was mainly Catholic children who were excluded from religious worship at my secondary school. They were made to sit in the domestic science classroom with nothing to do apart from catch up on homework and gossip, while the rest of us traipsed into the main hall to be updated with all the news and events as well as doing the religious worship bit. At the time, I thought they were the lucky ones. I said to my dad that I did not really think I was a Christian. His response was, "Don't be silly, Lorely, of course you are." I had no say; like many children then and today, I just had to suck it up and endure it. To me it was an irritation among lots of other things in school that I disagreed with. Others had—and still have today—more traumatic experiences, which I am sure we will hear more of as noble Lords make their contributions. Negative experiences affecting pupils and parents are also reported on the National Secular Society website.

The world 50 or even 20 years ago looks very different from the one we inhabit today. We have become a diverse, multicultural society and we put more store on children and their rights—except in the UK, and in this matter of compulsory religious worship. The UN Committee on the Rights of the Child recently recommended the repeal of all collective worship in UK schools as a contravention of children's human rights, but the UK remains the only sovereign state in the world to impose Christian worship as standard and, unfortunately, there is no sign that the UK Government are contemplating a change. On the contrary, only this March, Sir John Hayes MP asked what steps the Government were taking to ensure that daily acts of worship were conducted each school day. Education Minister Nick Gibb responded that any school reported not to be fulfilling its obligation to provide daily religious worship

"will be investigated. Where needed, the Department will remind schools of their duty on this matter and advise on how this can be met."

On whose behalf was this Minister speaking? Certainly not that of the parents or even the schools themselves. Currently, parental choice on this matter is severely limited, with parents forced to choose between letting their children attend collective worship or withdrawing them and, in doing so, isolating them from their peers and taking a risk on whether they receive a meaningful educational alternative to worship, which almost never happens.

In April, a *Times Education Supplement* informal survey found that less than half of non-religiously affiliated primary schools were providing acts of religious worship. It seems the schools that are not complying with the current law have pretty much taken it upon themselves to respond in a more appropriate way to modern times and the diversity of their audience. Are they all going to be investigated? Will these head teachers be made to stand outside Nick Gibb's office door? I am afraid that he and his Government are swimming against the tide. Every generation since the Education Act 1944 has been less religious than the one before. All this compulsory school worship seems to have borne little fruit. The British Social Attitudes survey shows that, in 2019, just 1% of 18 to 24 year-olds were affiliated to the Church of England. The same survey reveals that 62% of British adults are non-Christian and, more importantly, 72% of those in the age bracket most likely to have school-aged children are non-Christian.

At this point, it is worth emphasising that a third of our state-funded schools are Christian, and this Bill does not propose to remove the requirement for Christian worship at those schools—although, regardless of whether they are from Christian or non-Christian families, are not all children entitled to assemblies that include them and do not make them feel like outsiders?

In 2019, YouGov asked parents what activities they thought should take place in school assemblies. The environment and nature came top, followed by equality and non-discrimination, and physical and mental health came third. Collective worship came 13th out of 13 options. Why do the Government persist in insisting on a practice that the vast majority of the people they purport to serve do not want? I hope that the Minister will explain this to us in her remarks.

Meanwhile, let me tell your Lordships about the Bill. It covers schools without a religious character that are state-funded in England and Wales. Faith schools are not affected by the Bill except that, for any children withdrawn from collective worship, they will be required to provide an equally meaningful school assembly in line with those available to other children. It repeals the requirement for schools of no religious character to carry out a daily act of collective worship.

Pupils and teachers at these schools may organise voluntary acts of collective worship for children who want to attend, as long as their parents permit them to do so, but the school may not insist that children attend and neither may parents—so children who do not want to attend an act of worship cannot be forced to do so, even if their parents want them to. This would have been great for 13 year-old me. What is the point of forcing any child to pray? We have already seen how well that has worked with the census on 18 to 24 year-olds.

However, the Bill would take away the right of pupils not to participate in school assemblies—no more being withdrawn, isolated or ostracised. It would be inclusive, bringing all children together in a community to reflect on matters that affect them and us all. It would address the spiritual, moral, social and cultural education of all children. When you have children coming together from many religious backgrounds and none, this spiritual dimension must take a different form for it to be meaningful to all.

[Baroness Burt of Solihull]

It would be thoughtful, encouraging children to reflect on our world, the moral choices that we face, our responsibilities to each other and to the planet, and so on. Indeed, from the YouGov survey we know that these are all things that their parents want them to learn about in assembly and to consider. At best, it would teach them to think for themselves.

I have no bone to pick with the Church of England, and I know that many people of faith agree with my position. Some 60% of parents, many of whom are Christian themselves, think the law on collective worship should not be enforced. In fact, only half of Anglicans agree that worship should be enforced, showing that there is a diversity of views among Christians.

With this Bill we have an opportunity to help all children, regardless of their background, to feel included and welcomed in the community of their school. It could mark an important turning point for inclusive education. I beg to move.

11.52 am

Baroness Morris of Yardley (Lab): My Lords, I congratulate the noble Baroness on introducing the Bill. This is an important topic and one that tends to get discussed outside the Chamber in conversations over a cup of coffee rather than by us thinking about what we need to do legislatively. I find it a really difficult issue. If there were an abstention Lobby for us to vote in, that is probably where I would end up going. I will not support the Bill, but I want to contribute to it and listen to others as part of rehearsing the arguments, because there are too few opportunities to do that.

On the face of it, the Bill seems very sensible. It is reasonable and not aggressive, and it seems to make sense in modern 21st-century society. However, it is part of a far more complicated relationship between church and state, in a nation that has an established church, and between the state and the role that churches have always played in schools. They are a major provider of schools. They educated the poor children of this country way before the state educated them, and I have always found and continue to find the churches valuable and constructive partners in our joint endeavour to educate children for future generations.

So I am in favour of religious education. It is imperative that at some point during a child's learning they understand about all faiths and have the skills to decide what role they want faith to play in their lives. The Bill does not touch on that, but I know, given the noble Baroness's beliefs, that she may wish to make alterations there as well.

This is not about our personal faith. It is about what we together decide should be the knowledge, skills and values that we pass on to the next generation. That to me is important. I must admit that, of all the knotty relationships between church and state over education, I find collective worship the most bizarre and the most difficult to justify, and the one whose roots are the most difficult to find out. I tend to think of it as something we have not been bothered with for so long that we have learned to live with it. There are advantages and disadvantages to it, but I think we would lose something if we abolished it, and that is why I do not support the Bill.

I want to rehearse some of the arguments. We all know that it is good to assemble children together and I am not sure that, without the need for collective worship, schools would do that on a regular basis. I think it has been a peg on which to assemble children together, and that is a good thing.

Cultural heritage and the ceremonies that pepper our lives are important. Although many of us do not have a faith, most of us choose to go through a ceremony at key points. I do not know the figures but, in terms of baptism, marriage, funerals or whatever, we turn to faith institutions. If we never had any experience of worship, service and ceremony based on faith, I do not know how we would cope with turning to those institutions at key points in our life and in the decisions that we make.

We have cultural experiences and occasions in common. Most children would not know about Christmas carols if they did not sing them at school. As harvest approaches, one of the reasons why we probably all know the hymns of harvest is that we sang them in school. I would not want a society where children did not know about Christmas carols because, although Christmas is often not celebrated as a faith occasion in many homes, that is its origin and that is what it means. That is what it stands for, and children need to learn and understand that so that they can make their own decisions. Faith gives the solid knowledge that underpins some of the ceremonies that are very important to us, and quite honestly it gives a framework for talking about values. Some teachers find that difficult, but I think faith helps them to do it.

In terms of disadvantage, the noble Baroness put her finger on it: it is the only time in our state system when we are legally allowed to separate children according to their faith. If we put children of one faith in one room and children of another faith in another room, we would get hauled over the coals and taken to court, and rightly so, yet that is what we do when we allow children not to attend assemblies. It can also become a focal point of disagreement in some schools between the leadership of the school and parents in the community of a different faith.

So there are advantages and disadvantages. The current situation is one of those things that, for me, sort of works. I am not saying it does not damage anybody, but it is certainly not a priority for me in changing law; I can think of other things in school that do greater damage to individuals. For that reason, I will not support the Bill for the moment, but I could very well change my mind by the end of the debate.

11.57 am

The Earl of Clancarty (CB): My Lords, I very much support the Bill, mainly because of what I believe education is fundamentally for. We can also talk about whether assemblies are a good thing and what their function should be and, perhaps, point to two particular factors: the desirability of collective worship in schools and its feasibility.

There has been no Ofsted inspection of this provision for 17 years. The reality is that collective worship, certainly in non-religious schools, is on the wane and, more broadly and importantly, as the noble Baroness,

Lady Burt, pointed out, so is the desire for it. That is exemplified by the exemption schools have sought from the provision.

This is a good thing. I say that because a major part of the purpose of education should be to encourage the child to think for themselves as they discover the world around them. It has always seemed to me wrong and rather arrogant that we as a society should presuppose those beliefs for children who, through education, are in the very early process of finding out what they feel about the world and developing their own moral code and beliefs. It is education itself, in all its breadth and depth, that should play a significant part in that. For me, in part, it was the arts that helped me discover those things. I myself do not believe in

"reverence or veneration paid to a divine being or power",

as the guidance defines worship. That is something that every child ought to think out for themselves, rather than having it imposed on them from the outset. Those are my views, but of course it would be immensely helpful if those of faith were also to be in support of the Bill.

I am not saying that religion should not be taught in schools. It is hugely important within the world, as are other beliefs, but it is time that we removed every aspect of religious instruction from schools, so that religion is understood as simply another topic of study, to sit within history or geography or alongside philosophy, including political philosophy—a subject that perhaps ought to be taught more in schools.

There are of course wider implications. There are too many faith schools in the country. In England in 2017, they were 37% of primary schools and 19% of secondary schools, percentages which have been creeping up. A new study by the National Secular Society has found that three out of 10 families in England have little choice but a faith school, meaning that children are pushed into these schools against their parents' wishes, which is certainly unacceptable. It is right of course that students should be able to opt out of religious observance, but one cannot help the feeling that excluding a child from a part of the school's corporate activity is not satisfactory either, in the long run. No child really wants to be exceptional in this way; better, surely, to have an assembly that every child can participate in fully throughout.

Assemblies are a good thing, which do not need collective worship to be meaningful. It is very healthy in itself that students and teachers who would not necessarily see one another during the week can meet up in a whole-school setting, if that is logistically possible. Apart from anything else, there can be very good practical reasons for doing so. A school I know well, which happens to be a private school not affected by the legislation, holds its assemblies—which contain no religious content—twice a week, under normal non-Covid conditions. It seems to me that there is no necessity for assemblies to be held daily, which the collective worship provision theoretically holds them to. Assemblies would be more special, and I am sure more enjoyable for students and teachers, if, as a matter of course, they could be held less frequently. Hopefully, in some state schools that is already the case.

12.01 pm

Baroness Bennett of Manor Castle (GP): My Lords, it is a great pleasure to follow the noble Earl, Lord Clancarty, and to offer the Green group's support for the Bill put before us today by the noble Baroness, Lady Burt, who gave us such a powerful and clear introduction to it. I have four reasons to express why I support the Bill.

The first is time. We know from many other debates on education in your Lordships' House how much pressure our schools are under and of the many ways in which they are forced to deal with the issues of today to prepare our young people for a difficult, fast-changing world. We need our schools to be preparing pupils for life, not just for exams, and while assemblies might not be focused on exams, this is a time in which we can do more of that education for life. Picking up the suggestion of the noble Baroness, Lady Morris of Yardley, about taking away the current forced provision for assemblies, I point out to her that part of the Bill says that schools will be required to provide an inclusive assembly focused on

"spiritual, moral, social and cultural"

development. That element is not being taken away by the Bill.

I note the comments of the noble Baroness, Lady Burt, that when people expressed their first choice of what they would like to see in these assemblies, it was a focus on the environment and nature. We might think about how a local ecologist or nature group might be invited to come in and speak to the school, engaging with it and making contact with the community. That might also include a spiritual reflection on nature, with practical education about nature and our contact with it. Think about how wonderful an assembly like that could be for a school community.

As the noble Earl, Lord Clancarty, just commented, there is also a need for more culture in schools. Let us imagine a local theatre group being invited into a school, perhaps to present a short play with a moral conundrum that could provide later discussion in class. That is the kind of thing that could be done with a whole-school or part-school assembly. Here is one of my pet favourite things: let us have some education in first aid, combined with a discussion on how everyone has an obligation to help others. Those are the kind of things we could be doing, without this straitjacket of the current law.

My second argument is an issue of rights and freedom. Others have already noted how the UN Committee on the Rights of the Child has pointed out that the imposition of worship undermines children's rights under Article 9 of the human rights convention and Article 14 of the UNCRC. It is really worth focusing on how important it is that we as a nation stand up for children's rights. When we fail to comply with our own obligations on the international stage, that weakens our position as an advocate of children's rights around the world.

My third point is on inclusion. Parents or children who choose to step away from the current forced worship are separated out and divided. As the noble Baroness, Lady Morris of Yardley, said, that splits children apart when we want to bring them together.

[Baroness Bennett of Manor Castle]

Finally, on a point of practicality, in the best survey we seem to have on the law—an imperfect survey—the *Times Educational Supplement* found that 53% of primary schools are not doing what they are apparently legally forced to do, and Ofsted is not enforcing that. We have an anachronism here which means that the law and practice do not coincide. As a sovereign state in the world, we have many curious anachronisms left in our constitutional and legal framework. This is one that we can tidy up while bringing in something better, with the kind of possibilities I outlined at the start of my speech.

12.06 pm

Lord Lilley (Con): My Lords, humans are essentially religious animals, in the sense that we are the only creatures who face the essentially religious questions. Who or what created us, and why? Is there a purpose to our existence? Are there absolute moral values or just our own preferences? Whether we answer yes, no, "don't know" or even "don't care", we are taking a religious position, because these questions cannot be answered by the approach of physical sciences, nor can answers be derived logically from self-evident axioms.

Ultimately, we answer on the basis of our own perceptions and personal spiritual experience, or we adopt the current fashion or rely on the accumulated wisdom of our forebears. But initially, the answers we present to the next generation—explicitly or implicitly, and whether Christian or secular—will be in that sense essentially religious. The pretence that there is a choice between an upbringing based on science or abstract reason and one based on faith is essentially false, and the answers we give to those questions have a profound impact.

In his book *Dominion*, the historian Tom Holland shows how profoundly our history has been dominated by Christian ideas: by the gradual explication of the life, death, resurrection and teaching of Jesus Christ. He shows that even the enemies of Christianity or those who believe themselves emancipated from it have actually been derivative of it, albeit in unorthodox or even heretical form. He describes the history of Christianity, warts and all, but ultimately shows that it has been beneficial to us as a people. I am a terribly inadequate Christian, but even I can see that at the core of the Christian faith is the belief that God is love; that the whole of religion can be boiled down, in Christ's words, to "love God and love your neighbours as yourselves—there are no commandments greater than these" and that, although we fall short of these laws, God wants to forgive us.

I frankly do not understand why the most sceptical, let alone humanists, should be upset about us teaching that belief to our children, but a generation has largely been deprived of that vision of the world. To adapt a saying attributed to GK Chesterton, when mankind ceases to believe in a benign creator, it does not believe in nothing but comes to believe in a malign creator.

I am struck by how children are taught, not universally but often in assemblies I have attended, a bizarre animist creed: that their maker—the planet—is the enemy of mankind. "The Earth has cancer and the cancer is Man" were the opening words of the letter from the Club of Rome, which has been repeated again and again. We are told that Gaia threatens us with extinction if we do not obey her commands. I remember going to a school where a boy said to me, "Mr Lilley, when are we all going to be burned to death?". I thought that he had been exposed to a hellfire preacher, but he had been exposed to a modern ecologist at assemblies. Surely, we should be more worried by the propagation of such doctrines rather than those of our historic religion.

Machiavelli does not get a very good press in this place, or from Christians generally. However, he said that when a people become effete and decayed, they can only restore their vigour and purpose by returning to the principles on which they are founded. It would be very unwise for us to deprive our children of access to those principles.

12.09 pm

Lord Harries of Pentregarth (CB): My Lords, I support the Bill both in my own person and as a member of the Commission on Religion and Belief in British Public Life, chaired by the noble and learned Baroness, Lady Butler-Sloss. The commission's *Living with Difference* report urged just such a change in the law as the Bill suggests.

I am not opposed to compulsory worship in schools in principle. It was entirely natural that, when our society was a predominantly unified one, the beliefs of the society as a whole should be expressed in state-funded institutions. However, as is obvious, this is no longer the case. As we know, worship has to be wholly or predominantly of a Christian character, but there are millions of people of other religions: Muslims, Hindus, Sikhs and Jews. Even more significant than that: we know that about half the population now say that they have no religion at all, and the percentage of young people who have no religion is even higher than that, so our present legal situation simply does not reflect the society in which we now live.

My second reason relates to our present situation, where the obligation to have compulsory worship in schools on a daily basis is either widely ignored or so widely interpreted that it is, in fact, evacuated of all significant religious content. As we have already heard, some 53% of primary school teachers indicated that there was no active religious worship in their schools. The Bill rightly insists that religiously designated schools continue to have compulsory religious worship, but, of course, with those schools, the parents sign up for it: it is where they choose to send their children. The situation is of course totally different with the whole range of those schools—the vast majority—that do not have a religious designation.

As we heard in our briefing, a spokesman from the Church of England said that the present situation gives a very valuable opportunity for pupils to pause and reflect. However, you do not have to have an obligation to have an act of worship in order to do that. The Bill makes very good provision for compulsory assemblies where children's spiritual and moral development can be considered. My guess is that most

heads, who are now pretty indifferent to what the law says, would gain new energy and imagination in order to make something of those assemblies, if it was something that they could wholeheartedly agree with.

I support the Bill because Christianity is fundamentally committed to free choice. The only good reason for believing in a religion is because you believe and personally recognise it to be true. The pioneers of religious freedom in this country, like John Locke, were Christians, and they passionately believed that Christianity ought to be able to shine in its own light. I support the Bill on Christian grounds because I believe that the Christian faith is such a wonderful thing. It could shine in its own light, if people could only do away with all the distortions with which it is usually presented in order to see it as such.

So I support the Bill for three reasons: the present situation simply does not reflect where we are as a society, it brings the present law into disrepute and it does a disservice to the Christian faith itself, which ought to be able to shine in its own light, as I believe it does.

12.14 pm

Baroness Massey of Darwen (Lab): My Lords, it is a great pleasure to follow the noble and right reverend Lord, the former Bishop of Oxford. This is a short but very important Bill, and I thank the noble Baroness, Lady Burt, for introducing it so comprehensively. The arguments have been well set out, not only by her but also by others, and I will not repeat the detail.

I support the Bill. I am a humanist and a member of the National Secular Society. I do not have a faith. I have beliefs, and I think—I hope—I have spiritual and moral perspectives. I have been a senior teacher in schools, and I am a parent. I have been present at many school assemblies and have conducted several. The issue of school assemblies has been troubling for many years. Issues could easily be resolved, amicably and in a sensible manner, by the Government's acceptance of the Bill.

The Bill is not anti-religious or anti-belief. It supports parental wishes and opens up opportunities for greater involvement for children on the issues that concern them, such as mental health, relationships, the environment and so on. I see from a survey that religious worship in assemblies was ranked last by parents in a list of possible topics. In addition, 62% of people in Britain do not identify as Christian, yet assemblies are supposed—indeed, obliged—to have a Christian character.

I will talk about school assemblies that could make a real contribution to children's lives. The time for collective gathering in schools and other organisations can be productive. The best and most relevant assemblies that I have ever been involved in were ones that actually involved children who were presenting interesting work that they were doing or things like volunteering, fundraising, being involved in a youth centre or Girl Guides and Scouts or working for a charity, such as reading to elderly people in homes. Visits by inspiring individuals, who came in to talk about their work—with adults or children—or their philosophy about life, were also popular in assemblies. The success stories of former pupils were also well received. I remember hearing in assemblies from pupils who had overcome hardship or disability and who were leading productive lives. This is relevant to children. This approach does not have its basis in any one faith or, indeed, any faith at all—although learning about different faiths can be interesting and inspiring. Anyone can enjoy singing Christmas carols.

If a survey of children were to be carried out on the useful nature of assemblies, I think that this kind of thing would come to the fore. I must say that, as a teacher, I found that smaller gatherings, such as year assemblies, were more intimate and allowed for some interaction with children—but there is certainly a place for larger gatherings.

Children's rights are important. The UNCRC specifies that children and young people are free to be of any or no religion. Without invoking charters, the Bill makes sense in relation to what education is about. Good education ensures a broad exposure to ideas and experiences, and assemblies should be a part of that. Children are more open to experiences and ideas when they are able to discuss and express opinions. A good assembly will present thoughts that can be taken up by teachers, as appropriate, during lessons of the day. I remember having a discussion, many years ago, with pupils of around 14 about the rights of women, after an assembly on the suffragette movement and the relevance of their struggles.

Head teachers and teachers are committed to the learning and development of pupils, and assemblies that free them up to be so should be encouraged. This is what parents and children want and deserve.

12.18 pm

Baroness Meacher (CB): My Lords, I wholeheartedly support the Bill. I am sad no longer to be following the noble Lord, Lord Taverne—this is for procedural reasons, as I understand it. I applaud the noble and right reverend Lord, Lord Harries of Pentregarth, for his profoundly wise speech.

We live in a predominantly secular society: 62% of people do not identify as Christian, according to the most recent British Social Attitudes survey. Of course, some of these people belong to other religions, but many do not belong to any religion at all. I emphasise that this is a really important Bill; this is by no means trivial. It is of the utmost importance that children are encouraged to respect good values: kindness, generosity, tolerance of difference and more. They need very regular opportunities to explore these vital moral and ethical issues. You could say that the single most important part of our education as a whole is learning, as children, about the important values of our society.

Assembly seems to be the main context for the consideration of these incredibly important values. If these important values are conveyed within a religious narrative with which the children simply do not identify at all, there is an extremely high risk, in my view, that children will therefore somehow disregard the values themselves that are being conveyed within that religious narrative. It is not a small matter. If we are to have a good society in future, we have to ensure that good

[Baroness Meacher]
moral values dominate across our population, and that depends on this Bill finding its way on to the statute book.

The extent to which religious narrative is regarded as unhelpful is quite strange to me—it is quite extraordinary and phenomenal. As the noble Baroness, Lady Burt, mentioned, in a 2019 YouGov poll, religious worship was ranked last in a list of 13 possible activities that might take place in a school assembly. I am quite surprised by that; it is staggering, actually. Other noble Lords have referred to the percentages of people who support discussion of environmental and other issues. For me, it is values, values, values that need to dominate in those assemblies.

I was not aware that the UK is the only sovereign state where Christian worship is compulsory in state schools, including those without a religious character. I confess that I was also unaware that, under the Human Rights Act 1998 and the United Nations Convention on the Rights of the Child, younger children have the right to freedom of religion or belief, which is not being respected here. Some argue that parents can remove their children from assemblies, but that is not an answer; as others have said, parents do not want to single out their children. Some argue that these determinations are the answer, whereby a school can gain an exemption from the broadly Christian requirement. Those determinations are so bureaucratic that only 42 schools have actually gone through that process. These things are not the answer; this is far too important for that sort of get-out.

The Bill seeks to implement the UN children's rights committee recommendation. I very much respect the Minister who will respond to this debate. Can she please either agree that this Bill should be incorporated into statute by government or, perhaps, explain to us why it should not? I look forward to her answer.

12.22 pm

The Lord Bishop of Oxford: My Lords, I warmly welcome this debate. As others have said, it is very timely that it is raised. I thank the noble Baroness, Lady Burt, for her careful introduction, and other noble Lords and noble Baronesses who have spoken, particularly my distinguished predecessor but one, the noble and right reverend Lord, Lord Harries, with whom I think I am about to disagree.

Worship and spirituality are a vital part of what it means to be human, and it is absolutely right, for all the reasons that have been given, that it be carefully reviewed and, possibly, that some changes should be introduced. But my reason for in conscience finding this Bill difficult goes back to my experience of leading assemblies as a local parish priest many years ago in Halifax. I put a great deal of time and energy into rehearsing the parable of the good Samaritan and the stories of Joseph and Moses, only for the otherwise extremely good and gifted head teacher of the school to reinterpret my assembly with the phrase, "Of course, what the vicar really means is don't run in the corridors, and pick up the litter in the playground." It is the reduction, without a serious faith tradition, of the fantastic values that are being articulated, to simple practical motifs which I fear is the danger of a Bill like this.

There are many benefits to collective worship in schools, as has been said, as a time to pause and reflect, to gather in community, to mourn in times of tragedy, as we have seen recently, to foster common values, to celebrate festivals, not just Christian, and to build religious literacy, which is vital. Although there is some evidence to the contrary, there is other evidence that suggests that the present arrangement works well, as many schools and children will testify. The noble Baroness and others have argued that the Bill would liberate schools to use the valuable time gained to cover themes such as the environment, health relationships and self-esteem, but all those themes are regularly part of good school collective worship in the present pattern, within the context of the great faith traditions.

If the Bill is passed, one effect may be to make anything that is more than secular assembly not legal and contested in our schools. I fear that one risk of the Bill is that it will weaken the protection around this valuable space for reflection in the school day, that the life of our schools will move in an ever more utilitarian direction, and that children will grow up in ignorance of the possibilities and depth of the faith traditions which, as the noble Lord, Lord Lilley, has said, have formed our society and culture and the societies of the world, where faith still plays a massive role.

Is it right in a pluralist society that worship remain wholly or mainly Christian? I believe it is, and for the following reason. The alternative to rooting collective worship in the Christian tradition is to root it in a largely invented contemporary gathered syncretic tradition, which lacks depth or authority, is unconnected to any faith community and will quickly be abandoned. The effect of the Bill may be to replace a tolerant, humane and hospitable Christian faith as the main strand of worship in our schools, combined with other faith traditions, with a largely manufactured cluster of ideas with few roots in our stories or culture and varying enormously from school to school. I do not think that the majority of the nation's children and young people should be denied the experience of spiritual, moral, social and cultural development connected to a living tradition, which research shows they value. It is right that we are having this debate, and I hope that many conversations come from it, but I urge your Lordships not to progress this Bill.

12.27 pm

Lord Dubs (Lab): My Lords, it is a pleasure to follow the right reverend Prelate, even if I disagree with some of the things that he said. I should say that I am a member of the All-Party Parliamentary Humanist Group and I applaud the initiative of the noble Baroness, Lady Burt, in bringing this Bill forward.

I was not going to mention this little story, but I shall do so in the light of what the right reverend Prelate said. I was talking about refugees at an event in Yorkshire. There were schools and faith groups there—it was not part of an assembly, or anything like that—and I was introduced as a humanist. A vicar was sitting there, and after I had done my piece and done my

Q&A, I went up to her and said, "I'm sure you disapprove of me being a humanist". She said, "Not at all—you and I believe in the same things. It's just that I believe in God as well". Maybe the right reverend Prelate would not agree with that, but it seemed to me that it gets to the heart of it: there are important moral standards that are shared and which in my view do not need a Christian backing. I shall come on to that in a moment.

As many noble Lords have said, what happens to children who are not in assembly? They are almost excluded if their parents do not want them to be there, because there is nothing for them. One parent said, "We don't think it is acceptable that they be left to play with an iPad because they have been withdrawn". There has to be something to fill that gap; otherwise, it puts young people in an invidious position, which is not very proper.

One clause in the Bill is absolutely crucial, at Clause 4(2), and I shall read it out because it goes to the heart of the argument in favour of the Bill. It says:

> "Each pupil in attendance at a school to which this section applies must on each school day take part in an assembly which is principally directed towards furthering the spiritual, moral, social and cultural education of the pupils regardless of religion or belief".

That seems to me go to the heart of it. There are moral standards, beliefs and views in terms of morality that do not depend upon a Christian imprint, but which are there because they are the right and proper way forward.

The Bill is important. It gets to the heart of what assemblies might be about. In my memory of school assemblies, I am not aware that they had any impact on me whatever over the years. That is except for one, when one teacher talked about apartheid in South Africa. I remember it to this day; it was totally different from all other school assemblies that we had and it made an enormous impact. It stayed with me as a matter of crucial importance.

There are better ways forward. School assemblies could have a part to play along the lines indicated in the Bill, which I fully support.

12.30 pm

Baroness Murphy (CB): My Lords, it is always a pleasure to follow the noble Lord, Lord Dubs, and I agree with every word that he and many people in the House today have said. One great advantage of speaking in the second half of a debate is that you will have heard so many good arguments.

I was going to quote another Bishop of Oxford. We have heard from the noble and right reverend Lord, Lord Harries, and the right reverend Prelate the Bishop of Oxford today. One of the successors of the noble and right reverend Lord, Lord Harries, John Pritchard, when he was head of education at Oxford, made a very clear statement that he felt that personal prayer and direct worship was inappropriate. Religious education is of course completely different, but the personal prayer from a heartfelt faith is something that should not be forced on children, particularly in a society where so many people are not religious.

The Government's failure to get to grips with reality is pretty disgraceful. They have not bothered to upgrade the policy since 1994. The current Minister, Nick Gibb, has written to say that if people are not implementing this policy they will be dealt with on an individual basis. We know very well that SACRE, the local committees that look after religious education, have no way of collecting data and nobody gives them any data about how religious assemblies are being implemented, so there is no data that the Minister could possibly collect. I worked out that there must be at least 16,490 schools not holding collective worship in assemblies, if they hold assemblies at all. One important matter in this Bill is that it ensures that assemblies are held to address those important moral questions that are so vital.

This reminded me of similar circumstances when the Government know that something is not being implemented. Do noble Lords realise that there are two Acts from 1297 still on the statute book that were apparently made redundant by Magna Carta later the same year but which have never been removed? The Law Commission looked at them quite recently in fact. Then there was an Elizabethan Act for compulsory Protestant worship on Sundays—what later became the Church of England, of course. Mr Monckton Milnes MP, on 11 February 1842, raised the issue that everybody knew that the Act was not being complied with, and had not been for maybe a hundred years. He was going to introduce a Bill to repeal that legislation, which of course was sometimes imposed on prisoners, who were fined. The Minister at that point replied that you cannot go around repealing laws just because they are obsolete. It was 11 February 1842, at col. 309 in vol. 60 of the *Official Report*. It took until 1886 to repeal that Act.

This is an opportunity for the Government to grasp the nettle. We want children to have enjoyable assemblies, to sing carols, to sing other sorts of songs that belong to other faiths and none, to enjoy them and to learn about moral issues and dilemmas and the great issues of the day. We want them to come together to do that. This Bill ensures that it would really happen and that we would get rid of this fudging and confabulation. I strongly support the Bill and I hope that the Government will be visionary and innovative in trying to address the issues.

12.35 pm

Lord Desai (Non-Afl): My Lords, I refer to my interests in the register. I am a humanist and, while not a Satanist, certainly not a God-ist. I consider myself very lucky that I did not have a British education. I was therefore spared religious assemblies every year of my life while I was in school, so I ended up a clear-thinking person.

I heartily support the Bill. Indeed, I think it is too mild. What harm have Christians and Buddhists and Muslims done to not be able to escape assemblies every day, or whenever it is? It is a very strange idea that moral and various spiritual educations can be learned only by getting people together and haranguing them. The whole of school education should be doing that all the time—you do not need a special hour to

[Lord Desai]
get students together. I suggest the following experiment: if people think it is so good, and if they think the students think it is so good, hold it at the end of the day, make it voluntary and see how many turn up. That is a challenge. I do not really want to go on for ever, because I think it is absolutely obvious that all children of all religions should be spared assemblies. If you cannot find anything to do in that hour, start school later—they can all sleep more and it will be better for them than having assemblies.

It may have been that one generation or 10 generations ago, people thought that assemblies were great things. I did one year of primary school in my native state of Baroda, which was a princely state. We had to do praise of the king; it was not quite a prayer, but I guess we had to pray to God that the king would have a long reign. Coming from a properly educated family, I knew that politically his reign was about to disappear in one year—that was a fact. So I never had any faith in prayers, which is another very healthy thing that happened to me.

I heartily support this Bill and I think that, if possible, it should be amended in Committee and all schools should be liberated.

12.38 pm

Lord Singh of Wimbledon (CB): My Lords, business in the House is always preceded by Christian Prayers. We are reminded that, at all times, we should lay aside "private interests, prejudices, and partial affections". Unfortunately, this laudable advice is soon forgotten as we begin to debate controversial issues, but at least the thought is right. As a Sikh, I can understand reference to God in Christian worship, but I have never been able to understand who or what is the Holy Ghost. My attitude to Prayers in the Lords is to go along with sentiments close to Sikh teachings and respect the right of Christians to their beliefs.

Assemblies in schools, however, are different, because of the age and vulnerability of children. In the past, when most children were of the Christian faith, assemblies provided a sense of oneness and unity of thought and purpose. Today, children are often from different religious backgrounds. Assemblies couched in the teachings of one faith as gospel truth can cause confusion and hurt, particularly if stress is laid on literal texts. For example, in the Gospel according to John, chapter 14, verse 6, Jesus Christ is reported as saying:

"I am the way … No one comes to the Father except through me."

This can be quite upsetting to young children of other faiths. It can cause a lack of confidence in a child's own belief and work to brainwash sensitive minds, sometimes with damaging family upset.

Although I believe that the Bill is right in suggesting that school assemblies should be changed in line with changing times, the proposal to replace them with vague spiritual and moral teachings is unhelpful and does nothing to enhance understanding of different faiths, when this is needed now more than ever before. Today, we live in a world in which we are reminded daily that most conflicts have their origin in religious bigotry. We need to recognise that what passes for religion is often a complex mix of ethical teachings overlaid with the culture of thousands of years ago—culture that frequently demeans women and people of other faiths.

Never has the need to understand the beliefs of other people and what motivates them been greater. Never before has there been such ignorance and reluctance to talk openly about religion and its good and not so good practices. This ignorance extends to all levels of society—to civil servants and politicians and to educators, particularly in our school lessons, where emphasis is often laid on the size and shape of places of worship and artefacts of different religions, but much less on ethical teachings. If we want a better and more cohesive society, the best place to begin is in the school assembly, with a multifaith assembly showing respect for common ethical imperatives in all our different faiths.

12.42 pm

Baroness Hamwee (LD): My Lords, I warmly support my noble friend in her Bill and congratulate her on her birthday today—I think I have got that right. I am very sorry that circumstances have conspired to prevent my noble friend Lord Taverne joining the debate, as we would have liked to have heard from him.

This is not an attack on Christianity or the assembly of a school community. On the contrary, the school community getting together is valuable as an opportunity not just for day-to-day practical matters but as a chance to reflect on things outside the formal curriculum—ethics, morality, values; matters which are the subject of proposed new Section 70A, referred to by other noble Lords, and which are not the monopoly of any one religion, or indeed of religion at all.

Schools should bring students together, whether they are in reception or sixth form, not cause some to feel excluded because it is not their religion or because they do not really understand what is going on, think they will be in trouble if they do not conform or feel a conflict between home and school. The current position simply does not reflect the equality and diversity which we so often talk about. I can well see that religion delivered through assembly and education delivered by the same teachers can be very confusing.

The noble Baroness, Lady Morris, referred to the very big question of the relationship between the Church and the state, but the Bill does not deal with religious education. In my view, this is important to ensure as wide an education as possible. The speech of the noble and right reverend Lord, Lord Harries of Pentregarth, was worth attending today for. Not everyone will share this view, but I regard my religious identity as being part of my cultural identity—not culture in the sense used by the noble Earl, Lord Clancarty, although I agree with him—and young children reach an understanding of this at different ages. Sorting out one's beliefs may coincide with adolescence and is all very complicated and unsettling. It is very hard for parents who find that their child's school is setting up an educational context which does not accord with home.

The right to withdraw is not something introduced by the Bill—indeed, the converse, as my noble friend has explained—but until the Bill is enacted, Section 71

really should be complied with, and with respect, ensuring that the right is known and understood. It seems that the option to withdraw is no such thing in practice. The Bill introduces the alternative of an assembly of equal educational worth, with the same educational objectives as an assembly—noble Lords have talked about this.

I went to school a long time ago and in a very different world, and I will not say it scarred me, but this has stayed with me. My own school's traditions were pretty conventionally middle-of-the-road C of E and there were a lot of Jewish girls. We were separated off for assemblies, or large parts of them, and when I was deputy head girl, I was expected to take Jewish prayers. I was singularly ill-equipped for it and had no support. It did not do me any harm but I do not think it was very helpful to those who attended. I have no doubt that the school thought that this was very advanced. I hated it and resented it, and not only on the occasion when the meat ran out at lunchtime and I was called up to explain why the Jewish girls had been eating the ham.

From the perspective of decades later, I realise that the staff then were not all well-equipped to feel comfortable to cope with the difference. There is no excuse for that in 2021. Indeed, from the perspective of 2021, some of what some people have experienced does not seem to me to be Article 9-compliant, as the noble Baroness, Lady Bennett, referred to. This Bill is long overdue and very significant.

12.48 pm

Lord Watson of Invergowrie (Lab): My Lords, first, I also offer a welcome to the Minister; while she is no novice at the Dispatch Box, I think I am right in saying that this is her first education debate.

I congratulate the noble Baroness, Lady Burt, on her success in bringing this Bill forward. She introduced it with conviction and highlighted the many issues that surround the requirement for collective worship in schools in England. For that reason, I have to say that it is somewhat incongruous that the schedule makes several references to Wales, although collective worship in the Principality, as I understand it, is the legislative responsibility of the Senedd. I do not know whether the noble Baroness can explain that anomaly. I am unclear as to why Clause 1(5)(a) refers to "the governing body". Does that refer to multi-academy trust boards? Academies that are part of a MAT may not have their own governing body.

I should say at this stage that, notwithstanding the outstanding and in many ways compelling contribution from the noble and right reverend Lord, Lord Harries, the Official Opposition are not going to express an opinion for or against the Bill. We see it as a useful exercise in opening a debate about the future of collective worship in schools, and the Government should be put under the spotlight because they have many questions to answer as to their apparent ambivalent position with regard to current legislation. Perhaps the most fundamental is the question posed by the noble Baroness, Lady Burt, and many other noble Lords, as to why the UK is the only sovereign state in the world to require Christian worship in state schools, including those without a religious character. That was highlighted, as was referred to by many noble Lords, by the United Nations recently, as it did in 2016 in calling for the repeal of legislation concerning collective worship in schools. Can the Minister explain why this should be the case, given that the 2019 British Social Attitudes survey showed that 62% did not identify as Christian? Have the DfE and Ministers given any consideration to the implications of that statistic?

As we know, the law as it stands is widely ignored. There was a time when Ofsted was required to note non-compliance, but it ceased inspecting collective worship in 2004 after 76% of schools were found to be non-compliant. The law certainly needs updating, but, as the basis of that, we believe that there should be a proper public consultation to test opinion and gauge the appetite for continuing with collective worship in school assemblies and, were it to emerge that the majority view was that it should not, whether they should be replaced with assemblies focusing on spiritual, moral, social and cultural education, as set out in the first line of Clause 1 of the Bill.

This is not necessarily a binary choice. The view of the public may be that school assemblies as an event have had their day and that the current system should be brought to an end and not replaced. A public consultation is a step that the Government should undertake because, as the excellent briefing from the Library makes clear, there are no official figures for the proportion of schools without a designated religious character that meet the requirement to provide compulsory daily acts of collective worship. The current guidance on collective worship dates from 1994, in spite of several changes since then to primary legislation. So, even if the Minister tells us—as I suspect she will—that the Government have no plans to undertake a consultation on the current requirement, which they wish to retain, the guidance relating to the legislation is surely due an update after more than a quarter of a century.

As other noble Lords have mentioned, we have one recent indication of the extent to which the legislation is complied with—or not, as it appears. That may have been merely an informal poll involving primary school teachers, but, nevertheless, in the absence of any other indication of the current state of play, it was given sufficient credence to be reported by the widely respected *Times Educational Supplement*. That appears to have taken the Schools Minister, Mr Gibb, by surprise. When he was asked by one of his MPs what steps the DfE was taking to ensure that there is a daily act of worship at every maintained school, the Minister replied rather ominously that schools in breach of the requirement would be investigated.

Noble Lords may not be surprised to learn that this was not the first time a Minister had been asked that question. My research uncovered this gem from a Written Question submitted by a Conservative in your Lordships' House: to ask Her Majesty's Government

"what action they intend to take in respect of the 70 per cent of secondary schools that do not comply fully with the requirement to have a specific daily act of worship."

The reply that he received from the Minister said:

"The department relies on the OFSTED inspection cycle to identify where failure to fully meet statutory requirements is a key issue, and arrangements are in place within that inspection cycle to revisit those key issues on post inspection plans."—[*Official Report*, 11/10/1999; col. *WA 70*.]

[Lord Watson of Invergowrie]
That Question was asked in your Lordships' House in October 1999 by the former Secretary of State for Education, the noble Lord, Lord Patten. It was answered by the then Education Minister, my noble friend Lady Blackstone.

I have other questions for the Minister, which I fully understand she is unlikely to be able to answer today, but I ask that she writes to me in due course. Can she say whether the Government are satisfied that schools are aware of their rights to seek a determination allowing them to hold multifaith assemblies, assemblies of a different faith or no faith assemblies at all under the current legislation? Does the DfE know how many schools have applied for determinations? Schools Week reported that of the 48 schools that applied to their local Standing Advisory Council on Religious Education board to opt out of the daily act of worship between 2015 and 2018, 42 were successful. Do those unsuccessful have the right to appeal that decision and, if so, where is that appeal heard? What steps are schools taking to ensure that parents are aware that they may also withdraw their children from collective worship and that sixth-form students may withdraw themselves? If not Ofsted, who is now responsible for investigating and determining breaches of the legal requirement on collective worship? Can the Minister set out the process for investigations, which the Schools Minister has said he is now prepared to reintroduce?

The DfE has said that collective worship

"encourages pupils to reflect on the concept of belief".

I entirely accept that premise, but surely that is the purpose of religious education being part of the curriculum—an issue referred to by my noble friend Lady Morris and the noble Earl, Lord Clancarty. Studying the various religions and belief systems, which should include humanism, helps to expand and shape young people's understanding of other systems. Yet the figures show that the proportion of schools providing RE at GCSE level has decreased, while parents are increasingly opting their children out of RE to study other subjects. Is that a matter of concern for the Government?

The Bill offers the Government the opportunity to state clearly where they stand on a number of issues around the role of religion and religious education in schools. I suspect that the Bill is unlikely to travel far, but it provides the opportunity to open up a debate on these important issues. It is surely the Government's duty to use this to ensure that the legislation is brought up to date and that it aligns with the views and concerns of the broad population, whether or not they identify with a particular faith.

12.55 pm

Baroness Chisholm of Owlpen (Con): My Lords, this is my first time back at the Dispatch Box for quite some time, so I feel a complete novice, I can tell you. I offer my congratulations to the noble Baroness, Lady Burt of Solihull, on securing a Second Reading for her Bill—and, of course, many happy returns for her birthday today; what a place to be on your birthday. I thank all noble Peers who have taken part in what has been a fascinating debate.

The Bill's aims are well intentioned and attempt to address provision of collective worship in a number of different settings, a topic that has long been considered contentious. While I understand the intention of the Bill, I must express strong reservations on its contents and would like to clarify to noble Lords how the current legislation relating to collective worship already affords us the sufficient flexibility that the Bill tries to achieve.

We believe that collective worship is an important part of school life. It encourages pupils to reflect on the concept of belief and the role that it plays in the tradition and values of this country. Importantly, the legislation around collective worship is inclusive and allows all schools to tailor their provision to suit their pupils' spiritual needs, as well as providing an opportunity for schools and academies to develop and celebrate their ethos and values.

There can be no doubt that there has been a shift in belief in Britain over recent decades. The 2018 British Social Attitudes survey showed that there are many citizens who hold non-Christian religious beliefs, with 9% belonging to a non-Christian religion, including 6% who belong to Islam. Indeed, the noble Baroness, Lady Burt, the noble and right reverend Lord, Lord Harries, and other critics may say that the law requiring a daily act of worship that is wholly Christian needs to change in line with this evolving demographic. I refute this claim, as legislation already allows for schools to seek an exemption from wholly Christian worship in cases where the principal religion of the pupils or community is not Christianity. They can provide collective worship that is predominantly of another faith, such as Islam or Judaism. It does not permit replacement of collective worship with a non-religious option, and the Government stand by that policy.

In a small school-scale survey conducted in 2019, two-thirds of head teachers at non-faith schools said that they used collective worship to focus on personal, social and ethical matters rather than religious ones, with under one-third stating that collective worship reflected the main features of the school. The law is flexible and inclusive, allowing all schools to tailor their provision to suit pupils' needs.

Let me be clear: children are not forced to take part in daily acts of collective worship against their wishes or their parents' will. They do not have to suck it up and endure it, as the noble Baroness, Lady Burt, said. The law affords them a right to withdrawal. This can be exercised by pupils over the age of 16 and by parents of pupils under the age of 16. We will investigate a school only when a complaint is made directly to the department.

Having demonstrated the flexibility of the current legislation, I now turn to the Bill itself. It seeks to replace the daily act of collective worship with an assembly aimed at

"furthering the spiritual, moral, social and cultural education of the pupils"

in schools without a religious character. However, the Government do not think this is necessary given that, under the Education Act 2002, schools are already required to ensure the SMSC development of all their pupils. The noble Baronesses, Lady Bennett and Lady

Meacher, and the noble Lord, Lord Dubs, talked about this. There are many opportunities, both within the basic and national curriculums, for schools to promote SMSC education without amending the legislation surrounding collective worship; in fact, collective worship is one of the many ways that SMSC education can be promoted. Other areas of the curriculum in which schools can meet this requirement include religious education, history and citizenship to name but a few.

All these subjects help to give children and young people a sense of enjoyment and fascination in learning about themselves, others and the world around them. This includes being reflective about their own beliefs, religious or otherwise, and perspective on life. Furthermore, schools can provide assemblies that promote the SMSC development of their pupils in addition to daily acts of collective worship, rather than in place of it, should they wish to.

The noble Lord, Lord Singh, talked about worship being Christian rather than that of other faiths. State-funded schools are subject to the public sector equality duty and asked to follow that path. They are also required to actively promote the fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs. This is broader, perhaps, than what is typically covered by daily collective worship in schools and, along with SMSC provision, effectively provides much of what has been suggested in this Bill.

Over my left shoulder appeared a bit of paper that may answer some of the questions of the noble Lord, Lord Watson, but probably not all. Indeed, it does not, because it says I will write to noble Lords. I apologise for that. He made three points and, to make sure we answer them properly, I think it better that I write to the noble Lord and make sure that the letter is put in the Library.

I agree with the noble Baroness, Lady Morris, that this is a difficult issue, but I hope that I have clearly set out why the Government believe there is no need to amend the current legislation on collective worship. Collective worship is already flexible and inclusive in nature. We trust that our schools will strive to further the spiritual, social, moral and cultural education of all their pupils, without this impacting on their legal duty to provide daily acts of worship.

1.03 pm

Baroness Burt of Solihull (LD): My Lords, I am grateful to all noble Lords who have spoken in this thoughtful debate today. It is clear that everyone who spoke expressed their genuine and heartfelt beliefs. It is a huge tribute to this House that we can have this kind of debate in a well-mannered and mature way. I thank the Minister for her remarks and welcome her to her post, and I also thank my noble friend Lady Hamwee for her birthday wishes. I will not go into detail, because there are so many points to cover, and my noble friend Lady Hamwee did an excellent job of summing up.

The noble Lord, Lord Watson, suggests that we might wish to have a public consultation. I think that is a good idea, and I do not understand why the Government would be averse to the idea of a consultation.

The Minister in her remarks said that assembly is hugely valuable—she acknowledges that. The question is how much an assembly is enhanced, or the opposite, by the imposition of collective worship. She mentioned the exemption that schools can apply for, which is called a determination. However, that does not exempt schools from some form of religious worship, so it does not change the fact that we still would have compulsory worship in all schools.

The Minister says that the children are not forced to worship, but the alternative to being withdrawn from religious worship is to be excluded—to be alienated. What the Bill does, if nothing else, is to enable inclusion, bringing all children together, focusing on the values that unite us and enabling them to reflect on the kind of issues that affect them. You cannot be inclusive when a lot of children have been withdrawn from school, and it is important that we focus on those children.

For religious schools, the Bill keeps the requirement in relation to children being taken out of classes. The noble and right reverend Lord, Lord Harries, mentioned that all children who attend religious schools subscribe to that religion, but that is not always the case. Sometimes the religious school is the only one in the local area, so it is absolutely proper to have the right to withdraw a child in those circumstances.

In summary, I am hopeful that the Minister will reflect on all the cogent and well-thought-through arguments that have been brought forward today. Perhaps she might well discuss with her colleagues whether some kind of consultation might indeed be the way forward. This is a democratic country; we are all here not on our own behalf but to serve the people—not, in this House, those who elected us, but we are still here to serve—and so I hope that the Minister will reflect on that. With that, I beg to move.

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

Refugees (Family Reunion) Bill [HL]

Second Reading

1.09 pm

Moved by ***Baroness Ludford***

That the Bill be now read a second time.

Baroness Ludford (LD): My Lords, I am pleased to have the opportunity to propose the Second Reading of this important and, I think, timely Bill. I am very grateful to all the speakers in today's debate, to the Families Together coalition of NGOs, which has supported, encouraged and briefed us, to our Library for its briefing, and to all the parliamentarians who have championed this cause in previous versions of this Bill, not least my noble friend Lady Hamwee.

The Bill is timely because recent events make it more vital than ever. Broadcasts from Afghanistan have highlighted the pertinence of family in the case of refugees. We have seen babies passed over barbed wire to soldiers and small children left behind in the chaos

[Baroness Ludford]
outside Kabul airport, and heard the many anguished accounts of those who could not locate their families in time to gather them together for an evacuation flight.

The purpose of the Bill is to expand the criteria of who qualifies as a family member for the purposes of refugee family reunion; to reintroduce legal aid for such cases; and to give unaccompanied refugee children in the UK the right to sponsor their family members to join them under the refugee family reunion rules. On that last point, the application in almost every other European country of the EU family reunification directive means that they allow refugee children to sponsor close relations.

In his report a year ago on the handling of family reunion cases, the Independent Chief Inspector of Borders and Immigration said that

"the Private Members' Bill having fallen, the Home Office now needs to demonstrate that it has indeed listened to stakeholders regarding: expanding the eligibility criteria for sponsors and applicants; enabling access to legal aid"

and

"fixing issues with the application process itself ... And, where it looks to resist demands for these changes, it needs to show that it has a robust evidence base for its current policy and practice."

I hope to hear that from the Minister if he is indeed to resist the Bill.

I was impressed by Home Office Minister Victoria Atkins MP, speaking last week about the importance of giving stability to the recipients of the ARAP scheme through indefinite leave to remain and the right to work. That word "stability" is of the utmost relevance and importance in the context of family reunion. Permitting a refugee to be with their family will greatly improve their chance of leading a stable, well-integrated life without threats to their well-being and mental health. Family unity may also save the public purse. It costs £30,000 a year to look after a child in a residential home or foster care.

However, the family reunion provisions of the Immigration Rules are narrow. They allow only a spouse or partner and children under the age of 18 to be reunited with a family member granted refugee status or humanitarian protection in the UK. Under the Dublin process, if a family member was in another European country, they had a prospect of being reunited, but of course this no longer applies in the UK, so the prospects of family reunion have become even more constrained.

Apart from being narrow, the Home Affairs Select Committee in the other place has said that these rules pose "unacceptable bureaucratic hurdles", with forms that are complex, especially without specialist legal advice, an appeals process that is unclear, costly and lengthy, meaning that a child may have to wait in unsafe conditions while the application is processed. They are likely to be particularly difficult for unaccompanied asylum-seeking children to navigate, and may drive children to attempt to come to the UK to reunite with relatives via possibly unsafe and irregular routes.

I imagine that the Minister will again seek to deflect the case for this Bill by directing my attention, first, to another provision of the Immigration Rules and, secondly, to the discretion outside the rules. In its response to the report in October 2020 of the then Independent Chief Inspector of Borders and Immigration, which cited calls from stakeholders to expand the eligibility criteria for applicants, the Home Office indeed stated that there were "other provisions" in the Immigration Rules which catered for extended family members.

However, Rule 319X of the Immigration Rules, which allows a separated child to join a relative who has refugee status but is not their parent—for example, an older sibling, aunt, uncle or grandparent—is less accessible than under the Dublin system. It incorporates tests which provide a stiff hurdle of "serious and compelling", an application fee of nearly £400 and demanding requirements for maintenance and accommodation, meaning no welfare support, no recourse to public funds and limited rather than indefinite leave. As far as I know, the Home Office has not provided any data on the number of applications made under Rule 319X and the outcomes of those cases; perhaps the Minister can do so today.

The Home Office also traditionally maintains that the 2016 guidance on cases outside the Immigration Rules allows sufficient scope, which makes a Bill such as this unnecessary. It is true that this guidance allows family reunion to be granted in exceptional cases, such as for dependent children aged over 18, but in reality that rarely happens. The applicant must meet a test of it being "unjustifiably harsh" to refuse, so a justifiably harsh consequence is permissible, which I find a little bizarre. Also, discretion outside the rules does not give the same certainty as a change in the rules. Family members may themselves be in an unsafe situation or escaping danger, and with family reunion restricted, some will resort to finding dangerous alternatives. This is the opposite of what the Government say that they seek to achieve.

The nationality and asylum Bill will radically restrict rights, including family reunion rights, for those who arrive irregularly, but this would undermine any attempt to close down irregular routes, since if someone cannot reach family through the reunion rules, they are likely to attempt an irregular route. If the Government are serious about strengthening safe routes and supporting women and children, they will back this Bill.

The *New Plan for Immigration*, published in March, prior to the Bill, contained a suggestion to raise to 21 the age of children eligible for reunion. Sadly, that suggestion was withdrawn in the response to consultation, although no explanation was given. Perhaps the Minister can provide one. [*Interruption.*] I apologise; I thought I had silenced my mobile phone.

Lord Cormack (Con): The noble Baroness has lost some brownie points there.

Baroness Ludford (LD): I thank the noble Lord; I certainly have lost some brownie points.

I was noting that the *New Plan for Immigration* contained a suggestion to raise to 21 the age of children eligible for reunion, which was withdrawn in the response to consultation. I hope that the Minister can provide an explanation for that. As a refugee called Ngozi told the Joint Committee on Human Rights on Wednesday:

"We remain children to our parents even when we are over 18."

The Conservative MP and former Home Office Minister, Caroline Nokes, said in the debate on Afghanistan in the other place on 18 August:

"Our children do not suddenly become independent because they pass a day over their 18th birthday, so refugee family reunion in this instance has to ensure that those girls are able to come here. Would we leave our daughters in Afghanistan?"—[*Official Report*, Commons, 18/8/21; col. 1322.]

To answer her question, I think none of us would regard it as remotely reasonable to make a family contemplate leaving a 19 or even 25 year-old daughter in Afghanistan to the mercy of the Taliban, or indeed in a refugee camp or unsafe situation anywhere. Imagine being the parents of a family having to make the cruel choice either to depart the country while leaving an over-18 child, considered adult but still vulnerable, or to stay in a dangerous situation in order for them all to remain together. It is entirely possible—indeed, it happens—for there to be delays in deciding an asylum case such that a child who was well under 18 when the asylum application was made turns 18 while waiting for a decision. We know that some decisions can take many years.

The Home Affairs Select Committee called it "perverse" to deny refugee children the right to bring close family to join them in the same way as adults. The traditional Home Office objection is that a child may be sent ahead as a peg or anchor, to justify a whole family being able to secure refugee status. In response to the 2020 report by the Independent Chief Inspector of Borders and Immigration that I cited, it said:

"The government has made clear in the past its concern that allowing children to sponsor parents would risk creating incentives for more children to be encouraged, or even forced, to leave their family and attempt hazardous journeys to the UK."

As well as the chief inspector saying that there was no such evidence, the former EU Committee of this House, in its 2016 report on unaccompanied minors, said the same:

"We found no evidence to support the Government's argument that the prospect of family reunification could encourage families to send children into Europe unaccompanied in order to act as an 'anchor' for other family members. If this were so, we would expect to see evidence of this happening in Member States that participate in the Family Reunification Directive. Instead, the evidence shows that some children are reluctant to seek family reunification, for fear that it may place family members in danger."

I think we can appreciate that there are all kinds of reasons to send a 16 or 17 year-old away from danger, without having to speculate wildly about ulterior motives. Allowing refugee children to sponsor immediate family would, in fact, reduce the number taking irregular journeys.

The Bill also reintroduces provision for legal aid, which was withdrawn in 2012 on the basis that applications for family reunion were, according to the Ministry of Justice, "straightforward". This is often not the case, as they can be complex and time consuming, particularly when DNA tests or adoption cases are involved. There was an order in 2019 making provision for legal aid in the case of separated migrant children, either under the Immigration Rules or outside the rules, on the basis of exceptional circumstances or compassionate and compelling factors, but I do not know how many cases have benefited from this. Perhaps the Minister will be able to tell us.

The advantages of restoring legal aid would accrue not only to the applicant but to the Government, since helping the system to function better would save money. The inspector of borders found many errors needing to be overturned on appeal or refusals resulting in further applications. The cost of reintroducing legal aid would be modest. It was estimated by the Government a decade ago at £5 million. I have not seen any more recent estimate, but I do not imagine it will have gone up by more than inflation. Let us say that it is below £10 million, and it will save money all through the system.

To conclude, the case for a more generous approach to family reunion for refugees is based on both humanitarian grounds—which, I contend, are very strong—and the hard-headed case that reunited families allow refugees to find their feet more quickly, integrate better and contribute more fully, to the benefit of themselves, their community, the country and the Treasury. I therefore hope that the Minister can give me a positive response today. I beg to move.

1.24 pm

Lord Dubs (Lab): My Lords, I am grateful to the noble Baroness, Lady Ludford, for having given us a chance to debate this Bill. I am also grateful to Safe Passage for the help it has given us—or certainly me—with briefings on the legislation.

I suppose the Bill is in some ways almost a precursor to the Nationality and Borders Bill that will come to this House, but that does not in any way weaken my support for it, because it makes the case for an important matter of principle. I refer first to the argument that Ministers keep using, that asylum seekers should claim asylum in the first safe country that they reach. I have discussed this with UNHCR and, as I understand it, that is not UNHCR's position. Secondly, it is not logical. Had it been the case in 2016-17, 1 million Syrians would not have gone to Germany but would have remained in Greece, Italy or Malta. It does not even make sense in practical terms, and it could have a very damaging effect on the rights of child refugees in particular.

I am reminded of an example a year or two ago of a young Syrian in the north of England whose younger brother who had managed to get to Greece. The question was whether the younger brother could come and join him here; the older brother had accommodation and everything ready for him. It took quite a lot of argument to achieve that but, under the Government's present proposals, it would not even have been possible. The Government ought to explain by what argument they differ from the views of UNHCR as well as of humanity and logic.

It is very clear—and the noble Baroness, Lady Ludford, said so emphatically—that it is important to give children the right to be with their families. Surely, the right to be with family is absolutely fundamental to human existence, and anything we do to prevent that

[Lord Dubs]
must be adverse to the interests of children and the family; indeed, it makes no sense in respect of the country that we are.

We had a long argument about the Dublin III regulations. Although this House and the Commons initially passed an amendment in 2017 to say that we should go on negotiating to continue the terms of Dublin III—the right to family reunion—beyond our leaving the EU, the Government then rescinded that in the 2019 legislation. We were told that it would be okay because we had the Immigration Rules, that it would be fine and I should not get too worried. The fact is that the Immigration Rules are weak in this respect. They are a blunt instrument; they are hard to enforce, and they need far more discretion from the Home Office than has been the case hitherto.

We know, for example—and I have discussed it with them—that many of the young Afghan boys who fled Afghanistan before the Taliban took over completely fled because the Taliban wanted to make them join the Taliban and fight in the Taliban forces. That is why families tried to help get their young family members out even before the Taliban took over. The position now, of course, is more serious for women and girls in Afghanistan, but that was often the argument as to why the children left. Now that we have this difficult situation, we should surely consider sympathetically and properly under the legislation whether, when some of these young Afghan boys are already here, the remainder of their family should come and join them.

We have said on countless occasions that, if there are safe and legal routes, people do not use traffickers. It is utterly regrettable that through the closing down of safe and legal routes, particularly from northern France and Calais, the traffickers have a field day. This will never achieve the ostensible aims of the Home Secretary that we will somehow cut down on numbers. The Bill is an important step in the right direction. I hope that the Government will be a bit more sympathetic today than they have been in the past.

1.30 pm

Baroness Hollins (CB): My Lords, I congratulate the noble Baroness on the Bill. I am grateful for the helpful briefing from the Refugee Council. We all watched shocking reports from Afghanistan. We saw people fleeing for their lives, terrified, confused and hungry, leaving everything behind to try to save their families. Sometimes they even left disabled family members behind. I tried to imagine what I would do in their situation, how I would protect my family, especially as a woman. The thought of being in that situation is frightening, especially because I am the mother of disabled adults with additional support needs. It has made me reflect deeply on the invisible and ignored challenges some Afghans will be enduring. What about those Afghans who are carers of disabled adult relatives, some of whom may have been left behind, relatives with learning disabilities, autistic relatives, relatives who will be struggling to understand why their world has been turned upside down and why they are running away from their homes leaving behind everything that made them feel safe and calm?

The media rarely focus on the struggles of disabled people in humanitarian crises. Millions of people become refugees every year, and the United Nations High Commissioner for Refugees has said that one in seven of them is a disabled child or adult. Most refugees will have no words to describe the trauma they have been through in their own language, let alone in the language of the strange new country in which they find themselves. That situation is made worse if they have arrived in a country by a means other than official routes, resulting in them being detained for lengthy periods.

Seeking refuge in a refugee camp is tough for anyone, but for an autistic child or adult or somebody with learning difficulties the situation is amplified beyond comprehension. This is a huge challenge for organisations working with them, including for interpreters who often have very little experience of working with disabled refugees who also need to be reunited with their families. I declare an interest because Beyond Words, the charity that I founded and now chair, has published a free wordless story to help refugees, refugee organisations and others cross that language divide. Wordless stories can be particularly helpful for many people in refugee communities because they are not language dependent. This resource was in development and being tested with refugees from other countries in the UK and in refugee camps abroad, and their children, before the current Afghanistan exodus. The feedback has been that it helps them feel understood and validates their trauma. They have told us that the pictures are powerful and give an accurate representation of some of their experiences. Beyond Words hopes that this short story will help children and young people in schools offer a genuine welcome to refugee children and to understand something about the traumatic journeys some may have had to face in the days and weeks before they arrived in their school.

Children over the age of 18 can be included in a settlement application if they were granted the status of being an applicant's dependant when the applicant received their original grant of asylum but, noting that disabled dependants of all ages are the most likely family members to be left behind, can the Minister explain what mechanism might be available for disabled adult family members to be reunited with their families, who are typically their main carers?

1.34 pm

Baroness Hamwee (LD): My Lords, I wholeheartedly support my noble friend on this Bill, which I do not think will come as any surprise. In 2017, when my similar Bill was agreed by the House, I began by acknowledging the UK's resettlement programmes and its financial contributions. Since then, we have had cuts to the aid budget and a new asylum policy, but the wider context is not that dissimilar. Of course, we can never do enough. We cannot host everyone, but we can do better.

The qualitative point today is about families. On extending eligibility to sponsor family members to those who are far closer than "extended family" suggests, the Bill is really quite narrow. To be without everything that has been a part of your life is desperate, especially if you are young and still developing. Settlement in a

new country is extremely important to a refugee's well-being and to how the whole community functions. That is much more easily achieved if you are with your family; that may be a parent, a sibling or your mother's sister. Our rules, as my noble friend has said, are very restrictive, with discretion rarely applied, and people should not have to look to discretion.

Given the tone of the Home Office report that was published in July on legal routes and family reunion, I am apprehensive about the "additional clarity" that we are promised. The report includes a summary of responses to the Home Office's consultation. We are told that the participants in the public focus group organised by the Home Office

"agreed that unaccompanied asylum-seeking children should be reunited with their family member(s) in the UK, where possible."

We are told:

"In the deep dive, stakeholders advocated for … removing financial requirements for sponsors, and lowering the evidence threshold, including on demonstrating family links."

However, the Government's response is that there could be "unintended consequences" through those changes. The response says:

"Overall, we consider the case has not been made for the government to adopt a different approach in relation to fees, financial requirements and the need to meet relevant evidence thresholds for children, including UASC seeking to join nonparent refugee relatives in the UK."

It says, "We consider this"—that is, the proposed changes—

"has the potential to attract a very high number of applications".

What do the Government consider to be a very high number? I really hope the Minister can answer that question, because I understand that the Home Office is unable to provide data on the number of applications under paragraph 319X, nor on the outcome of those applications. Do the Government recognise that all NGOs in the sector are clear that family reunion must be in the best interests of the child?

A friend recently published a history of her family. Her not-quite-teenage grandmother, as she calls her, of well over a century ago, features in it. My friend wrote:

"I try to imagine what it must have been like to leave the only place you had ever known and to travel across the sea to a foreign country where you didn't speak a word of the language. Lea, not much more than a child, had to trek 1,500 kilometres to Hamburg, the German port, where ships were harboured waiting to convey thousands of hopeful immigrants to England. Hamburg was enjoying an economic boom created by the invasion of these transient and mostly unworldly Jews, many of whom were ripe for exploitation."

These are the people who make Britain what it is today.

1.38 pm

Baroness Chakrabarti (Lab): My Lords, I add my congratulations to the noble Baroness, Lady Ludford, for drafting such a timely Bill. In my experience, the cause of human rights has many occasional, selective and even fickle friends. She is not of their number, and it is completely characteristic that she should use this precious opportunity for a Private Member's Bill in defence of some of the most vulnerable and dehumanised people in our communities and our world. Obviously, it is a shame that her wholly sensible, practical and humane measure is even necessary, but I am afraid it is becoming more essential by the day.

Like the current Home Secretary, I am the daughter of migrants to this country. However, it seems that this shared experience appears to have instilled rather contrasting approaches to refugees on our respective parts. In the summer of 1940 little boats in the English Channel came to symbolise the Dunkirk rescue and Britain's defiance of Hitler. Now it seems that little boats of desperate people are to be repelled or even sunk, in clear contravention of the refugee convention and even clearer contravention of common decency.

Ministerial answers to this charge plead that they are merely seeking to deter the evil trade in people smuggling or words to that effect: that the answer to the greatest refugee crisis since World War II is not such dangerous and mercenary human traffic, but safe routes to our shores. Does not the noble Baroness's Bill call that bluff? Her short and simple measure not only provides safe routes but plugs an obscene and discriminatory gap in protection that denies refugee children the right to bring parents and siblings to join them in safety, and she offers those seeking family reunion legal aid. I really look forward to hearing a single valid argument against that legal aid provision.

I am sorry not to find the Minister, the noble Baroness, Lady Williams, in her place today. That is not to begrudge her a break or to question the ability of the noble Lord, Lord Parkinson, to turn his hand to her brief. It is just that earlier in the week, in response to a question, she seemed to suggest that the UK had always given compassionate haven to the desperate. I am afraid that I beg to differ. I do not think that our patriotism should lead us to airbrush important history and fail to learn its lessons. In the autumn of 1938 and even after Kristallnacht, the Home Office—my former employer—was regularly denying refuge to German Jewish people seeking to flee Hitler. No less than Albert Einstein had already been denied asylum here, having to go on to find it in the United States. Sylvia Pankhurst pleaded with the Home Office via the *Manchester Guardian:*

"May we not plead for somewhat more humanity in dealing with these cases?"

I suspect that the Minister might not find the red suffragettes so compelling, so I will try these words instead:

"I am a refugee in a crowded boat foundering off the coast of Vietnam, I am a Laotian, a Cambodian, a Cuban and a Miskito Indian in Nicaragua."

Today we could add a desperate person in a dinghy in the English Channel. That, of course, was Ronald Reagan. I hope the Home Secretary might find some similar compassion.

The Deputy Speaker (Lord Brougham and Vaux) (Con): The right reverend Prelate the Bishop of Southwark will not be able to speak because he missed the opening speeches, so I call the noble Baroness, Lady Brinton, who is taking part remotely.

1.42 pm

Baroness Brinton (LD) [V]: My Lords, I thank my noble friend Lady Ludford for presenting her Bill on family reunion for refugees and for her excellent

[Baroness Brinton]
introduction to it. I also thank Families Together and Safe Passage for their helpful briefings. It is an honour to follow the noble Baroness, Lady Chakrabarti, whose advocacy for truly desperate people was so well evidenced in her speech.

In the late 1970s, I knew and was part of a team trying to help a woman doctor who had fled Chile after her husband, also a doctor, had disappeared and was killed by the Pinochet regime. There was no question at that time that her child might be able to escape with her, and I heard and saw the distress this caused her, especially because she knew that her child and her parents were also at risk because of the Pinochet regime's vindictive nature. Eventually she was able to get her child to the UK because the then Government understood their responsibilities for the right for children to be with their families, and for their own safety.

Her experience mirrors the position that many refugees in the 21st century still face, but what has changed is the current Government's approach to asylum and refugees, as my noble friend Lady Hamwee outlined. My husband chairs the Watford and Three Rivers Refugee Partnership. He knows of an Afghan refugee with leave to remain who has been in the UK for some time but whose now teenage children could not leave the country when he did. The grandparent who cared for them has died and the father is desperate for his children to be able to join him as they will be at particular risk from the Taliban. I agree with Caroline Nokes MP when she said:

"Our children do not suddenly become independent because they pass a day over their 18th birthday".—[*Official Report*, Commons, 18/8/21; col. 1322.]

Nor does that birthday make them instantly safe in the country that their parent has had to flee for their life.

Recently the world's focus has been on Afghanistan but, as other speakers have said, this is a widespread problem where tyrants rule with impunity. For hundreds of years, the UK has had a proud history of accepting refugees in fear of their lives, including the Huguenots, whose small children were thrown from windows of buildings in France; those from Hitler and Pinochet's appalling regimes in the 20th century; and more recently those from Eritrea and Syria.

It is also vital that parents should be able to join their unaccompanied children who have been accepted as refugees. The UK's argument that this would encourage more children to travel has been contested by experts in this area. UNHCR, the Refugee Council, Amnesty International and Save the Children all have evidence of how not reuniting unaccompanied children causes anxiety, constant fear and, not surprisingly, mental health problems that will last their lifetimes. I absolutely support the provision of legal aid being available for family reunion, not least because the exceptional case funding rates are inappropriately low for these cases.

Finally, this Bill is tackling one of the inequities proposed in the Nationality and Borders Bill. How someone fleeing for their lives, making for a safe country where they have contacts, should be judged on their eligibility as a refugee only on the route they have taken is outrageous. It contravenes international protection rules and is a severe backwards step for family reunion rights.

I will try to end on a positive note. Despite the proposals of the Nationality and Borders Bill, the way the Government have recently accepted those fleeing Afghanistan for their safety because of their links with the UK has meant that some families have arrived and others hope to join. In doing that, the Government have shown that they understand their moral duty to asylum seekers and family reunion. Accepting this Bill would be a major step in acknowledging that refugees seeking asylum from across the world have a right to be with their immediate families, and I hope that the Government will support it.

1.46 pm

Lord Griffiths of Burry Port (Lab): My Lords, I add my thanks to the noble Baroness, Lady Ludford, for bringing this to our attention. Even though there is major legislation on the way, these things cannot be handled too frequently and with greater urgency.

It is the 70th anniversary of the United Nations Convention relating to the Status of Refugees and displaced persons. It was endorsed fulsomely by the Labour Government at the time and their successor Conservative Government. A conference of plenipotentiaries took place shortly after the passing of that convention, which remarked

"that the unity of the refugee's family is maintained … extending the rights granted to the refugee to cover all the members of his family; and … providing special protection for … minors, in particular unaccompanied children … with special reference to guardianship and adoption."

Again, the United Kingdom subsequently expressed

"the hope that this Convention will have value as an example exceeding its contractual scope and that all nations will be guided by it in granting so far as possible to persons present in their territory as refugees and who would not be covered by the terms of … Article 1 the treatment for which this Convention provides."

As a further remark, it urged liberality and generosity on the part of those receiving fewer refugees and people fleeing persecution to help those on the front line to cover their costs and shoulder their burdens.

I mention all this from the beginning of a post-war era in the treatment of refugees because it speaks so loudly across the generations to our own day. A few days ago, I spent considerable time with officials of the UNHCR in Geneva. They are beside themselves with the legislation being pushed through or proposed in our Parliament, which is undermining almost every aspect of the guarantees and proposals of the Geneva convention. Refoulement or pushback is in the news lately. British lawyers having largely shaped the Geneva convention, who would have thought a British Government would indulge in such practices?

Two-tier entrance and non-discrimination is another central feature of the convention. Externalising responsibility and subcontracting some of the actions needed is, again, against not only the letter but the spirit of the convention. As the noble Lord, Lord Dubs, pointed out, on the whole thing about first country of entry, there was a 35-page document from UNHCR to rebut the legal claims about the interpretation

of the word "direct". It seems indisputable that the United Kingdom Government at this time are putting themselves at odds with the letter and spirit of the convention that has helped us to deal with the post-war realities facing us, the continent of Europe and the whole world, and we must regret it.

One last little thought, on a slightly different note: we have talked about how many people come in. From the last quarter of 2019 until a year later, 1.3 million European Union residents left this country, I suppose because of Brexit. The number of eastern Europeans fell by 12%, and Romanian and Bulgarian workers by 24%. So there is plenty of room for the 750 who come on Monday—plenty of room in all the places that need workers to provide their energies for our economy. So much of what we hear is simply spurious and unworthy, and it makes me feel afraid and ashamed of being a citizen of this country.

1.51 pm

Lord Oates (LD): My Lords, I am pleased to support the Bill put forward by my noble friend Lady Ludford, and I commend her for her compelling introduction of it. As my noble friend said, and as other noble Lords have also said, this Bill is particularly timely, given the traumatic scenes that we have witnessed in Afghanistan. The injustices caused by the current approach are very clear; that has been the subject of previous Bills from my noble friend Lady Hamwee and of reports by the Independent Chief Inspector of Borders and Immigration. It is time that we acted.

The particular case of unaccompanied children applying for family reunion, and the prohibition on that, is something that the Government have failed to address, and they have failed to provide any evidence for their assertion that to allow such sponsoring of family reunions would cause children to be pushed forward, as it were. However, it is not just about that issue; it goes further, as the 2020 report of the Independent Chief Inspector of Borders and Immigration made clear. There is a real lack of clarity from the Government in what becomes a complex application process. In his report, he asked the Government to clarify their position on a number of issues, particularly around

"child sponsors; dependent family members over 18 years of age; funding for DNA tests"

and "availability of legal aid". He expressed his disappointment that, in their response to his report, which the Government had taken nine months to publish, on an issue that clearly needed a timely response, they had failed properly to address these issues. He said that their response

"simply reiterates its familiar lines and offers no supporting evidence to show that it has either monitored or evaluated the impact of its policies".

This, he said—in what one might think is a slight understatement—

"is a pity, particularly in light of heightened concerns at present about the provision of safe and legal routes".

That was in October 2020 and it is now even more significant.

He raised the issue of the fees charged at these visa application centres by the private companies that run them. He also raised the applications that are summarily refused on the basis that there is not enough evidence, even though the guidance says that some of this evidence is not mandatory.

The noble Baroness, Lady Chakrabarti, quoted the *Manchester Guardian* on having "somewhat more humanity" in our approach to Jewish refugees in the 1930s. I am struck by the Home Office response—or lack of response—to these issues, and by a phrase from the *Windrush Lessons Learned Review*, in which, as one of the three key elements, the report said that the Home Office

"must change its culture to recognise that migration and wider Home Office policy is about people and, whatever its objective, should be rooted in humanity."

If the Home Office wants to show that it has learned that lesson, it could start by accepting this Bill.

1.56 pm

Lord Kerr of Kinlochard (CB): My Lords, I declare an interest as a trustee of the Refugee Council, where the noble Lord, Lord Dubs, did so much good work for so long. Let me embarrass him by revealing to the House and putting on the record that the Refugee Council now meets in Alf Dubs House—greatly to his embarrassment, which I hope I have now doubled.

I warmly welcome this Bill. I am confident that the House will support it, as it supported a similar Bill three years ago which the noble Baroness, Lady Hamwee, brought forward. We thought then the existing family reunion Bills were too narrowly drawn—harsher than those of most continental European countries—and they still are. They have not changed, and I am pretty sure that our views have not changed. I am therefore pretty confident about this Bill's prospects in this House at least.

I now face a difficulty. All the arguments that I had intended to make have been made by the indefatigable noble Baronesses, Lady Ludford and Lady Hamwee, and in particular in the moving speech we have just heard from the noble Lord, Lord Griffiths, the saint of Burry Port. I therefore choose to cheat. I will use my time to ask the Minister five quick questions about Afghan refugees.

First, like the noble Baroness, Lady Ludford, I was very pleased to hear Victoria Atkins announce that all the ARAP and ACRS arrivals would be given indefinite leave to remain. That is excellent, and we should congratulate the Home Secretary on that decision. However, I understand that the early arrivals under the ARAP scheme were given only temporary leave to remain; not all of them are aware of the difference that makes to their entitlements. I hope the anomaly will be corrected soon and that they will receive immigration advice on the significance of the correction.

Secondly, I was also delighted to learn that the DWP is deploying staff to the hotels where the refugees are held in quarantine, from which they will move as they bridge towards permanent accommodation. When will that deployment start? At present, these newly arrived people are deprived of any cash and the ASPEN cards they need to get cash. They are unable to purchase the sort of essentials they have not been given, such as medicines, toiletries, sanitary products, nappies and the sort of things that a family in temporary

[Lord Kerr of Kinlochard]
accommodation—locked up if they are in quarantine—badly need. The voluntary sector is trying to fill this gap at the moment; when the Government close the gap, which I am sure they will, our welcome will seem much the warmer.

Thirdly, when will details of the ACRS be published? I am sure a lot of local authorities will be willing to take part, but they do not know what they are going to be taking part in yet. They cannot come forward because no details have been provided yet about funding levels or the rules.

Fourthly, can I ask about the numbers under the ACRS? We are told that 20,000 will be accepted, but over what timescale? I have seen four years, five years and the worryingly vague "in the coming years"—those words were used in the other place. Over how long will it be? Where are the 15,000 supposed to hide in the interim? Are they hiding in Afghanistan? Are they in transit camps? Would their chances of integrating—of settling into the community here when they arrive—not be greater the sooner they get here? Could we not consider frontloading the 20,000? Why are we saying only 5,000 in the first year?

Lastly, what about the 3,200 Afghan asylum seekers already here in this country when mayhem broke out in theirs? It is now impractical—and, of course, it would be extraordinarily immoral—to send them back. Could we not consider that the most humane course would be to expedite their cases to reach decisions as soon as we can and leave them in their present limbo no longer? I support the Bill.

2.01 pm

Lord German (LD): My Lords, I am also pleased to be able to support my noble friend Lady Ludford's Bill. It is a short Bill but, in the words of a famous BBC radio programme, it is the antidote to the Government's behaviour. In fact, the Bill itself will have huge consequences for the lives of our young people. I am also grateful to the noble Lord, Lord Griffiths of Burry Port, for reminding us about the 1951 convention, because that is also an antidote to the direction that the Government have been taking. One sentence in Article 33 of that convention obliges a state to consider an asylum seeker's status and not simply return them to their home or a third country. That will become increasingly relevant as we consider the Government's legislation that will come before us, because that article and that convention has been the foundation of where our rules have come from.

This Bill is aimed at finding a solution to bring children and their families together. I hope it will be met with sympathy by this Government—though I am not holding my breath—but they have, in a sense, the ability to give this Bill time. I hope that that is where we will end up: that this House will have the time to fully consider this in further stages and to take it forward. At its heart, this Bill is looking at how to turn round and support the lives of children currently without any hope of reunion—without any hope is really where they are at present—with their parents and siblings. This is a matter which can and must be put right, for moral, social and economic reasons, some of which have already been explained to the House by earlier speakers. This Bill seeks to rectify an injustice which should be at the heart of a compassionate country.

I want to focus on one element of the Bill only, which my noble friend Lady Ludford mentioned in opening: the Government's rationale. What is the Government's rationale for not permitting children to become family reunion sponsors? At present, sponsors must be 18 years old or more. Those under 18 cannot sponsor relatives, even parents, under the current rules. That is strange—or perhaps not, given this Government's position—because this policy is out of step completely with all our neighbouring countries in Europe, including those in the European Union.

The review of the reunion applications published last year by David Bolt, the Independent Chief Inspector of Borders and Immigration, states:

> "Stakeholders have asserted that the UK is in breach of its national and international legal obligations, including the family reunification provisions of the UN Convention on the Rights of the Child … Recent research by stakeholders highlighted the heightened vulnerability and significant trauma children suffered when separated from their families and left in the care of the State."

Tellingly, the chief inspector goes on to say:

> "Home Office policy staff told inspectors that most major decisions about family reunion policy were made by ministers and 'sometimes decisions taken are inevitably political.'"

That is the nub of this: we are talking about a political, not a humanity-based, decision.

The Government's position, echoed in their response to the report—by the way, their response to an 85-page report was a very slim volume of four and a half pages—states the position that my noble friend outlined in her opening: that child sponsorships would encourage or force families to send their children to the UK. However, when challenged, the Government have failed to come up with any evidence to support this political assertion, and the Home Office officials were unable to supply any supporting evidence. Of course, evidence to the contrary has been supplied by many external bodies, such as Save the Children, Amnesty International and the UNHCR. I hope that the Minister can provide the source of the evidence that supports the Government's case. Otherwise, it is simply an assertion, as is borne out by the discovery of its own chief inspector.

The way forward is making the rules clearer and more straightforward, as the Bill does, and keeping to our international obligations. It would be a major step in the right direction, and I am pleased to support it. I hope that the Bill will seek to achieve all of its ambitions during the course of this House's consideration of this matter.

2.06 pm

Lord Anderson of Swansea (Lab): I broadly support the Bill, including the provisions on legal aid, but I am wary of giving an unfettered right in all circumstances for applicants to bring in members of a family as broadly defined. In principle, of course, we should do all that we can to encourage family reunion: it is good for the individuals concerned, for society, for what our prayers at the start of the Sitting refer to as the

"tranquillity of the realm" and for promoting stability, which the noble Baroness talked about in her opening. Of course, the topic is salient and likely to become even more so, given the pressures on this crowded island, from Afghanistan, Hong Kong and likely increased migration demands from Africa, the population of which is forecast to double, to 2.5 billion, by 2050.

Some of the problems arising from the Bill relate to the wide definition of "family", which can be referred to in Committee. In many countries, "family" can be quite a fluid concept, and many countries have rather inadequate records, which could of course encourage fraud. I represented many applicants when I practiced at the Bar, and I was impressed, first, by the terrible conditions of insecurity from which so many were forced to flee. I was also impressed by the attractiveness of the UK for migrants, which means that many people, such as Afghans in the past, have travelled past Shia Iran, Sunni Turkey and even European transit countries, or via Indonesia to Australia.

I am also very much aware of the Bill's provision that the applicant must have been granted refugee status or indefinite leave to remain. I am aware of not only, as I mentioned, the attractiveness of the UK but also, alas, the deviousness of traffickers, who prey on the human suffering and the individual's natural aspirations to improve their and their family's lot.

Do the Government or the Bill's noble sponsor have any idea or estimate of the numbers likely to be involved, because numbers do matter? If we accept a relaxation of the rules, as I do, we cannot be naive and ignore the many obvious tactics likely to be used by traffickers who will seek to exploit every possible loophole in the Bill. For example, I have heard suggestions—I concede that this was in Albania—that traffickers obtain money from parents, promising to ensure that their children will reach the UK and the parents will be allowed thereafter to follow them, which is less possible now but likely to be very probable under the Bill.

The Bill gives the relevant child, at the age of 18, the unfettered right to bring the family here; the only barrier appears to be on grounds of national security. Would fraud, if detected, be deemed to be another barrier in certain circumstances? How substantial that is, I do not know, but there can be collusion and I would like to know how the Government view that. Is there much evidence of it happening? Is it a real problem? Can the Minister say a little more about how other countries faced with similar problems respond? How do they deal with fraud? Do they include some discretion, because there must ultimately be some discretion on the part of a Government in such cases? Even if, as I concede, there is a presumption of the right of family reunion, how have other countries addressed this problem? If we accept, as I do, the principle of family reunion, should we not also accept the case for measures to deal with potential abuse? My experience tells me that we have to be both principled in cases like this and worldly-wise.

2.11 pm

Baroness Jones of Moulsecoomb (GP): My Lords, I support the Bill and congratulate the noble Baroness, Lady Ludford, on introducing it. It is, as she said, incredibly timely, and I hope we will all work together later when other, much less attractive Bills come to this House.

Obviously, being the last Back-Bench speaker, I am going to have to cross out quite a lot of my speech, and I hope that some of the things I say will not go against any of our House of Lords procedures—which, of course, they might. I think this Bill is very sensible, and sensible is very high praise in my lexicon. It has a sense of family at its heart and of course Greens would automatically support this. Anyone with empathy and humanity will have sympathy with its aims, and the Bill is consistent with the Government's stated intention of strengthening safe routes for those seeking protection in the UK. It is a shame that little else the Government do is consistent with the aim of reducing dangerous, irregular journeys.

This Government have grovelled before the worst elements of the British psyche—the racists, the bigots, the haters—and it really does the rest of us no credit. It brings shame on those of us who want to be decent human beings. This Government have behaved appallingly over the past 11 years but particularly on the issue of refugees. Our Government's "hostile environment" can take most of the blame for the fact that we have left people behind in Afghanistan. I do not understand why we have an asylum regime that deliberately erects barriers and unnecessary bureaucracy every step of the way. Even before the fall of Kabul, the number of refugees who had been waiting more than a year had grown to more than 50,000. And what will now happen to the 3,200 people? As has been said, we cannot possibly send them back. Plus, of course, we have a lot of brave women protesting in Afghanistan, campaigning for their human rights very bravely, and they deserve every drop of respect, solidarity and support we can muster. If they have to flee Afghanistan, our doors really should be open, because we helped create a set of circumstances where women could express themselves and could find more freedom, and now they will suffer for it.

I do not understand why we have not had the time or resources to answer the multiple cries for help from people stranded behind the Taliban roadblocks. I think it is because we have put up our own roadblocks behind the desks in Whitehall; it seems that civil servants pick through details and create blocks that are not what the majority of British people would want.

When asked about supporting this Bill to reunite families, the Prime Minister replied that the Government would bring forward legislation to separate the legal from the illegal asylum seekers. No human is illegal. Seeking asylum is a human right. Do we really have criteria that exclude an interpreter or a cook who has worked for the British embassy for a decade, for example, merely because they were employed by a contractor rather than directly? Are they seen as some of the so-called illegals that our Prime Minister is talking about?

This Government are a disgrace. Their threats to break international law, whether it is maritime law or human rights legislation, are a disgrace to us all. I do not understand how they can do it without being

[Baroness Jones of Moulsecoomb]
utterly shamefaced. I am an atheist, but there is a phrase that applies to this: "There but for the grace of God go I".

2.16 pm

Lord Cormack (Con): My Lords, I hesitate in a sense to spoil the noble Baroness's assertion that she was the last speaker from the Back Benches. But as I have sat through the whole of this debate—the only one on these Benches to have done so—I thought it was not inappropriate to say a few words in the gap. I do so in a spirit of total sympathy with the Bill of the noble Baroness, Lady Ludford, although I have one or two reservations, as did my friend the noble Lord, Lord Anderson.

I am moved to speak because I derived my love of Shakespeare and English literature from a German-Jewish refugee, who happened to be our neighbour in the early 1950s and was an extramural lecturer at the University of Hull. He spent hours with me and really influenced me, socialist that he was. I am also proud of the fact that when I was first elected to the other place, I was among a small group of Conservative MPs who gave vociferous and wholehearted support to Edward Heath when he brought in the Ugandan Asians, who have done so much to enrich our society. It is against that background that I say a few words about the current situation.

Nobody could fail to have been moved and shamed by the scenes from Kabul airport; moved by the scenes of babies being thrown over barbed wire and shamed by the fact that we were so late on the act. I joined the group supporting the noble Baroness, Lady Coussins, when she argued for the rights of Afghan interpreters three or four years ago in this House. It is important that we acknowledge those to whom we have a real moral obligation and get them over here as quickly as possible.

When my noble friend winds up, I want him to say something about numbers and timings, just as the noble Lord, Lord Kerr of Kinlochard, said, because we need to know. Of course, there has to be some process of sifting those who are already here, who could harbour the odd terrorist in their number. We all have to acknowledge that, but the assumption should be that none of them are sent back and that they are all allowed to remain, just as the noble Lord said.

I am greatly reassured by the fact that a Minister for whom I have considerable admiration, Victoria Atkins, is looking after this issue—but we must act urgently and we need legislation. It is preposterous that people should get up in this House and quote paragraph 316X; we have to simplify the procedure. I happen to think that that can best be done by a government Bill, but that does not mean I do not have great sympathy with and admiration for the noble Baroness, Lady Ludford, both for what she said and for the initiative she has taken.

This is the responsibility of the Government—a Government acting on behalf of us all—who must allow their prime emotions to be compassion, empathy and understanding. That way, our society will be enriched rather than impoverished.

2.20 pm

Lord Paddick (LD): My Lords, I thank my noble friend Lady Ludford for giving us the opportunity to debate this short but very important Bill. The torch for this issue has passed from my noble friend Lady Hamwee to my noble friend Lady Ludford. It has been debated many times over the years, and over that time has been refined into the form we see before us today. The need for this Bill is indisputable.

Can any of us imagine, as a child or young person, fleeing war or persecution, travelling thousands of miles from everything that is familiar and arriving in what you hope to be a safe and welcoming place of sanctuary, only to be told that being reunited with your mother, brothers and sisters is far from certain, let alone guaranteed? What possible argument could there be against such an automatic right to family reunion?

We have heard a lot of talk in this House about the need to control immigration, and I can understand that, but asylum seekers account for only 6% of immigration to the UK. The UK accepts only about a third of asylum claims, compared with the average across the European Union. If the UK were placed in a league table including all EU and EEA countries, it would rank only 19th by the number of asylum seekers given sanctuary as a proportion of population. By all means control immigration, but do not limit those welcomed into the UK by denying entry to the family members of desperate children who have fled war and persecution.

My noble friend Lady Ludford and other noble Lords highlighted the tragic scenes recently from Afghanistan that demonstrate how relevant the Bill remains. Allowing families to be together, including dependent children over the age of 18, is likely to be better for the welfare and mental health of all those concerned and to create less of a burden on the state.

There has been much talk from the Government Front Bench about the pull factor of a family sending a child or young person ahead, hoping that their family can subsequently join them. As my noble friend Lady Ludford said, there is no evidence that this is the case. Indeed, the noble Lord, Lord Dubs—I thank him for his support for the Bill and for his tireless efforts on these issues—made the important point that fleeing from conscription into the Taliban is a reason for young people to seek asylum, not becoming a peg or anchor for bringing a family member after them. As my noble friend also said, surely legal aid should be provided when a child is involved.

The noble Baroness, Lady Hollins, made an important point about disabled refugees and my noble friend Lady Hamwee made the point that we cannot accommodate everyone, but surely family reunion must be a priority—morally, practically and economically. As the noble Baroness, Lady Chakrabarti, said, the Bill is practical, sensible and humane.

My noble friend Lady Brinton brought home the reality of what the Bill is about through her anecdotes, and my friend, the noble Lord, Lord Griffiths of Burry Port, reminded us of the important place of family reunion when the 1951 UN refugee convention

was established, and highlighted the appalling catalogue of measures the Government are proposing that undermine that convention.

My noble friend Lord Oates highlighted the lack of clarity over the rules for family reunion—clarity the Bill would provide. I thank the noble Lord, Lord Kerr of Kinlochard, for his support and for his work with the Refugee Council, following on in the noble tradition of the noble Lord, Lord Dubs. My noble friend Lord German said that the Bill is a much-needed antidote to what the Government are proposing. I am afraid we need a whole array of antidotes to what they are doing to seekers of sanctuary, although this is a very important one.

The noble Lord, Lord Anderson of Swansea, agreed with the principles of family reunion and recognised the importance of it, but I remind the House again that asylum immigration amounts to only 6% of all UK immigration. If the Government want to control immigration, there are other, far more deserving areas than family reunion of asylum seekers where they can do so. It is always good to hear from the noble Baroness, Lady Jones of Moulsecoomb, who reminded us again of the timeliness of the Bill in the light of the situation in Afghanistan, particularly for women.

It rather saddens me that the noble Lord, Lord Cormack, interestingly pointed out that he was the only Back-Bencher from his party to sit through this debate, let alone participate.

Sometimes I wonder what is the point of participating in this House from these Benches. However, to be able to support a Bill such as this, and in particular to support my noble friends Lady Ludford and Lady Hamwee, makes my presence here worth while.

2.27 pm

Lord Rosser (Lab): I too extend my congratulations to the noble Baroness, Lady Ludford, on her Bill and her powerful contribution in speaking to it. She reminded us that it is timely in the light of events in Afghanistan, which she and others have said have led to families being separated, including children.

The noble Baroness addressed a number of points and I certainly cannot refer to them all, but she made a comment about the provision that the Government usually refer to on exceptional cases. However, as we all know, by definition, that when you say "exceptional cases" they are few and far between and very limited, and certainly do not address the issue.

The noble Baroness, Lady Ludford, and many others also referred to the argument, which will no doubt be trotted out again today, about unaccompanied child refugees being sent over to settle here purely to be able to sponsor family members to come and join them. There is no evidence to substantiate that argument and I wait to see whether it will be brought it out again today in the Government's response. My noble friend Lord Dubs addressed the Government's claim that you must claim asylum in the first safe country reached. Like him, I wonder whether that one will be mentioned again today, incorrect though it is.

I will refer to specific points made in other contributions. I think my noble friend Lady Chakrabarti said that she would like to hear one convincing argument as to why one should object to the provisions in the Bill on legal aid for family reunion applications. If I understood her correctly, I can say only that I too will wait to hear one convincing argument as to why the provisions in the Bill on legal aid are unacceptable.

My noble friend Lord Griffiths of Burry Port made a powerful speech that has been commented on by other noble Lords and which will not be quickly forgotten.

The noble Lord, Lord Kerr, let us know that the Refugee Council meets in Alf Dubs House—I take it that is not literally his house but the name of the building. As he said, it is a very fitting tribute to all the work that my noble friend has done over a great many years.

As we know, this Bill would change the present Immigration Rules to allow unaccompanied child refugees who settle here to sponsor family members to come and join them. It would allow a parent settled here to sponsor dependent children over the age of 18 up to the age of 25, and, as we have heard, it would amend existing provisions to allow legal aid for family reunion applications. The Bill is about the family, and particularly children, in the asylum and refugee system, and bringing families torn apart together again at a time of great stress, uncertainty, fear and difficulty. That stress, uncertainty, fear and difficulty have arisen from war, violence and persecution, the threat and reality of murder and rape, having to flee home and country to find safety and sanctuary elsewhere, and facing exploitation, trafficking and abuse on the way. In the process, the family gets split up at a time when family relationships and support are needed more than ever—and not least by children.

The current system, the rules and how they are applied, does not bring refugee families together again in far too many cases. Previously, the argument has been advanced that going down the road of this Bill would act as a pull factor, encouraging greater numbers to come, but the provisions of the Bill can be exercised only by those who have already met all the criteria for being refugees who have shown that they have fled persecution or conflict, and it is simply about the ability in those cases to reunite with their family.

The current arrangements, making family reunion difficult, if not impossible, in that situation, encourage trafficking, its dangers and exploitation—which surely we all want brought to an end. If there are no safe and legal routes to achieve family reunion, in many cases people will use illegal and dangerous routes out of a sense of desperation that there is no alternative.

When there is real hardship and hurt for families that have been torn apart and not reunited, they should not be made to suffer even more, so that their continuing separation will deter others, when there is no evidence that that will happen, as the noble Baroness, Lady Ludford, said. Other countries have similar provisions to this Bill in respect of children and family reunion, and it does not appear to act as a major pull factor for them. We know, too, that if we do not have effective legal family reunion settlement routes, that is when we get people falling into the hands of traffickers. But, above that, surely we should be working to keep families together, particularly at their time of greatest

[LORD ROSSER]
need and strain, as in the case of refugees, when the strength that family relationships bring is more vital and crucial than ever, particularly to children.

I hope that in their response, the Government will take a rather more positive stance towards the Bill, which we support, than they have when similar Bills and proposals have been discussed previously. This Government have given a commitment to accept potentially up to 3 million people from Hong Kong, should they decide they need to get out of Hong Kong and come to this country. So, particularly in the light of the situation in Afghanistan, it would seem odd if the Government now raised objections to this Bill, which addresses specific issues on family reunion, on the basis of any unsubstantiated argument that appears at heart to be related simply to numbers. Like all other noble Lords, I now await the Government's response.

2.34 pm

Lord Parkinson of Whitley Bay (Con): My Lords, I thank the noble Baroness, Lady Ludford, for outlining her Bill on this very important and, as she and other noble Lords have noted, sadly timely issue, and all noble Lords who have taken part for their many thoughtful and passionate contributions to the debate. This is not a party-political issue, as the participation of my noble friend Lord Cormack makes clear, as does his recalling the record of Edward Heath's Government in the protection that they afforded those expelled by Idi Amin in the 1970s. I am glad to listen to contributions from whatever corner of your Lordships' House, as I am to hear quotations, whether from Ronald Reagan or the red suffragette, as the noble Baroness, Lady Chakrabarti, put it, although I am pleased to note that Sylvia Pankhurst's sister and mother both joined the Conservative Party, a point that fills me with pride as I walk past the statue of the latter on my way to your Lordships' House every day.

The noble Baroness, Lady Ludford, and others have indeed anticipated some of the points that I might make, and if I repeat them it is not out of disrespect to them and the arguments that they have advanced but because there are in this well-rehearsed area some instances where we differ in our conclusions and our assessments for very sincere reasons.

I have listened to the concerns raised about people separated from their family members by conflict or oppression. Nobody could fail to be moved by the thought of close family living in conflict zones or dangerous situations. That is why the Government strongly support the principle of family unity and why we already have a comprehensive framework for the family members of people who are granted asylum to be reunited here. It is set out in the Immigration Rules and our family reunion policy, rather than primary legislation.

The Government's policy recognises that families can become fragmented because of the nature of conflict and persecution and the speed, manner and confusion in which people seeking asylum are often forced to flee their country of origin. Our policy is intended to allow those currently recognised as refugees or granted humanitarian protection in the UK to sponsor immediate family members to join them here. Immediate family members are defined in the Immigration Rules as a spouse or partner and children under the age of 18 who formed part of the family unit before their refugee sponsor fled their country of origin or former habitual residence to claim asylum in the UK. That policy has seen more than 30,000 people reunited with their refugee family members in the past five years.

There are also rules in place for the extended family of refugees in the UK to sponsor children where there are serious and compelling circumstances, and refugees can also sponsor adult dependent relatives living overseas to join them where, due to age, illness or—to follow the point raised by the noble Baroness, Lady Hollins—disability, that person requires long-term personal care that can be provided only by relatives in the UK. In addition, our policy makes clear there is discretion to grant visas outside the Immigration Rules, which caters for extended family members in exceptional circumstances—for example, young adult sons or daughters who are dependent on family here and living in dangerous situations. Combined, therefore, our rules and existing policy offer a comprehensive but balanced package of opportunities to ensure that immediate families can be reunited while providing routes for broader reunification based on compelling or exceptional need.

There is no fee to make an application for refugee family reunion and the sponsor in the UK does not need to meet financial or maintenance requirements. This is important to ensure that their family can be reunited with them here in the UK, but it means that the policy must also be considered in terms of public resources. The noble Baroness's Bill would allow potentially tens of thousands of extended family members to be entitled to come to the United Kingdom, many of whom might not have protection needs in their own right, with challenging implications for our local authorities and public services. We are a generous nation, but we need to ensure that our resources, which, like those of any nation, are not infinite, are focused on helping the most vulnerable.

Significantly expanding our policy to enable children to sponsor family members goes against our safeguarding responsibilities. It would undoubtedly risk more children being encouraged, or even forced, to leave their family and risk hazardous, potentially life-threatening, journeys to the UK, potentially in the hands of criminal gangs.

Lord Kerr of Kinlochard (CB): I feared that the pull factor would emerge. It is really plausible? Let us suppose that the Bill of the noble Baroness, Lady Ludford, had already passed and was on the statute books. Here we are around the supper table in Kandahar: Father says, "Little Omar, you must set out tonight over the hills. You must get yourself to Britain, because that is the way we will get in—you will sponsor us." Is it really plausible? As a number of speakers have pointed out, when the EU Committee looked at the question, we could find absolutely no evidence that the pull factor had ever operated or was operating now. Why does the Minister keep citing it?

Lord Parkinson of Whitley Bay (Con): My Lords, this is an area where I know noble Lords will look at the same things and draw different conclusions, and the scenario that the noble Lord paints is one. Another scenario that is more likely is where we see criminal gangs that have no shame and no compunction about exploiting the desperation of very vulnerable people. It is not parents willingly sending their children overseas in advance, but their being encouraged to do so by people who are making money and turning a profit from the desperation of vulnerable people. Sadly we do see that, and it is that which informs our policy and which we want to stop. I know that all noble Lords who have spoken today want to reunite families, and I know that that is the intention of the noble Baroness's Bill, but we fear that, in this respect, it could have the opposite effect from what she intends.

The noble Lord, Lord Dubs, and others referred to the "first safe country" principle. That is indeed our policy, and it is for the safety and protection of those fleeing persecution or distress. Article 31 of the 1951 convention is clear that people should travel directly to where they are seeking protection. The principle that people should claim refuge in the first safe country that they reach is an established EU concept and, while we are no longer a member of the European Union, we expect members states to continue to abide by it.

Baroness Hamwee (LD): My Lords, we have had this discussion many times, but the Government do not explain how they are going to produce the safe and legal routes that would be the answer, both for the refugees and as against the smugglers.

Lord Parkinson of Whitley Bay (Con): My Lords, we have safe and legal routes, such as the vulnerable persons relocation scheme that we set up in relation to Syria and the scheme in relation to Afghanistan, which noble Lords have drawn attention to today.

The noble Baroness, Lady Ludford, asked about paragraph 319X. Our rules are designed to cater for immediate family, but we have rules in place, such as paragraph 319X, to allow extended family to reunite where there are compelling circumstances. This is an important test to ensure that children come to the UK only where it is in their best interest. Her Bill would also reinstate legal aid in family reunion cases. We are committed to providing clear guidance and application forms to support people through the family reunion process. Legal aid is paid for by taxpayers and, again, resources are not limitless. It is important that it is provided to those who need it most, including those who claim asylum. Significantly, legal aid for refugee family reunion may already be available under the exceptional case funding scheme. In 2019, the Government amended the scope of legal aid so that separated migrant children are able to receive civil legal aid for applications by their family members and extended family members. This includes entry clearance, leave to enter, or leave to remain in the UK, made under the Immigration Rules or outside the rules on the basis of exceptional circumstances or compassionate and compelling circumstances.

As I have set out, our family reunion policy is designed to welcome the immediate family members of those recognised as requiring our protection here in the UK, but we also provide protection to the most vulnerable people direct from regions of conflict and instability. Sadly, global humanitarian need continues to grow, with over 82 million people around the world forced from their homes and around 25 million refugees. Noble Lords have spoken of the importance of safe and legal routes, as the noble Baroness, Lady Hamwee, just did in her intervention. The UK's generous resettlement schemes are an integral part of our response to this challenge, addressing the needs of some of the most vulnerable refugees and providing safe and legal routes for tens of thousands of people to start new lives here in the United Kingdom.

As noble Lords mentioned, the Government also recently set out plans to introduce an Afghan citizens resettlement scheme. I am grateful to those noble Lords who welcomed it and who showed their appreciation for the work of my honourable friend Victoria Atkins, the Minister responsible. This will see 5,000 vulnerable people welcomed here in the next year, with up to 20,000 in the longer term. The noble Lord, Lord Kerr of Kinlochard, asked five specific questions about the ACRS. As they were detailed and slightly separate from the scope of the Bill, I hope he will forgive me if I commit to write with further detail, having spoken to my honourable friend and her team, as I know the work on this scheme continues. I commit to answering the five questions he posed.

Lord Kerr of Kinlochard (CB): I quite understand. I am grateful to the Minister and I am happy that he should write. I was cheating a little, I agree—but I would be very grateful if he could convey to his colleagues the need to announce the details of the ACRS as soon as possible and the need to ensure the deployment of the DWP staff with the money cards out to the hotels as soon as possible.

Lord Parkinson of Whitley Bay (Con): I am sure that my colleagues appreciate that, but I will certainly convey the feeling of your Lordships' House today to them to underscore that.

In addition, the Mandate resettlement scheme resettles refugees who have a close family member in the UK who is willing to accommodate them.

The Government recently completed their review of safe and legal routes for protection claimants who are in the European Union, and went further by considering the routes available to those outside the EU as well, reflecting our new global approach to the immigration system. It included family reunion for unaccompanied children.

To inform our proposals, the Government carried out a comprehensive public consultation as part of the new plan for immigration consultation, which concluded on 6 May. We carefully considered responses to the consultation and laid a report in Parliament on 22 July, confirming that the UK wants to be bold and ambitious in the safe and legal routes it provides. On refugee family reunion, we will look to take further measures to ensure that our use of exceptional circumstances is

[Lord Parkinson of Whitley Bay]
clearer and more transparent. This will ensure that decision-makers have the right tools to make consistent decisions and that applicants will have greater transparency on how applications will be assessed.

The noble Baroness, Lady Ludford, asked about the case for increasing the age to 21. We committed to review the case for extending the age for children up to 21 in the consultation but decided not to take it forward. The Government feel that the current rules provide a generous route, with more than 30,000 people reunited in the last five years.

I thank noble Lords again for their contributions throughout this thoughtful, sincere and passionate debate. Although I fear we will disappoint the noble Baroness in relation to her Bill, we will continue to reflect on the points that have been made and the questions posed in considering our approach on this very important issue and look forward to further debate and discussion on them in the future.

2.48 pm

Baroness Ludford (LD): My Lords, I thank everybody who has taken part in this debate. I cannot sum up everyone's contributions, but my noble friend Lord Paddick and the noble Lord, Lord Rosser, did a very good job of surveying all the contributions. I thank the noble Lord, Lord Rosser, for giving the support of his group to this Private Member's Bill.

I will pick out just one or two points. Several noble Lords agreed with the initial remark by the noble Lord, Lord Dubs, that if you do not offer more safe and legal routes, in this case for families to be reunited, the traffickers will have a field day. We all agree. The Government say that they want to cut down on trafficking and no one could disagree with that. It is a cruel and exploitative trade, and the way to combat it is to make sure that people with a legitimate case, which I would contend this Bill expands, can arrive safely and legally.

Many noble Lords talked about the case for humanity and the welfare of people. In response to the Minister saying—I am not sure on what basis his figure was derived—that we could see tens of thousands more people coming through family reunion routes and that resources are not limitless, I agree. However, one of the points about family reunion is that increasing the welfare of all involved and enabling their mental health and well-being to be supported means that they are more likely to be productive and contribute, and not to make a claim on public resources. That is half the point.

While I will never allow the Conservative Party to grab the mandate of "party of the family"—I think all parties would claim that—the reason why I cited Victoria Atkins and Caroline Nokes is that allowing families to group together is not only for their well-being but makes good economic sense. That is why I said that it ought to please the Treasury. I ask the Government to look at that case—by allowing families to get together, you can save money as well as spend it.

Lastly, I have to say that I still believe that the Government have not brought forward any evidence for their contention of a pull factor. They keep trotting out the same allegation, but they do not have any evidence for it. This is wild speculation. If the Government do have any evidence, it is about time they were able to produce it.

I was very encouraged by most contributions in this debate. The Minister said some useful things in his response. Of course, I welcome whatever channels there are already for family reunion, but I ask the Government to have another look at this. Bringing families back together is a case not just of the heart but of the head as well.

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

House adjourned at 2.53 pm.