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OFFICIAL REPORT

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Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind 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 18 March 2022

10 am

Prayers—read by the Lord Bishop of Durham.

Strategic Litigation Against Public Participation (Freedom of Expression) Bill [HL] First Reading

10.06 am

A Bill to make provision about individual expression on matters of public interest; for participation in debates on matters of public interest; and for discouraging the use of litigation as a means of limiting expression on matters of public interest.

The Bill was introduced by Lord Thomas of Gresford, read a first time and ordered to be printed.

Refugees (Family Reunion) Bill [HL] Third Reading

10.06 am

Moved by **Baroness Hamwee**

That the Bill be now read a third time.

Baroness Hamwee (LD): On behalf of my noble friend Lady Ludford, who has had too many of those pesky little lines on a lateral flow test, I beg to move that this Bill be now read a third time.

Bill read a third time.

Motion

Moved by **Baroness Hamwee**

That the Bill do now pass.

Baroness Hamwee (LD): My Lords, at Second Reading the noble Lord, Lord Parkinson of Whitley Bay, said from the Government Front Bench:

“Nobody could fail to be moved by the thought of close family living in conflict zones or dangerous situations.”—[*Official Report*, 10/9/21; col. 1117.]

Indeed, and it is not just the thought. We are seeing images of families separated at the Ukrainian border and of incomplete families without fathers and sons. That must prompt a greater understanding of how important it is that families are together. It is inevitable that some people, including children, will arrive in the UK alone. That is not new.

Whether as a matter of procedure I can thank my noble friend Lady Ludford, I am not sure, but I do. I know that she was very much helped by the Families Together coalition and in the preparation of the Bill by Jon Featonby of the British Red Cross, as I was with my similar predecessor Private Member’s Bill. I wish I could think that this Bill would sail through the Commons to Royal Assent before the end of the

Session. I am certain that many British people, shocked by what is happening on our continent, would say the same. I beg to move that the Bill do now pass.

The Lord Speaker (Lord McFall of Alcluith): The proper procedure is for the noble Baroness to move the Question that the Bill do now pass and then for Members to speak, but now that it has been moved, Members can speak, if any other Member wishes to say anything.

The Lord Bishop of Durham: My Lords, I regret not having been able to speak earlier. As noble Lords know, I spoke passionately on this issue on the Nationality and Borders Bill. I do not think that it is too late for the Government to think about reintroducing this into that Bill on Tuesday in the other place. I hope that they might do so.

Lord Sharpe of Epsom (Con): My Lords, I thank the noble Baroness, Lady Ludford, for bringing the Bill to the House and wish her a speedy recovery. She has provided us with the opportunity to debate the UK’s refugee family reunion policy provisions. I also thank the noble Baroness, Lady Hamwee, for moving the Motion on behalf of the noble Baroness, Lady Ludford.

The Government welcome the generous spirit behind the Bill, but I am afraid that the provisions it would introduce would inevitably create challenging burdens for the Home Office, local authorities and wider public services, as well as risk creating incentives for more children to be encouraged or even forced to leave their family and risk hazardous journeys to the UK.

In particular, I remind noble Lords that Article 8 of the European Convention on Human Rights, which covers family and private life, is a qualified right, not an absolute right. The Government are therefore required to carry out a balancing exercise between their Article 8 ECHR obligations in terms of interference with family life and the wider public interest, which will include consideration of factors such as the impact on public services and so forth. This is in line with the internationally recognised principle of proportionality and, moreover, is explicitly provided for in Section 117B(3) of the Nationality, Immigration and Asylum Act 2002. I am afraid that provisions enabling, for instance, children to sponsor their parents and wider family members may well create an exceptionally large burden in this regard and it is therefore not right that we should put such routes into law.

However, in addition to enabling family unity between pre-flight immediate family members, our policy, which is set out in paragraph 352D of Part 11 of the Immigration Rules, does not preclude any refugee sponsoring an immediate family or extended family member who is not in scope of those rules. We continue to retain discretion flexibly to grant cases exceptionally outside the Immigration Rules and believe that that is the right approach to ensure that we are properly assessing Article 8 rights as set against important and serious considerations about the impact on public services.

Our policy also makes it clear that there is a discretion to grant visas outside the Immigration Rules which caters for extended family members in exceptional

[LORD SHARPE OF EPSOM]
 circumstances, including young adult sons or daughters who are dependent on family here and living in dangerous situations. There are separate provisions in the rules to allow extended family to sponsor children to come here where there are serious and compelling circumstances. Refugees can also sponsor adult dependent relatives living overseas to join them where, due to age, illness or disability, that person requires long-term personal care that can be provided only by relatives in the UK. Finally, to strengthen our existing policy, we have committed to providing additional clarity in the Immigration Rules on the exceptional circumstances where we would grant leave to a child seeking to join a relative in the UK.

I conclude by thanking noble Lords for their many and wide-ranging contributions to the debate on the Bill, the Families Together coalition and, in particular, the British Red Cross, for their continued work on this issue.

Bill passed and sent to the Commons.

Onshore Wind Bill [HL]

Third Reading

10.12 am

Motion

Moved by Baroness Hayman

That the Bill do now pass.

Baroness Hayman (CB): My Lords, I declare my interest as co-chair of Peers for the Planet and thank colleagues both there and throughout the House who have supported the Bill, as well as many outside organisations.

This Third Reading comes at a time when the country is deep in an energy security crisis. We urgently need to shift away from reliance on fossil fuels and the volatility of the international gas markets. The Prime Minister wrote this week that

“green energy of all kinds”

will be at the heart of the imminent energy security strategy.

Onshore wind offers cheap, clean, domestically produced energy, but at the moment planning restrictions impose an effective moratorium on its development and the repowering of existing installations. My Bill would end that moratorium and put planning applications on the same basis as others. I hope the Minister will indicate in his response that the Government recognise the need to change current planning policies to enable onshore wind to play a full part in our energy mix and our response to the current crisis. I beg to move.

Lord McNicol of West Kilbride (Lab): My Lords, the issues raised in the Bill—energy and planning—were always important. With recent events they have become even more so and I congratulate the noble Baroness, Lady Hayman, on bringing the Bill to your Lordships’ House. She is absolutely right: onshore wind delivers

cheap, clean, domestically produced electricity. I am sure that in the coming months and years we will come back to the issues raised in this Bill, whether in the Subsidy Control Bill or in many of the other Bills we will discuss. On these Benches we have always been happy to support this.

Lord Lilley (Con): My Lords, I congratulate the noble Baroness on her Bill, which I fully support. I have long opposed subsidies for wind, but I am not opposed to wind. As far as onshore wind is concerned, beauty lies in the eye of the beholder and I find windmills quite attractive—although this was not a view universally shared by my constituents.

In the current circumstances we must support the cheapest, most reliable mix of energy we can produce. With high gas prices, clearly wind is more economical. We should support it and not have artificial barriers to its development. But however much wind power we develop, we will need gas to back it up when the wind is not blowing. As well as liberalising the rules on building wind farms on land, I hope we shall liberalise the rules on exploiting gas to go with it.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, I join in the thanks to the noble Baroness, Lady Hayman, for this Bill to revise national planning guidance on onshore wind. While the Government were not convinced that the Bill is the right course of action, we agree with the importance of increasing onshore wind deployment in order to reach our net-zero targets. As my noble friend Lord Lilley implied, recent events have demonstrated how crucial it is that we build a strong, homegrown renewable energy sector to further reduce our reliance on fossil fuels.

However, that does not alter the Government’s position here. We welcome the Bill and the opportunity to debate this important subject, although we cannot support it. I congratulate the noble Baroness, Lady Hayman, on bringing the Bill to the House and enabling what has been an excellent debate. I thank all noble Lords for their contributions at Second Reading, which allowed for an insightful and important debate on the subject. I also thank my officials for their support during Second Reading, which enabled noble Lords to receive prompt and, I hope, comprehensive answers on matters of interest.

The Government are not convinced that this Bill is the right solution to bring forward more onshore wind deployment in England. We continue to keep English planning policy under careful review to ensure that decisions on onshore wind can be taken that are in keeping with our carbon budgets.

Baroness Hayman (CB): My Lords, I am grateful; I shall read the Minister’s comments very carefully. I think he said the Government were not convinced that this was the right way to bring forward more onshore wind. Of course, the moratorium was effectively imposed by a ministerial Statement. If the Government can find other ways, I will gladly cede my Bill in the cause. Beyond that, I was delighted to have a moment of

unanimity with the noble Lord, Lord Lilley, almost to the end of what he said—but we must take what we can.

Bill passed and sent to the Commons.

Cigarette Stick Health Warnings Bill [HL]

Third Reading

10.18 pm

Motion

Moved by **Lord Young of Cookham**

That the Bill do now pass.

Lord Young of Cookham (Con): My Lords, this Bill extends the logic of health warnings on cigarette packs to the cigarettes themselves. If implemented, it would require both cigarettes and cigarette papers to display health warnings such as “Smoking kills”. This is likely to be particularly effective for dissuading children, who tend to start smoking with individual cigarettes rather than packs.

While England is undoubtedly among the most successful nations in the world at tackling the tobacco epidemic, we have tended to follow rather than lead when it comes to the implementation of bold policies to address this deadly addiction. The Bill gives us the opportunity to be the first, helping to cement our place as a world leader in tobacco control.

We know that only one-third of the 280 children who take up smoking every day in England will successfully quit, and another third will go on to die from smoking-related diseases. These cigarette warnings were one of the recommendations by the APPG on Smoking and Health for the forthcoming tobacco plan, which we discussed at a recent meeting with Javed Khan, the chair of the Government’s independent review into smoking. We were encouraged by his interest in all our recommendations, including this one, and we look forward to seeing his report, which is due to be published on 22 April.

While we could be the first to implement cigarette warnings, this is not a novel policy. I first proposed cigarette warnings as a Health Minister in Margaret Thatcher’s Government in the late 1970s. By 2024, I will have been in Parliament for 50 years. I hope I will not have to wait that long before this policy is introduced. I beg to move.

Baroness Merron (Lab): My Lords, I pay tribute to the noble Lord, Lord Young of Cookham, for his tireless efforts and creativity—over many decades, as we have heard—in tackling the negative effects of smoking on the health of individuals and communities. This is a considered and sensible Bill, and we are happy to support it today.

Additional health warnings at the point where people are about to smoke, on cigarettes and cigarette papers, is not a measure for its own sake; it is a further step towards helping to drive down smoking rates and

indeed discourage people—especially the young, as the noble Lord referred to—from starting to smoke in the first place. By our doing this, people will have the chance to live longer and have healthier lives, and health inequalities between the richest and the poorest stand a chance of being reduced. For every smoker who dies, there are another 30 who are suffering from serious smoking-related diseases.

Just this week, on Report on the Health and Care Bill, your Lordships’ House voted in favour of a consultation to explore whether the “polluter pays” principle might be effective in the case of tobacco. This Bill seems to chime well with the mood about the direction that smoking legislation in the UK needs to go in. I wish the Bill every success and once again congratulate the noble Lord, Lord Young of Cookham.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con): My Lords, I congratulate my noble friend Lord Young of Cookham on progressing his Private Member’s Bill to this stage and securing this important debate. I am sure the many numbers of people who wish to quit smoking will also be grateful to my noble friend for his long-standing commitment to this cause, as my noble friend himself said, since his time as a Health Minister in the 1980s.

I thank noble Lords for their contributions today and at Second Reading, as well as during the debate on the Health and Care Bill when tobacco controls came up. Your Lordships’ continued engagement highlights how important this issue is and how it will continue to be an important issue for this House.

As I have stated before to this House, the Government are committed to reducing the harms caused by tobacco and are proud of the long-term progress that successive Governments of different parties have made in reducing smoking rates, which are currently, at 13.5%, the lowest on record. However, we cannot be complacent. With nearly 6 million smokers in England, smoking is still one of the largest drivers of health disparities and causes a disproportionate burden on our most disadvantaged families and communities.

I am grateful to noble Lords who have acknowledged that, as part of our plans to make England smoke free by 2030, we have commissioned the independent review into tobacco control, led by Javed Khan OBE. The Khan review has been asked to set up focused policy and regulatory recommendations for the Government on an evidence-led basis, including on what the most impactful interventions could be to reduce the uptake of smoking, particularly among young people, but also about how we support smokers in quitting for good. As my noble friend rightly said, we are hoping that this will be ready by the end of spring this year.

I am grateful to all noble Lords who have met Mr Khan directly, sharing their ideas and allowing him to consider them and the proposal in the Bill among other reforms to encourage smokers to quit. The independent review will both inform the health disparities White Paper and support the development of a robust tobacco control plan. I have been assured—because I know noble Lords are not always keen on the phrase “in due course”—that the White Paper and the tobacco control plan will be published later this year.

[LORD KAMALL]

Our plans will have a sharp focus on helping to level up society and support disadvantaged groups. As I hope many noble Lords will acknowledge, this Government are committed to tackling disparities. I am sure that noble Lords will probably get tired of the number of times that I have spoken about the Office for Health Improvement and Disparities. We have to tackle those disparities. Where we know that the rates of smoking are highest, we truly want to make smoking a thing of the past. We want to have a healthier population as we build back better from the pandemic.

Once again, I thank my noble friend for this important debate. I thank all noble Lords, and I hope we can all work together to help to make England smoke free by 2030.

Bill passed and sent to the Commons.

Cultural Objects (Protection from Seizure) Bill

Second Reading

10.25 am

Moved by Lord Vaizey of Didcot

That the Bill be now read a second time.

Lord Vaizey of Didcot (Con): My Lords, this is a wonderful opportunity for me to take this important Bill through your Lordships' House. I thank—I do not know if I can call him my honourable friend—the Member for Central Devon, Mel Stride, whom I have known for a while, who guided this Bill through the other place and very kindly asked me to take it through your Lordships' House. I was delighted to take over the reins, given my interest in these issues in my former role, now so elegantly occupied by my noble friend Lord Parkinson.

Before I get into the meat of the Bill, I thank the excellent Bill team at DCMS—Mark Caldon, Karl Jagdis and Aisling Parrish—as well as the brilliant DCMS lawyer, Lydia Williams. I am sure my noble friend Lord Parkinson will agree with me that he is lucky enough to be working in a department full of the most excellent civil servants who give so much to us.

The Cultural Objects (Protection from Seizure) Bill is a short two-clause Bill and, I think, relatively uncontroversial. It extends the period of protection for an art object against a court-ordered seizure. It covers an object that is loaned to an institution in this country—a listed institution, which I will come to in a minute—for a temporary exhibition and ensures that it cannot be seized while it is in this country.

That provision was brought in by Part 6 of the Tribunals, Courts and Enforcement Act 2007. Under Section 134 of the Act, provided that certain conditions are met, these objects are protected from a court-ordered seizure for a period of 12 months. It is obvious why the legislation was originally brought in: there were concerns from a number of countries that their art objects were in danger of being seized while abroad if a third party,

for example, had brought a claim against that object or indeed if a third party had a dispute with the state, albeit some kind of territorial dispute, and it wanted to use the object as a bargaining chip.

Section 134 of the Act clearly provides protection against seizure, provided that the object is normally kept outside the UK, it is not owned by a UK resident and it has been brought here for temporary public display by a museum or gallery—provided that that gallery is approved under Section 136 of the Act. In order for the object to be protected, the borrowing museum must have complied with the regulations made under the Act relating to publishing information about the loan in advance of it coming to the UK, and also doing due diligence on the provenance of the object.

The Secretary of State for Digital, Culture, Media and Sport is responsible for approving the institutions in England—and, indeed, in the devolved Administrations—that come under the provisions of the Act. To gain approval under the Act, institutions have to demonstrate that their procedures for establishing the provenance of the object and the ownership of the object are of the highest standard.

When the Act was passed in 2007, it was considered that 12 months was an adequate period of time to allow objects to arrive in the UK and then to be returned following their inclusion in a temporary exhibition. Section 134(4) of that Act provides that the protection continues for not more than 12 months, and that begins on the day that the object enters the UK. The only exception to that is where the period can be extended if the object suffers damage and repair work is needed.

The legislation has worked well over the years; it has enabled institutions across the UK to borrow some outstanding objects that the public would not otherwise have been able to see. There are now 39 institutions across the UK that have been approved under the regulations. I could point to many examples where the regulations have enabled an exhibition to take place, but I need only cite two that will be very familiar to your Lordships: the terracotta warriors, loaned from China to National Museums Liverpool in 2018, and of course the “Treasures of the Golden Pharaoh”, Tutankhamun, loaned from Egypt to the Saatchi Gallery in 2019, an exhibition that was seen by almost 600,000 people.

A more up-to-date example is the eagerly-anticipated Raphael exhibition at the National Gallery, which opens next month. The exhibition is unique in exploring Raphael's complete career, featuring his celebrated paintings and drawings as well as his work in architecture, poetry and design for sculpture, tapestry and prints. But it has loans from abroad: from the Louvre, the National Gallery of Art in Washington, the Prado Museum in Madrid, the Uffizi Gallery and the Vatican Museums. I am sure that it will draw huge crowds.

Many of these loans will of course be protected under immunity from seizure. These include Raphael's letter to Pope Leo X from the state archives of Mantua, a tapestry of “St Paul Preaching at Athens” from the Vatican Museums and paintings such as the self-portrait, the portrait of Baldassare Castiglione, and “St Michael” and “St George” from the Louvre. One of the star

exhibits is featured on the front page of the exhibition catalogue: the portrait of Bindo Altoviti, which has been loaned by the National Gallery of Art in Washington.

I do not know why I am banging on about the Raphael exhibition at the National Gallery, because I have just been appointed as a trustee of Tate. I turn instead to that great institution and commend to your Lordships the new “Surrealism Beyond Borders” exhibition at Tate Modern, which runs until 29 August—so, by my calculation, your Lordships have five months to get across the river. Previous stories of surrealism have focused on Paris in the 1920s. Our exhibition at Tate will reach across the world and over 50 years. It shows how artists around the world have been inspired and united by surrealism from centres as diverse as Buenos Aires, Cairo, Lisbon, Mexico City, Prague, Seoul and Tokyo. Again, many of the loans would not have been possible without immunity from seizure.

The logistics involved in planning and hosting blockbuster exhibitions such as these are immense. With their long experience in managing exhibitions, museum staff are incredibly versatile and adept at dealing with unexpected problems, including transportation delay, but problems can still occur. For example, the Icelandic volcano which erupted in 2010 and, of course, the global pandemic, have both led to delays. Thankfully, travel restrictions have now eased and museums are enjoying hosting and planning future exhibitions with a degree of confidence. However, I say that as the current appalling conflict in Ukraine and sanctions against Russia illustrate that safely moving and returning artwork around the world is never straightforward. That is why this Bill is important.

Where there are unexpected delays in returning protected objects, the Bill allows a period of protection to be extended beyond 12 months, at the discretion of the Secretary of State. It will ensure that the protection remains fit for purpose and that foreign lenders continue to lend to the UK. The new power to extend would apply following an application from a museum or gallery, and extensions would be granted for a further three months initially. There is the possibility of a further extension, if considered necessary. The circumstances under which an extension may be considered will be set out in guidance, which is being developed in discussion with museums and the Scottish Government. It will be published before the Bill completes its passage in this House. The measure is strongly supported by the museums sector and the Arts Council. I am also delighted to tell your Lordships that, only yesterday, the Scottish Parliament passed its legislative consent Motion, so the Bill can now have effect in Scotland.

Although Part 6 of the Tribunals, Courts and Enforcement Act provides immunity from seizure, there are currently no approved institutions in Wales or Northern Ireland. During the Bill’s passage in the other place, it was actually amended to remove its application to Northern Ireland and Wales. This was because the Department for Communities in Northern Ireland decided that at the moment, it is unable to prioritise a legislative consent Motion in the Northern Ireland Assembly. Also, following discussions between

the British and Welsh Governments, it has not been possible to reach agreement on how the concurrent power to extend the current 12-month period of protection would apply across the two nations. The Welsh Government have also therefore declined to table a legislative consent Motion for the Bill as it stands. I am afraid those are unfortunate developments; I emphasise again that objects may still be protected under the current immunity from seizure legislation in Northern Ireland and Wales, but without a power to extend the current 12-month period.

We have a very busy day today so I will bring my remarks to a close. I trust your Lordships will agree that this is a worthy measure, ensuring that cultural objects can continue to be protected from seizure from their country of origin. I am sure your Lordships will breathe a mild sigh of relief that I will not be taking the House through the current exhibitions at the museums designated in the Act, from the Ashmolean Museum to the Wolverhampton Art Gallery. I beg to move.

10.35 am

Lord Strathcarron (Con) (Maiden Speech): My Lords, I am most honoured and grateful for the opportunity to contribute to the Second Reading today. I must declare several levels of interest. First, I am a trustee of the National Motor Museum in Beaulieu and a director of two of its trading companies. Secondly, I am a cultural realm mediator and a founding member of the ADR panel Art Resolve, which was established to mediate in exactly the kind of dispute which this Bill is trying to prevent, and I am vice-chair of the Society of Mediators. Thirdly, my publishing company publishes with the Art Loss Register, the world’s leading resource and database for lost and stolen art, to which any disputes about provenance that the Bill envisages will certainly be referred. Fourthly, the same publishing company has among its publishing partners the National Gallery in London, the Imperial War Museum, Royal Museums Greenwich and the Royal Armouries, all of which could actively benefit by the provisions in this Bill.

While I am grateful for the opportunity to contribute to the debate, I am equally grateful to the many kind and courteous people who have helped me over the last month while I settle into your Lordships’ House. As noble Lords will recall, it is a humbling and daunting experience for a new arrival, geographically as much as procedurally. I am particularly grateful to my noble friend Lord Borwick who, apart from being my Whip, has taken a considerable amount of time and trouble to show me around the Palace of Westminster and explain many of the House’s more esoteric ways and means.

Likewise, Black Rod and the Clerk of the Parliaments found time in their busy days to explain their roles, my role and the workings of the House. The Registrar of Lords’ Interests was endlessly patient in explaining into which categories my interests should be registered. I must also thank the numerous attendants for redirecting me when lost around the endless red corridors and, most importantly, the doorkeepers, who seem to recognise

[LORD STRATHCARRON]

me before I even arrive and who are, at this moment, keeping your Lordships captive in here while I finish this maiden speech.

The instructions for a maiden speech are that it should be short and uncontroversial. The brevity side of the requirement will soon, I hope, become apparent, and it is hard to think of any Bill less controversial than the one before us. Having consulted the interested parties already mentioned, all are in total agreement that this is a welcome proposal, which will only strengthen England and Scotland's ability to attract loans from the world's most significant collections, many of which are appreciated by hundreds of thousands of visitors.

After hearing my noble friend Lord Vaizey extol the virtues of the Bill far better than I can, I would still like to draw attention to a significant benefit of it not so far mentioned. The Bill directly contributes to a cultural environment whereby British and overseas museums and galleries can, with great confidence, contribute to displaying each other's exhibitions. It is well known that UK soft power plays a major ambassadorial role in promoting British values around the world, and I believe the Bill will succeed in ways which have so far not been envisaged. The Bill can only help to foster the kind of international cultural collaboration which benefits everyone who participates in it—from schoolchildren to curators, from visitors to guides and all the many specialist staff it takes to organise a major international exhibition.

10.39 am

Lord Holmes of Richmond (Con): My Lords, it is a pleasure to take part in this Private Member's Bill debate. I congratulate my honourable friend Mel Stride, from another place, on introducing this, and my noble friend Lord Vaizey, who wonderfully introduced it today. He is a man of culture and an ex-Minister for Culture, and he is now the pilot of this cultural objects Private Member's Bill.

It is an honour to follow the maiden speech of my noble friend Lord Strathcarron, a man of culture, an internationalist, a man of travel and, as we have heard, a supporter of the motor museum in the Midlands—more than that, he is a real global traveller and thinker, not least in some wonderful publications, retracing the travels of Mark Twain across Europe and that wonderful journey where he steamed up the Mississippi River from New Orleans. I look forward to spending more time with my noble friend, to understand more about his thinking around such subjects as mysticism and bliss—I am sure that he will find plenty of both in your Lordships' House. His was a wonderful maiden speech. Today, by the good offices of *Hansard*, the publisher becomes the published, and I am sure that we would all agree that, in his maiden speech, he has given us a wonderful first edition.

This is a beauty of a Private Member's Bill—simple, straightforward, clear and concise. I hope that my noble friend the Minister agrees that it does two things. It gives institutions around the world clarity, confidence, safety and security to lend marvellous cultural objects, not least those that my noble friend Lord Vaizey has set out. It gives the public the chance

to see those objects in our wonderful museums and galleries, across the country. Would my noble friend the Minister agree that we have a fine, rich tapestry of museums and galleries, with doors open to everyone, right across the country? This is a simple and straightforward Bill, and I hope that it has a swift and safe passage on to the statute book.

10.42 am

The Earl of Clancarty (CB): My Lords, I congratulate the noble Lord, Lord Strathcarron, on his maiden speech, and I hope that we will hear more contributions in this particular area of his expertise. The visual arts are of course a feature, in various ways, in creativity and commerce, and together they are a sometimes underrated but hugely important part of our creative industries.

I am grateful to the noble Lord, Lord Vaizey of Didcot, for introducing this debate and taking the Bill forward. I am sure that all of us here are perhaps planning to visit or will have been—perhaps not recently enough—to exhibitions containing significant work on loan from other countries. It is great that we can have exhibitions again, although I for one will certainly be wearing a mask to visit, until cases are right down.

I am a great believer in the worth of cultural exchange in the wider sense, and engaging with exhibitions is an important aspect of that: it is a way of connecting with other cultures and periods through objects, including artworks, that we would not otherwise have the chance to see in this country. In addition to the list of the noble Lord, Lord Vaizey, this could also include British art that has been dispersed around the world but brought back for exhibition. It is worth bearing in mind that this will also include contemporary art, which can now be very valuable, with there perhaps being a potential for the seizure of that as much as older recognised treasures. The last exhibition that I visited was the brilliant Hokusai exhibition at the British Museum—"Hokusai: the Great Picture Book of Everything". All of the original drawings have been purchased by the BM, which is one way to solve the problem.

This is clearly an excellent Bill, designed to instil confidence and trust in lenders and facilitate exhibitions, supported on all sides of the House during what was a very good Second Reading debate last year, in the Commons. I have a couple of questions for the Minister. The first is very basic, and there may be a straightforward answer to it. It is simply this: why does there have to be a fixed period of time in the first place in which seizure cannot take place? Once a museum has been approved, following the high standard of checks that it will need to make around provenance and so on, why does there have to be a cut-off point and therefore a necessity for this Bill? Of course, the Bill will very helpfully extend that original one-year time period further, if required, but perhaps the Minister can explain that. I ask this question not just as a matter of clarification but because we now live in very uncertain times indeed—more uncertain perhaps than when the Bill had its Commons Second Reading, in September. There is now arguably the increasing potential for cultural objects not to be returned for a long period, depending on where they might be lent from.

My second question relates to the approval of museums and galleries to participate in the scheme. I counted 39 public museums and galleries on the approved list published on the Arts Council site, as the noble Lord, Lord Vaizey, said. This is actually one more than the government website, which lists only one of the two Scottish museums, giving the Hunterian but not the National Galleries of Scotland, which are both on the Arts Council site. It has been 15 years since the original legislation, and 39 feels still quite a smallish number, although many of our major museums are on that list. However, they are mostly from England rather than the devolved nations—Wales and Northern Ireland do not have any approved museums at all, which seems strange. Is this because some museums have yet to apply because they have not yet felt the need to do so or are even unaware of the scheme, or have some applications actually been turned down? It would be interesting to know what the department's view on that is. Perhaps the Minister can clarify its expectations about extending the list, if that is a concern.

A similar argument applies for Wales and Northern Ireland for inclusion in this extended scheme. Has anything changed with regard to Wales and Northern Ireland since Report, when they were excluded from the Bill? It would be helpful to know whether there has been a development on that front. It seems a shame that this legislation could not apply equally across the whole of the UK, even without as yet approved museums.

A museum's desire to exhibit art and artefacts from other countries presupposes their existence, and it is distressing when we hear about the destruction of cultural property. The Minister will of course be aware of UNESCO's huge concern about the threat to Ukraine's artistic and cultural heritage, and we know that art has already been destroyed and cultural sites targeted, on top of the appalling loss of life that we have seen. I thank the Government for their written reply to my question on this last week; in it, the noble Lord, Lord Goldsmith, outlined some of the action that the DCMS has been taking with regard to this. It would be helpful if the Minister could say a few words about this.

I wish the Bill success and again congratulate the noble Lord, Lord Vaizey, on steering it through this House.

10.48 am

Baroness Merron (Lab): My Lords, it is always a pleasure to follow the noble Earl, Lord Clancarty, and today is no exception. From these Benches, I offer congratulations to the noble Lord, Lord Strathcarron, on his rich and considered maiden speech. I extend a very warm welcome to your Lordships' House—we certainly look forward to hearing more from him.

I congratulate the noble Lord, Lord Vaizey, on bringing this very practical and straightforward Bill to your Lordships' House today. We are delighted to support him in his endeavours. The principle of granting extensions, which will relieve the pressure on cultural institutions should they come up against practical hurdles in respect of returning items, is certainly extremely timely and welcome.

We cannot underestimate the role that public collections in this country play in communicating history, stories and identity to the world. Similarly, as noble Lords

have well described, these institutions play a great role in receiving works from abroad, so that an interchange of histories and stories can occur, and be told and shared among the British public. What might seem to be a slightly technical point about protecting the ability to do that actually underpins a huge and important role that we as a nation play in the world. Being able to receive important and globally relevant works of art from around the world allows cities and institutions across our entire country to do their job.

This has a great impact, not just on tourism and the visitor economy, but on the learning in which we are all able to participate, particularly the younger generations. This is profoundly important. I have noticed some discussion of late about the value of school trips, and whether they contribute to examination grades. On this point, it is perhaps an appropriate moment to raise my feeling that it is rather limiting to see the offering of museums, galleries and other cultural houses simply as places we quantify as marks on an exam paper. We do not necessarily need art galleries, museums and other institutions to help with exams, but we do need them to make us think and feel. That is an enrichment of life, particularly for the younger generation.

The reason this Bill is particularly timely is because it takes account of the very challenging year which cultural institutions have faced in respect of the pandemic. We share the view that the Government need to respond to what has been a very difficult time with support and help, and by facilitating the very things which institutions need to get them through such a difficult time. This would also pre-empt any difficulties which may come in the future. The Bill which the noble Lord, Lord Vaizey, brings to us today is certainly one of those things which would make a contribution.

Reflecting on the pandemic has made us realise just how important arts and culture are in this country, because we had limited access to them. It could have been an interesting thought experiment in the past to imagine what it would be like if we shut down every museum and gallery across our country. Of course, it was not an experiment; it actually happened. Therefore, the Bill shows that if we can make small changes and facilitations to make things easier, we can see better continuity of culture—and that must be a good thing. Our young people deserve access to the best museums and galleries which our country has to offer. Tourism, the visitor economy and the learning which we all experience are absolutely key. We all deserve the comfort and calming influence on our lives of cultural institutions, and we know about the positive impact they have on mental health. To do this, we must ensure that we can play our part. The UK has an incredible place in the world in demonstrating the very best of global culture. We need to ensure that, despite any turbulence now or in the future, these institutions which we so treasure are still able to do that. Therefore, I once again congratulate the noble Lord, Lord Vaizey, and wish this Bill every success as it continues its passage in your Lordships' House.

10.53 am

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Lord Parkinson of Whitley Bay) (Con): My Lords, I thank my esteemed

[LORD PARKINSON OF WHITLEY BAY]

predecessor and noble friend Lord Vaizey of Didcot for bringing forward this Bill which, as he said, was successfully taken through another place by our right honourable friend the Member for Central Devon, Mel Stride. I also take this opportunity to congratulate my noble friend on his recent appointment as a trustee of the Tate, one of the most important institutions in this country and a principal user of immunity from seizure protection. I am very grateful to him for his absolutely correct words of praise for officials at DCMS, not least the team which has been working on this Bill. We are very lucky to have their support on this legislation and all the other matters with which we deal.

It is a great pleasure to very warmly congratulate and welcome my noble friend Lord Strathcarron to his place in your Lordships' House. Often maiden speeches show some ingenuity to bring to bear the expertise and experience which new Members have. In this case, his credentials were set out very clearly and have direct application to the matter at hand. We are very lucky to have him in your Lordships' House scrutinising the Bill, and I look forward to more contributions from him on matters relating to DCMS, and many more besides.

As my noble friend Lord Holmes of Richmond said, this is a beauty of a Bill. The beauty lies in its simplicity. It is a short, two-clause Bill amending existing legislation in Part 6 of the Tribunals, Courts and Enforcement Act 2007, to ensure that our immunity from seizure provision remains fit for purpose. It will mean that approved museums and galleries are better able to respond to unforeseen obstacles which might otherwise threaten the safe and timely return of the wide range of cultural objects which they so regularly borrow from abroad for the benefit of the public across the United Kingdom. The 12-month limit of immunity from seizure protection is an issue which was raised specifically by approved museums and galleries during the more restrictive periods we all faced during the pandemic. The noble Earl, Lord Clancarty, asked why there needs to be a limit at all. In general, the 12-month limit had been sufficient for the normal length of exhibitions, allowing time for those exhibitions to conclude and for items to be returned. Of course, recent events—not least the pandemic but others which have been mentioned—highlight that it is important for this provision to be needed occasionally. There will be no limit to the number of three-month extension periods which can be granted. However, as with all applications, there will need to be a good case for granting each extension. There will be flexibility, as well as protections, in the new system.

As with all sectors, our cultural institutions have faced tremendously difficult times recently, and we recognise the need to support them to recover, thrive and welcome people back across their thresholds as we emerge from the pandemic. As noble Lords have noted, there are 39 museums and galleries across England and Scotland which make use of immunity from seizure protection. As my noble friend mentioned, it is unfortunate that the territorial application of the Bill had to be amended in another place to exclude Wales and Northern Ireland. None the less, as all museums and galleries currently approved for the purposes of immunity from

seizure are in England and Scotland, the 12-month time limit is of most relevance in those territories. As my noble friend noted, we are very pleased to see that the legislative consent Motion was granted in the Scottish Parliament yesterday. However, the territorial extent of the Bill remains UK-wide.

As we continue to support the recovery of our museums and galleries from the recent uncertain and challenging times, an option to extend the length of time that objects can be covered by immunity from seizure is a welcome and sensible contingency to have. I am therefore pleased that this Bill looks to ease some of the uncertainties with which our museums have been grappling in recent months, and I am happy to confirm that the Government continue to support this succinct and helpful Bill. The depth and quality of the permanent collections held by these institutions is of course already exceptional, but lending and borrowing objects is also an important core activity for our museums and galleries. Immunity from seizure protection often plays a fundamental role in enabling loans from other countries to go ahead, with many lenders stipulating that such protection is in place as a condition of loan. The Bill will provide a sensible improvement to an already worthy tool used by many of our esteemed cultural institutions across England and Scotland.

My noble friend Lord Vaizey mentioned some of the upcoming or newly launched exhibitions to which we can look forward this year: no less than a visit from one of the greatest artists of the Italian Renaissance at the National Gallery, and a re-examination of surrealism at the Tate. I hesitate to say that my noble friend's speeches sometimes show the influence of surrealism, but they are certainly rich with cultural allusions on every occasion. Loans help to complement and enhance the stories told by our UK institutions. The British Library recently hosted the excellent exhibition "Elizabeth and Mary: Royal Cousins, Rival Queens", which I had the privilege of seeing. I was fascinated to view the letter—on loan from archives in Spain—penned by King Philip II, lamenting the execution of Mary, Queen of Scots, and declaring his determination to proceed with the Spanish Armada. Immunity from seizure cover enabled this fascinating letter to sit alongside some of the British Library's most exceptional Elizabethan manuscripts, adding to the tale of the two rival queens and providing a fantastic opportunity for visitors to view these documents in their wider context.

I was one of 600,000 people who had the pleasure of seeing the breath-taking Tutankhamen exhibition at the Saatchi Gallery a couple of years ago. Another show benefiting from immunity from seizure coverage is "Van Gogh. Self-Portraits", which opened at the newly refurbished Courtauld Gallery last month, which I saw on Wednesday morning. This is the first exhibition dedicated to Van Gogh's self-portraits, promising visitors a unique insight into the life of the great artist. The Courtauld is home to perhaps Van Gogh's most famous self-portrait, "Self-portrait with Bandaged Ear", and this new show assembles portraits of the artist's own likeness from museums across the globe.

It is clear from the small selection of examples mentioned today that borrowing objects allows museums to stage exhibitions and displays that would not otherwise

be possible. These loans enable them to further contextualise their own collections, create opportunities to attract and inspire new audiences, and re-engage their existing visitor base with new offers and insights. It is understandable that many lenders require certainty around immunity from seizure protection when they lend such valuable artefacts, and it is therefore important that we ensure that the legislation that underpins this protection is up to the task. The Bill will help to reduce the risk of cultural property from other countries being left unprotected while in the temporary care and custody of approved institutions. The option to extend the length of time an object can be protected while on loan will allow our approved museums and galleries to continue to co-ordinate and plan important loans with international partners, safe in the knowledge that contingency against unpredictable events is available.

For the reassurance of noble Lords, I wish to take a moment to affirm the Government's current view regarding the loan of cultural objects from institutions in Russia at present. The Government recommend that museums and galleries should not be borrowing objects or negotiating new loans from state-sponsored or state-funded Russian institutions at the moment, in light of recent events. Indeed, I am aware of several prospective loans that will now not be proceeding, as well as exhibitions that have been cancelled in recognition of the unfolding conflict in Ukraine. Her Majesty's Government fully support the decisions made by those museums and galleries to take such action. In the case of cultural objects currently on loan from Russian institutions, it is for the borrowing museum concerned to decide whether it is appropriate to keep them on display and to arrange for their return at the appropriate time. I have had a number of discussions with museums and galleries, and I know that they are engaging with this very important issue very thoughtfully, in consultation with their staff, their audiences and others.

The noble Earl, Lord Clancarty, asked what the Government are doing to protect the cultural property in Ukraine. Like other noble Lords, I was horrified to see the attack on the Mariupol theatre in Ukraine this week—of course, for the fact that children and families were sheltering in it, but also for the appalling destruction done to the building. The Government are working closely with relevant organisations and our international partners to support the Government and people of Ukraine in protecting their incredible cultural property. Russia, Ukraine and the United Kingdom are all signatories to the 1954 Hague convention, designed to protect cultural property from destruction and looting during armed conflict, including monuments, archaeological sites, works of art and other important artefacts. Through UNESCO, we are working to ensure that Russia conforms with its responsibilities under that convention. The deliberate destruction of cultural heritage can be designated a war crime, so officials are also working with non-governmental organisations to record details of where deliberate destruction may have taken place.

In discussing the loan of objects from abroad, I also believe it is important to highlight that the process that sits behind immunity from seizure protection is necessarily robust. To use the protection, museums

and galleries must go through a rigorous application process to attain approved status. That addresses the question from the noble Earl, Lord Clancarty, about why there are just 39; this rigorous process involves demonstrating that they are an ethical organisation, that they follow proper due diligence processes for examining the history of the objects that they borrow, and that they will not borrow items if any suspicion lingers that they were stolen, looted or illegally obtained. For the protection to apply to objects that they are borrowing, approved institutions must also publish detailed information about such objects at least four weeks before the objects enter the UK. This diligent work is all part of the high standard of professional practice that our museums carry out as part of their loan procedures.

It is fantastic that 39 museums so far have achieved immunity from seizure approved status. That is a testament to their excellent track records and their continued commitment to upholding the highest standards of due diligence. Of course, new institutions join their number, and I am pleased to say that the 39th on the list of approved institutions was made as recently as last month, when Strawberry Hill House in Twickenham successfully met the rigorous requirements to achieve approved status ahead of its upcoming exhibition, "The Grand Tour", which will now feature two paintings on loan from galleries in Italy. As an approved museum, Strawberry Hill House will be in good company, sitting alongside great institutions such as Manchester Art Gallery, National Museums Scotland, Hampton Court Palace, the Natural History Museum, Norfolk Museums, the V&A and many others that have been mentioned this morning.

Layers of hard work, training, rigorous provenance research and meticulous record-keeping go into making immunity from seizure work in practice. This provides assurance that approved museums and galleries borrow items from abroad in an ethical way. While immunity from seizure protection builds the confidence of lenders that their objects are safe, it also builds confidence in our sector that only sound loans are followed through, and this in turn reduces the risk of seizure being likely. There has, in fact, never been such an incident in the UK.

The Bill my noble friend has presented us with today is an excellent recognition of where existing legislation can do more to help the work that our museum professionals deliver. While our approved museums and galleries demonstrate an admirable execution of skill in attending to all the necessary work that sits behind immunity from seizure protection, the measures in this Bill can help them to be more confident that, in the event of the unexpected, the objects they are loaning can stay a while longer in the UK, and that they will remain protected until they are able to be dutifully returned to their owners overseas.

In conclusion, I thank my noble friend Lord Vaizey of Didcot for bringing this incredibly worthy Bill before your Lordships and for setting out so articulately and clearly the benefits that it will bring. I am very grateful for the support that it has had from all the contributions across your Lordships' House today.

11.06 am

Lord Vaizey of Didcot (Con): My Lords, this has been a fantastically erudite and insightful debate, covering a wide range of issues, but coming back always to focus on the importance of the Bill. I congratulate the noble Baroness, Lady Merron, on mentioning school trips, and the controversy, and I commend the article from Maria Balshaw, the director of the Tate, in yesterday's *Evening Standard*, in which she agrees with the noble Baroness—as do I—that school trips are absolutely essential to museums and should not simply be seen as there to promote grades.

I am tempted to take up my noble friend's invitation to compare every speech to a great exhibition. If my speech was a surreal one, may I say that the maiden speech of my noble friend Lord Strathcarron was absolutely excellent. I am going to compare it to the British Museum exhibition on Stonehenge—rooted in tradition, reaching back to the ancients and yet still illuminating us with new and current modern insights. I say this with all sincerity: it is wonderful to have him in the House, and I look forward to partaking with him on many debates on cultural policy.

I would compare the great speech of my noble friend the Minister to the V&A exhibition that opened yesterday, "Fashioning Masculinities: The Art of Menswear". As we listen to his erudite comments, we simply must acknowledge also that he is one of the most elegant Members of the Front Bench, in terms of how he puts his case and how he presents himself in the House. I commend the Bill to the House.

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

Down Syndrome Bill

Second Reading

11.09 am

Moved by Baroness Hollins

That the Bill be now read a second time.

Baroness Hollins (CB): My Lords, I thank Mencap, Learning Disability England, the Down's Syndrome Association and the National Down Syndrome Policy Group, among others, for their engagement with me in discussion about this Bill, including many who identify as having Down syndrome, their families and friends. I welcome those who have come in person to listen today, including the right honourable Member, Dr Liam Fox MP, who drafted the Bill so skilfully and steered it through the other place.

Like Dr Fox, I began my medical career as a GP, but I then went on to become a psychiatrist. I declare an interest: my adult son has a learning disability and he has many friends who have Down syndrome. I remind the House that most of my medical career as a psychiatrist involved my working directly with people with learning disabilities, including people of all ages with Down syndrome. I sometimes say that the most important thing I have ever done is to keep asking the question, "What about people with learning disabilities?" The thing is, unless you know somebody with a learning disability, it probably would not occur to you to ask

that question. It is so hard to keep this community of people in mind. We saw it during the pandemic on our TV screens and in debate in Parliament. Care was synonymous with care homes for older people. The protection of people with a learning disability living in the community and of people with Down syndrome, who were eventually shown to be in very highest risk category for Covid-19, were largely overlooked.

A few questions and challenges have been raised about the Down Syndrome Bill, and it is important that they are aired. However, I also want to instil a spirit of hope in our debate today. My mentor, Professor Joan Bicknell, who sadly died a few years ago, taught me the art of holding in mind where we want to get to. I will respond to some of the concerns that have been brought to my attention and will consider them in the context of how children and adults with Down syndrome, and other people with learning disabilities, are currently living.

The Down Syndrome Bill has passed all its stages in the other place and I am very pleased that I was asked to help steer it through this House. It will require the Government to publish guidance on the specific needs of people with Down syndrome and how to meet them, and indeed to lay the guidance before Parliament. The relevant public authorities providing health, education and social care would then have to give due regard to this guidance in carrying out their functions under existing legislation, including the Care Act 2014 and Equality Act 2010. The Bill focuses on those with Down syndrome as one of the most diagnosed chromosomal disorders associated with a learning disability in England. There are over 40,000 people living with Down syndrome, most if not all of whom have some degree of learning disability.

Some are concerned that naming a Bill after a chromosomal condition is taking things back a few decades to a time when the medical model predominated, and that a diagnosis of Down syndrome on its own does not tell us anything about the extent of a person's learning disability or other associated conditions that an individual might experience. A diagnosis is important to parents, who want to know why this child is different from the one they were expecting—and, for different reasons, a diagnosis is important to health and care professionals. Of course, it is important that any diagnosis does not define the person.

Implementation of the guidance must focus on the people behind the diagnosis, but a diagnosis does provide a framework to understand the common health needs associated with a specific disorder. It is important for health and care professionals supporting people to know and recognise the co-morbid health problems that are either specifically associated with or occur more frequently in people with Down syndrome. These include cataracts, hearing loss, obstructive sleep apnoea, low thyroid function, increased risk of leukaemia, congenital heart defects and early Alzheimer's disease. When I was a young doctor, I remember children with congenital heart defects who were not treated because they had Down syndrome; a failure to intervene reduced their life expectancy and, often, their quality of life. A friend of my son had a heart attack and died before Christmas aged just 41—such a loss.

When there is a recognisable characteristic, such as the facial features that make Down syndrome recognisable, two problems may occur. The first is that any behavioural changes or health complaints may simply be attributed to the already identified condition. There is the tummy ache caused by a peptic ulcer that is blamed on Down syndrome rather than being investigated—this is called “diagnostic overshadowing”. The second is that people with Down syndrome are stereotyped as being always happy, docile, eternal children and so on. As Caroline Boudet put it in the *Huffington Post* in 2017:

“When you have Down syndrome, the first disability you have to face is the way people look at you. It’s based on received wisdom, society conveys misleading information about this extra chromosome and what it is supposed to cause. Each of us has prejudice in mind, this shows no ill-will but just a lack of knowledge”.

The majority of people with learning disabilities do not have a known cause; they and their families do not know the answer to the question “Why?”, just as in my son’s case. Their diagnosis is learning disability of unknown aetiology. Some people have a different genetic cause from Down syndrome, and some acquire a learning disability in the perinatal period. Their learning disability may not be recognised as quickly as that of people with Down syndrome; it may be their speech or behaviour that, as it were, gives them away, however hard they try to mask the differences to be accepted for who they are.

Let us look at another challenge: that a Bill named after a condition that can be diagnosed prenatally and which could be eliminated, as it reportedly has been in Iceland, means that the Bill is not needed, and may present a challenge to women’s reproductive rights. But whatever noble Lords think about abortion, some of the 40,000 people currently diagnosed with Down syndrome will be around for 70 or more years. Life expectancy is getting longer. Even if no more babies were born with Down syndrome, every one of those 40,000 deserves a better deal than they are getting now. The Bill is simply about helping those born with Down syndrome to have their lives valued the same as those born without it, and to have their strengths acknowledged and their difficulties supported through an improved understanding of how Down syndrome can affect people and families.

The timing of this Bill complements proposals in other pieces of legislation currently being debated within Parliament. I welcome the acceptance by the Minister during debate in the other place of having a named person within each integrated care board to be accountable for the implementation of the guidance on the Down Syndrome Act. Her Majesty’s Government had already pledged in both the *NHS Long Term Plan* and the autism strategy that all integrated care boards will focus on autism and learning disabilities at the highest level; for example, by having a named executive lead for autism and learning disability. Just this week, the Minister in your Lordships’ House, the noble Baroness, Lady Penn, reconfirmed this commitment by saying,

“I confirm our intention that all integrated care boards should have a named learning disability and autism lead and that NHS England proposes to issue statutory guidance on this matter to assist integrated care boards. The Government are supportive of this approach and believe that learning disability and autism

leads on every ICB would act as a voice for those with a learning disability and autism in commissioning decisions.”—[*Official Report*, 16/3/22; col. 396.]

The Minister also accepted my amendment to the Health and Care Bill, which puts mandatory training about learning disability and autism on the statute book. It is all happening this month. I believe that the passage of the Down Syndrome Bill through the other place last month and Her Majesty’s Government’s support for the Bill has assisted in getting both of these through.

I would like this Bill to go further and to include all people with learning disabilities. However, previous attempts to introduce Private Members’ Bills on learning disability have been unsuccessful, including the LB Bill and my own Learning Disabilities (Review of Services) Bill, which aimed to make provision for the Secretary of State to undertake a public consultation on the provision of comprehensive and integrated services for adults with learning disabilities. In his speech in Committee in the Commons on 26 January, Dr Liam Fox highlighted that, given the logistical difficulties in passing a Private Member’s Bill, a clear focus on one condition was needed to improve the chance of this legislation being passed. Supporting the Down Syndrome Bill is a step in the right direction and something that we can build on. In my view, it is an imperfect but pragmatic way forward and a good model for a PMB, and I believe that, if the Bill is welcomed in this House, it will indeed pass.

The Bill’s supporters expect it to set a precedent that will ultimately benefit the healthcare and support of everyone with a learning disability, not only those with Down syndrome. Dr Fox sees it as a bridgehead to open the door to better care and support for the whole community, but some in the wider learning disability community are worried that people with Down syndrome will get preferential treatment and that people with other diagnoses, despite having similar health and care needs, will be left even further behind. I ask for the noble Lord’s assurance that there will be transparency in the Bill’s implementation, specifically to ensure that resources allocated to support those with Down syndrome are not taken away from those currently supporting other people with learning disabilities.

We all know the financial pressures being experienced within adult social care. Many parents say the stress they experience is not about having somebody with a learning disability or with Down syndrome in the family; it is the constant battle with the authorities, whether over EHCPs, respite or something else. My current battle for my son is the cost of sleep-ins to sustain his independence.

It seems that it may be time for a new learning disability strategy, like the *Valuing People* White Paper I contributed to, with so many others, in 2001: something to tie together all the various pieces of ongoing work, including the soon-to-be-published *Building the Right Support* action plan, and in the light of the new integrated care systems, as well as the anticipated social care and Mental Health Act reforms. A new, overarching strategy could build on the provisions and benefits of the Bill for the wider learning disability community. I hope the Minister will be open to further discussions about the development of such a unifying

[BARONESS HOLLINS]
strategy. Clarifying these concerns will ensure that the Bill is successful in its goal of improving the quality of life and health of people with Down syndrome, to raise awareness and foster inclusivity. There is such enthusiasm to get started on developing the guidance—it feels like the time is right.

In a spirit of hope, I agree with Dr Fox, who said, “it is entirely possible that, when guidance is given and there is a named person on the integrated care board, the Bill’s provisions and the measures required to apply it would reasonably be applied to”—[*Official Report*, Commons, Down Syndrome Bill Committee, 26/1/22; col. 5.]

people with similar needs. As awareness of the care and support that people need increases, I hope more resources will be allocated. I beg to move.

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): I call the noble Baroness, Lady Stowell.

11.22 am

Baroness Stowell of Beeston (Con): My Lords, I am sorry—my speakers’ list has me at the end, but I am happy to speak now. I am ready, if noble Lords are.

I say first how impressive the noble Baroness, Lady Hollins, was in introducing the Bill today. I cannot possibly do justice to this matter, particularly following her, but I will try because I support the Bill and I want to make just a short contribution. I have no direct experience of living with, or even being close friends with someone who has Down syndrome, but of course I have huge respect for the battles they encounter with officialdom—indeed, for all parents who have children with learning disabilities and how they have to navigate bureaucracy.

It is hard to explain, therefore, my particular admiration for people with Down syndrome. It may be something special about them that elicits a smile and fondness among all of us. Certainly my connection is very tangential, and it is this: my mum had a younger brother called Stuart, who was born in 1945 with Down syndrome. It was not called that then, but that is what he had. He also had lots of health complications and did not live much beyond a year or 18 months. Because he was born into a family of eight other children and they were desperately poor, my nana, who was a widow at the time, considered Stuart’s passing a blessing and she encouraged the rest of the family to accept that and move on, but my mum has never forgotten him, and she has always made sure that I know that he was one of her seven brothers.

Thankfully, the world is a different place. Not only can people in situations like that of my nana rely on support not available in the past, but people with Down syndrome live longer and we are now seeing their potential to achieve and succeed in lots of different arenas. That brings me back to this Private Member’s Bill. I am delighted to support my right honourable friend in the other place in this endeavour. I have known Dr Liam Fox for 30 years and I know that getting the Bill as far as this stage, with unanimous support in the other place, including that of the

Government, is a result of him using all his professional and political skills—and probably a dose of impish charm along the way.

What is critical about the Bill for me is that it will inform a new strategic approach to supporting people with Down syndrome before we encounter the situation that my nana could not have conceived of 80 years ago: a person with Down syndrome can not only survive and thrive, but they are living longer and, as we have already heard from the noble Baroness, Lady Hollins, are now outliving their parents. It is vital that the future we anticipate now for people with Down syndrome is a positive one, so I commend the noble Baroness for all that she does in the field of health and support for people with disabilities. I support her in seeing this Bill through your Lordships’ House.

11.26 am

Lord Touhig (Lab): My Lords, when opening Second Reading in the other place, Dr Liam Fox said that the first question that people have tended to ask about this Private Member’s Bill is “Why?” Why this issue, and why now? He gave three key reasons. First, he said that there is the challenge faced by those of our fellow citizens who have Down syndrome and their families. The second reason concerned the intellectual development of a person with Down syndrome—an area, he said, where public perception tends to be inaccurate. Thirdly, he said the Bill was timely as the life expectancy of a person with Down syndrome is now perhaps 58 years, compared with just 13 years some time ago.

It is more than 50 years since I first became aware of the challenges facing a person with Down syndrome and their family. We had just moved house and one of our neighbours had a son, David, with Down syndrome. We became friends, and in the next few months my late wife, Jennifer, became involved as a volunteer member of the local Mencap group. She helped to organise weekly gatherings of parents and children at the Glengariff day centre near our home. At first, she thought these evenings were just an opportunity for parents to have a cup of tea and a gossip while she and others organised events for the children; but she soon discovered that, for the parents, this was a time to share experiences and problems and give mutual support, which was otherwise lacking—a much-needed moment away from what appeared to be the pressure they lived with trying to raise a child with Down syndrome. She would often tell me about the challenges this or that parent had in gaining education support, welfare support and, yes, understanding and tolerance from others, including other family members and neighbours.

I know friends who became frustrated having to justify seeking support for their son with Down syndrome. They had to wait until he was seven to get him statemented. I discovered even more when, as a local councillor, I took up cases of parents with these problems. I would go into County Hall only to be told, “Sorry, Councillor, we can’t do anything; he”—or she—“falls through the net.” But who created the net? We did—we local councils created them, we the Government did, and we in Parliament had a hand in it too.

Many of the challenges that parents faced 50 years ago, when I first became aware of these matters, remain today. My wife went on to help set up a local Gateway club, visiting sixth forms recruiting youngsters to join in the support. It was at Gateway that I met Pat and her mother and father. Pat was a bright and cheerful girl, her parents doted on her, and she was always immaculately dressed and turned out. But when her father was taken seriously ill and her mother had problems managing, she went into local authority residential care. What a mistake. We met Pat wandering alone in Cwmbran town centre looking lost and dishevelled. Pat did not know the difference between 5p and £5, yet she was left without care and support. We were shocked but, thankfully, within a week her father had recovered, and she was back at home. But the experience of what we witnessed remained with us. The system—in this case, the local council—had let a vulnerable person down. She, again, had fallen through the net.

It was no better with care in the community. Cathy, a friend's daughter with Down syndrome, was encouraged to experience independent living. She was placed in a house with two elderly men—both had dementia. One person came in the morning to make sure there was some breakfast; a second person came in the middle of the day to make sure there was a midday meal; and a third person came in the evening to see there was an evening meal. That was not care in the community; that was neglect in the community. Cathy was rescued—and I believe that, rescued—by her family within a week. Again, the system had failed a vulnerable person.

Several years later—it was during the Islwyn by-election—I was knocking on doors, and I came across a family. A family of four young women who had Down syndrome and they lived together as a family with a house mother. Now, that is real care in the community; that is doing it the right way.

Liam Fox's second reason concerned perception and, having spent 27 years working in newspapers and publishing, I can tell you that in my experience perception is more real than fact in what most people believe to be the case than what actually is the case. The wrong perception about Down syndrome can also feed ignorance, prejudice and stupidity.

I found that was the case, even with the National Health Service. Some years ago, I served as chair of the All-Party Parliamentary Group on Down Syndrome. I listened in shock to a mother who related her experience of ignorance. She was at the bedside of her young son who was recovering post-op from minor heart surgery. The child appeared distressed, and she became alarmed, and she called the nurse, and the nurse came and looked and told her, "Don't worry, dear. He is Downs, and they do not feel pain." Do not feel pain!

Our committee then went on to take further evidence from a young couple. The wife had just given birth to a child with Down syndrome, and they were not aware that this was going to happen so they were coming to terms and trying to work out how they would come together and work as a family, and in breezed a doctor. When they spoke about their concerns, and said they were not certain what to do, the doctor told them not to worry, to leave that one here and go home and have

another one—ignorance, prejudice and sheer bloody stupidity, all rolled into one.

Finally, Liam Fox's third reason for introducing this Bill was that it was timely and necessary, pointing out that, in his lifetime, life expectancy for people with Down syndrome had increased from 13 years to 58. Timely is right—right in that, no matter how long or how short out lifespan, all have the right to quality of life. Who in this Chamber would deny that? We want it for ourselves—we do. Do we not want it for our children? Of course, we do. This Bill is another step, another building-block, in ensuring a person with Down syndrome has just that: quality of life, a life lived to the full in dignity and respect, respect for their human rights. The human rights of a person with Down syndrome are no less important than yours or mine. Their lives deserve to be lived, respected, honoured, defended and yes, indeed, cherished by all of us.

11.33 am

Baroness Jolly (LD): My Lords, I support the noble Baroness, Lady Hollins, and all that she has said today and, indeed, all of her work. I should be brief—only a few minutes—but the alternative, more in-depth look at this would take rather longer than the powers that be would allow. I would like to thank Dr Fox for the time he spent in the briefing, which was very helpful.

In the standard way, I have no interests to declare. But in a rather sort of non-Parliament way, I have two interests that have informed the way I think about this area and this debate. Like many others, when I was much younger, I had contact with a family member—my cousin, Daniel—who had Down syndrome. Like many people with Down syndrome, he sadly died as a child when he was six, leaving my uncle and aunt totally bereft. But I can certainly remember him as a happy, cheerful child who is very much missed by the family.

Secondly, for three years I was chair of one of England's larger providers of services for people with a learning disability. There, I began to understand the issues about the care of an adult with Down syndrome and the many areas to be considered in their care. Although not interests in the parliamentary way, these two points have coloured what I want to say about this Private Member's Bill.

This, of course, in the main is an excellent Bill—clear, concise and with the main bases covered. Thinking about the relevant authorities, we should consider the services delivered by the Department of Health and Social Care, the DfE and the Ministry of Housing, Communities and Local Government—which now goes under the somewhat snappier title of the Department for Levelling Up, Housing and Communities.

I wonder if the Minister could tell the House what areas he thinks the Department of Health and Social Care would have to augment, were this Bill to be passed? Would the Minister tell the House what conversations he has had with officials about this Private Member's Bill? What changes would need to be made in the unlikely event that it finds its way on to the statute book? We all know it will not, but for the 40,000 people who have Down syndrome and their families and carers, could the Minister tell me when was the last "in the round" look that the department

[BARONESS JOLLY]

made of services for and care of people with Down syndrome? When did that last take place? Who is responsible in Whitehall for ensuring they are appropriate? Is Down syndrome treated separately from learning disability, or are decisions made about those with learning disabilities taken as all right for those with Down syndrome?

One of the things that my time chairing a learning disability provider organisation taught me was that those we supported really valued being involved in decision-making. I discovered that meeting the needs of someone with Down syndrome was best done by involving the individuals in the decisions being made about them, along with parents and family. The Bill is silent in its guidance about involving the person with Down syndrome in decisions about how they live, with whom and where. We often fail to do this and, were this Bill ever to reach Committee, I would like to lay an amendment which would ensure that people with Down syndrome—or any of the other learning disabilities—could say, with their hand on their heart, that “No decision is ever made about me without me.” We would not fail to involve people with a physical disability in legislation relating to them. The Secretary of State should make a provision to involve people with Down syndrome—or any other learning disability—in any guidance written by the department.

11.37 am

Baroness Bennett of Manor Castle (GP): My Lords, I must begin with a tribute to the noble Baroness, Lady Hollins, who works so hard for people with learning disabilities and other disabilities in your Lordships’ House, as I see in person very often, and I was privileged to see recently in a late-night—or possibly early-morning—stroll up Whitehall during the Health and Care Bill to get some more information one-to-one.

The right honourable Liam Fox—I note he is listening to our debate today—said of this Bill in the other place:

“it is about people who deserve the same ability to demand the best health, education and care as the rest of our society.”—[*Official Report, Commons, 26/11/21; col. 579*]

Of course, nobody could disagree with that aim, but it is true for people with other chromosomal abnormalities, people with learning disabilities and many other people with special needs in our society. The fact is that our society is profoundly discriminatory. People are disabled by the barriers society puts in their way. Physical barriers, as we have just heard from powerful testimony from the noble Lord, Lord Touhig, are attitudinal barriers which are frequently still, sadly, awful.

There are 1.5 million people with learning disabilities in the UK and about one in 50 babies are born with a chromosomal abnormality. As the noble Baroness, Lady Hollins, has often drawn the House’s attention to, men with a learning disability have a life expectancy of 66 years—14 years below that of the general population—and females 67 years, which is 17 years below the general population, reflecting some of that discrimination that I referred to.

It was not my intention to speak on this Bill—your Lordships’ House may know that I have rather a large

number of Bills on my plate—but I received large numbers of representations from people concerned about it, which is what led me to be in your Lordships’ House today. Some of those concerns reflect what the noble Baroness, Lady Jolly, just said. When I looked into this, I was quite surprised that in a press release about the Bill, the Down’s Syndrome Association said that it had not been

“invited to be involved in the development”

of the legislation. That very much provoked me to think of the phrase that the noble Baroness, Lady Jolly, just used: nothing about us without us. If the noble Baroness is going to table an amendment along those lines, I would certainly be interested in supporting it.

The first concern that families and groups of parents with children and adults who have Down syndrome have come to me about is that the Bill will have no substantive effect on the rights and lived experience of people with Down syndrome and their families because the duties in it are narrowly drawn; demand very little of public bodies; crucially, attract no new funding; and provide no meaningful mechanisms for enforcement or redress.

There is a really serious concern that the Bill implies that a diagnosis predicts how a person’s needs should be best met, rather than people’s personal, individual and unique needs, characters, gifts, talents and aspirations, and the idea that it is possible to generalise about a highly diverse group of people based directly on diagnosis alone. The families have said to me that they are concerned that this approach risks reinforcing rather than overcoming prejudice and discrimination, while undermining decades of progress in moving towards personalised support across the fields of education, health and social care.

I note—the noble Baroness, Lady Hollins, addressed this in her introductory remarks—that it has been argued that the Bill offers a model for others to follow to address other conditions and people in other circumstances, but it is very hard to imagine that we could see a whole procession of Bills addressing people with different health needs and disabilities along this model. Surely it would be better to make sure that people’s needs as an individual, whatever diagnosis they might have, are addressed.

At this point, I should declare my position as vice-chair of the LGA and NALC. The crucial issue here, surely, is resources. I am aware that the Bill was put forward by the noble Baroness, Lady Hollins, but there are questions I would like to put to the Minister if the Government are backing it. How do we know that it will have the intended impact? How will it be enforced? We talked about ensuring that there was full consultation on the guidance, but what role might Parliament play in producing the guidance? Crucially, without further resources, how could public bodies conceivably implement this new guidance?

I come to one final area of concern, looking at the discussion of the Bill in the public realm and the way it has been discussed in the press and online, about what people advocating for it or pinning their hopes on it believe it is designed to achieve, particularly around issues concerning maternal health and reproductive rights. The Bill, of course, very directly addresses the

needs of people with Down syndrome, which legally applies only to people who have been born and therefore does not relate to the needs of pregnant women who may have received an antenatal diagnosis but do not themselves have Down syndrome. So I ask either the Minister or the noble Baroness, Lady Hollins, to confirm that, in the Department of Health and Social Care, the intention of the Bill is not to plan to develop new guidance or amend any existing guidance concerning antenatal care and existing reproductive rights as a consequence—save as it may apply, of course, to the needs of women who have Down syndrome.

11.44 am

Lord Farmer (Con): My Lords, I rise to support the Bill and congratulate my right honourable friend Dr Liam Fox, who is with us today, and the noble Baroness, Lady Hollins, on bringing it to this House. I also thank the Minister for his correspondence to me on this legislation, and I take this opportunity to congratulate him more widely on reaching the end of Report on the epic Health and Care Bill yesterday at 2.15 am, when I was with him. It was an early baptism of fire after entering this House, and a much prolonged one at that. The Bill and Front Bench teams, including my noble friends Lady Penn and Lord Howe, are also to be commended for their energy, stamina and courtesy—as, of course, are the Opposition Front Bench teams. It was a marathon.

I confess to mixed feelings about this Private Member's Bill, despite its laudable aims, because with the mapping of the human genome, many other genetic disorders have come to light. Though not as common as Down syndrome, they are not incredibly rare “black swan” events in our population, although they can seem so to the individuals and families coping with them. As I understand it, the Bill seeks to educate the public particularly about the opportunities technology now avails individuals with Down syndrome to have a better and longer life than many realise is possible; to ensure that Down syndrome is properly considered in service provision across different sectors; and to plan for future impacts of longer life expectancy for people with this condition. All these aims are just as relevant to individuals with other genetic disorders, yet they can struggle additionally to those with Down syndrome because there is still so little public and clinical awareness of the ramifications of their chromosomal abnormalities, hence my ambivalence. What guarantees can my noble friend the Minister provide that the Bill will not widen this inequality further?

I will illustrate the complexity of what these genetic conditions can entail by focusing on the second most prevalent after Down syndrome: 22q11 syndrome, the APPG for which I am a vice-chair of. But there are of course others, such as Prader-Willi syndrome and Smith-Magenis, or 17p, syndrome. 22q syndrome is caused by a genetic deletion on the longer q portion of the 22nd chromosome, meaning a small part of genetic material is missing from the DNA in every cell of the body. It is the most common microdeletion syndrome in humans. In most cases, it occurs de novo in a child's very early development, but it can be inherited. Doctors have struggled to diagnose it due to the very wide variety of symptoms

and conditions which arise from the same missing genetic material. It was only relatively recently discovered to be the one root cause for multiple diagnoses, including DiGeorge syndrome and velocardiofacial syndrome.

22q manifests itself in nearly 200 different physical and mental health issues spanning the cognitive, endocrinological, behavioural, immunological, craniofacial, sensory and cardiac. That can mean hearing and speech problems, facial abnormalities, scoliosis, calcium deficiency, eye problems, seizures and constipation, with poor development of various bodily “tubes”, as I will describe in a moment. Some 50% to 85% of those with 22q have congenital heart disease, 10% have cleft palate, 30% have kidney anomalies, 1% have severe immunodeficiency and 60% to 90% have psychiatric disorders.

One family whose baby was diagnosed within a year of his birth describe 22q as the Pandora's box, because they were never sure what new medical nasty would emerge. He nearly died at five days old because the end of his bowel had not formed properly, and sepsis took hold when he could not void meconium. Thankfully he survived, but twice a day the exhausted parents had to wash out his bowel using tubes and suction; I will not dwell on that. After several months, he was admitted for an operation on his bowel, but the anaesthetist was concerned that his throat was as narrow as a newborn's. Basically, it and his larynx had not formed properly either, which explained why he never cried but made slightly strangulated coughing noises.

Again, thankfully, he was admitted to Great Ormond Street Hospital, where they widened his throat and removed the laryngeal web which would have prevented him ever speaking. Although his parents had to travel a long way within the UK to get there, they met families who had come from other countries for the same operation, because Great Ormond Street is a centre of excellence. We cannot take such provision for granted. His heart and the vessels to and from it were also giving the many medics looking after this little boy cause for concern, and they decided to do some genetic testing. To cut a long story short, he was diagnosed with 22q.

He continues to risk becoming dangerously ill when there are colds about, due to his compromised respiratory system, so the pandemic was a tough time for his family, and he will probably always have to attend a special school because of cognitive delay. Facially he looks quite normal to the untrained eye, but his life and his parents' experience have been anything but.

Every 22q child presents in a completely unique way, and many do not get diagnosed until much later in life because of the variability in severity. Hence one of the top asks from Max Appeal, a support group for parents with 22q children, is that 22q be part of the newborn heel-prick test. A 2017 study in the *Journal of Clinical Immunology* concluded that

“the clinical characteristics, diagnosis, management, and treatment of 22q11.2 Deletion Syndrome have been shown to meet the criteria for new-born screening programmes and support the need for earlier diagnosis.”

Far less prevalent conditions such as cystic fibrosis are included, but they, like Down syndrome, are in the mainstream of medical consciousness. Without screening

[LORD FARMER]

it is very hard to determine prevalence accurately, although some studies estimate that one in 2,000 children are born with it, which would make it half as common as Down syndrome.

I mentioned my ambivalence, but my optimistic ambition for the Bill is what has been mentioned already: that it will provide an awakening for the Government and the public to this world of genetic disability. The medical establishment also has some catching up to do although, thanks to grass-roots pressure from organisations such as Max Appeal, significant progress has been made in treatment and raising awareness, which is of course what I am trying to do right now.

What guarantees can the Minister give that this Down Syndrome Bill will lead to a floor of provision for genetic disorders on which to build, not a ceiling on our aspirations for helping these unique and uniquely precious individuals and their families cope and indeed flourish despite the lifelong implications of immutable chromosomal disorders? In the meantime, I welcome the Bill and support its passage through the House.

11.53 am

Lord Wigley (PC): My Lords, I wish to speak in support of the Bill. I thank the noble Baroness, Lady Hollins, for introducing it to the House in such a comprehensive manner and I thank Dr Liam Fox, of course, for having introduced it in the first place in the House of Commons and for steering it through to get this far.

I draw attention to my registered interest as a vice-president of Mencap, which very much welcomes the Bill and the powers that it gives to create new guidance to reinforce the provision of services at local level. Perhaps I should also mention that we lost two boys with severe learning disabilities, although not with Down syndrome—rather, they suffered from one of the mucopolysaccharide group of disorders. They died at the ages of 12 and 13. We too had to make the 500-mile round trip to Great Ormond Street on many occasions, and I pay tribute to the tremendous work that is still being done there.

I have spoken many times in the House about the level of health inequality suffered by people with a learning disability. A report by Bristol University in 2020 showed that, on average, men with a learning disability die 23 years younger than those without such a disability, and women die 27 years younger than their peers in the population as a whole. They die not because of the direct impact of their specific disability but from other conditions which their disability prevents being adequately addressed. I served as a member of a special inquiry into this some 15 years ago. All sorts of promises were made at that time about improving this appalling situation, but here we are in 2022, still unable to close the gap.

This basically comes down to ensuring that everyone, whatever their learning disabilities, can access the services they need. This is the crux of this short and straightforward Bill. It is not a Bill which imposes new rights and new support on people with learning disabilities; it is to ensure that these people actually get the services to

which they are entitled and which they should be getting under existing legislative and executive provision. The fact that they are falling through the net and are not getting such support is the basis for putting forward this short piece of legislation.

The Bill requires the Secretary of State to issue guidance to a number of public authorities with regard to the additional steps which they should take to ensure that they are meeting the needs of people with Down syndrome. The public authorities who come under the provisions of the Bill are those related to the National Health Service, social care, housing, education and youth offending. By using the mechanism of guidance, the Bill latches on to a lever which Secretaries of State already have for driving forward the policy of their Government, but it extends the application into a specific sector.

The Bill applies to England only, and noble Lords may well ask why I am involved. It is for two reasons. First, every step forward which helps people in one part of these islands can be a catalyst for similar progress in other parts, as was the Wales plastic bag legislation. Secondly, if the Bill can help people with Down syndrome in England, why on earth should I not be supporting it?

The Bill has been criticised for addressing Down syndrome people specifically, when there are many other conditions generating learning disabilities which will not be covered. I would merely respond that it is better to get this provision rolled out now and to use it as a lever that may secure similar improvements for other groups of people with learning disabilities. Indeed, the ministerial guidance provided by the Bill may act as a trigger for other groups as well.

Others will argue that a small Bill such as this is a wasted opportunity for getting a major piece of legislation to support people with disabilities on to the statute book, and they usually point to Acts such as Alf Morris's Chronically Sick and Disabled Persons Act 1970. Well, it is great if an MP can get the top slot in the ballot and then gets the support of a Government willing to provide the necessary money. I came across that problem in taking through the Disabled Persons Act 1981; it was modest and limited in its scope, but it opened the door to the Tom Clarke Act of 1986, and the momentum generated undoubtedly contributed to the public mood, which demanded the Disability Discrimination Act 1995. We should never disparage small steps, as they move us forward, even in a limited way, and they can pave the way for more ambitious legislation in due course. So I am delighted to support the Bill.

11.58 am

Baroness Uddin (Non-Afl): My Lords, it is an honour to follow the noble Lord, Lord Wigley. His words echoed not only throughout the Chamber but throughout the country with mothers, families, and the individuals on whom I hope this legislation will impact.

I also support the Bill. It is a privilege to be able to take part in this debate where there is so much consensus across Parliament. I am grateful to the right honourable gentleman Dr Liam Fox in the other place and to the

noble Baroness, Lady Hollins, who has long been a heroic champion of disability rights. I remain in awe of her continuous work.

I am blessed with a 43 year-old son who lives with autism and learning disabilities, and the words of the noble Lord, Lord Wigley, touched my heart. My family has long battled with serious challenges within services. If I spoke about the experiences 40 years ago I would still be wailing, as I wailed then, battling institutional discrimination against disability rights. We as a family long resisted my son being called mad, bad or handicapped, as once was acceptable, despite legislation being in place.

I also have a son who recently became an amputee—a traumatic and heartrending experience. I cannot really say that I have learned how best to describe the impact of his traumatic incapacitation and disability as yet. I agree with so many parents and activists who have taken time to write to remind me that language is very important, and that there are no hierarchies of disabilities or of the experiences of people who are born with different abilities. So many of our loved ones face a level of discrimination and struggle for equity and social justice, even with the basic rights of education, housing, employment and social care provision. Noble Lords have already spoken eloquently and described some of the discrepancies in services and provisions, so I will not go into that. Nevertheless, although we have mostly developed more respectable language, shortfalls remain the norm in all institutions. They should uphold the dignity and equality of people who live with disabilities.

As has been said, the Bill would require the Secretary of State to give guidance to relevant authorities to meet the appropriate needs of people with Down syndrome, have due regard to and require consultation with people with Down syndrome, and, more importantly, publish a report and lay it before Parliament. However, all that could be just rhetoric and written reports if the Government do not take it seriously and local authorities and all the health and social care institutions are not mandated to do so.

The Bill has rightly received positive responses from many organisations, with the aspiration that it will support provisions, including health, education, employment and care needs, for people with Down syndrome throughout their lives. It is expected to pave the way for more equitable services for people with Down syndrome, which may result in greater parity of services and care available to other people with disabilities who benefit from statutory care provision.

It would be remiss of me not to bring the House's attention to the discussion on the Bill which has highlighted the worrying level of disparity experienced by people who live with disabilities. Regardless of the fact that many have achieved a high level of education, it appears to make no difference to their life chances, including access to employment. I know that; I am not just speaking from the reports and representations I have received. I have worked in the profession as a social worker and with families and small NGOs in my locality. I have direct experience, so these are not just words from reports; I am highlighting the experiences of many others who are unable to be in the House or the other place.

Only around 6% of people with learning disabilities are in employment so far; we have not achieved beyond that. We have a long way to go. The Down's Syndrome Association, the National Down Syndrome Policy Group and Mencap are the experts and, while welcoming the legislation, they are rightly asking how the Government will address the worrisome statistics on outcomes for all people with disabilities with regard to education, employment and so forth. For example, how will the postcode lottery of statutory and voluntary-led services be addressed?

From my personal experience over 40 years, I know that mainstream schooling for children who need specialist support remains the purview of the most elite parents. Despite the fact that I sit in this House, I never had the privilege of being regarded as one of the elite who can advocate for my son, even all those years ago. Whenever I spoke, I was regarded as if I was so mentally challenged by the fact that I was an Asian woman and my firstborn was a child with learning disabilities that, somehow, that scarred my mental ability to fight for the justice that he as an individual deserved. So many people still say that that is the case, and that is something that all Members of your Lordships' House and the other place should be concerned about. Given the many decades of inertia that have persisted in local health authorities—supposedly working in the best interests of the individual child—how will the legislation bind statutory services to their obligation to provide the necessary resources and funds?

I am pleased that Dr Liam Fox in the other place and the Down's Syndrome Association have raised important and outstanding matters of the deepest significance for these debates, so that we can meaningfully impact the lives of people with Down syndrome. This legislation is indeed an important milestone, and I agree entirely with the noble Lord, Lord Wigley, when he asserts that it will be a small stepping-stone to much advancement on disability rights. We all hope that the Bill will enable more people with Down syndrome to live with dignity and respect.

As has been stated, the House should know that Mencap supports and welcomes the Bill. It feels it could be the foundation for legislation to support people with learning disability more widely and sees this as a defining moment to set up a bigger conversation that will, hopefully, lead to a cross-government learning disability strategy.

Alongside the Down's Syndrome Association and the Down Syndrome Policy Group, the LGA is seeking urgent government assurances that they will complete their ongoing review of the special educational needs and disability system, setting out reforms and increasing mainstream inclusion, providing councils and schools with long-term certainty of funding to meet the needs of all children, and giving councils the power to hold education and health partners to account if their provision to identify and support children with SEND is inadequate. I hope the House will agree with the LGA; it has been more than a decade since the last strategy, *Valuing People Now*, was published. With all this good will in place, what plans are afoot to formulate a new national disability strategy?

[BARONESS UDDIN]

Finally, in recognising that there are parents such as me from what is termed a minority group, although our children are ethnically British in every way, one report after another of late has finally conceded that there is discrimination and disparity across all institutional services for minority groups. In the experience of people with Down syndrome and their families, who are not a homogenous group, discrepancies have been highlighted by groups such as Include Me TOO, a member organisation that advocates on behalf of ethnic-minority families who care for loved ones who live with disability. The organisation feels totally excluded from all aspects of decision-making in the mainstream, and it is clear that many of the family members seeking the organisation's support and advocacy continue to feel disadvantaged by their gender, race, ethnicity and faith while journeying through statutory and NGO services. That has left many scarred, with lifelong adverse impacts on their life chances, and negative outcomes for countless individuals and broken families. It has caused untold long-term physical and mental health damage for individuals with disability and impacted on their carers' and loved ones' well-being.

I ask just two quick questions. How will the diversity of people with Down syndrome and their families be recognised in the legislation and the guidance? How will the Government ensure that the voices of the individuals and NGOs that are consulted come from wide-ranging backgrounds and reflect adequately the needs of gender, race, cultural and faith aspects of people with Down syndrome? Will the Minister commit to leading a robust equality impact assessment before commencing the development of guidance to inform the process, and ensure that the consultation and guidance address people with Down syndrome in all their diversity?

12.09 pm

Baroness Neville-Jones (Con): My Lords, I speak on this Bill because of my membership of the all-party group and my strong interest in genetic conditions. I have a godson now reaching maturity who has a genetically-based severe learning disability which is not Down syndrome, and whose parents have had to fight hard for the whole of his life for access to the provision of services, particularly social and educational, which the rest of us take for granted will be available to us as and when we need them.

As the noble Baroness, Lady Hollins, said in introducing the Bill, its aim is to improve the provision of services and bring to an end discrimination in practice against individuals with Down syndrome—of course, we know that it is not actually legal to discriminate; the issue is what happens in the real world. And who would not wish to see this happen? If you or your child has Down syndrome, the Bill offers real hope. However—I am afraid that there is a however—this prospect has given rise, not in this House, where I recognise that the Bill has received a warm welcome, but outside to divergent and worried views about the Bill's merits and about the desirability of it reaching the statute book.

On the one hand, there are those who argue—if I might say so, I think that the noble Lord, Lord Wigley, represented this view—that, while the Bill is exclusively concerned with Down syndrome, it will in practice open the door to people with other genetic conditions getting better treatment than is currently the case. “Better to start somewhere than do nothing”, especially as, in a Private Members' Bill, the scope has necessarily to be narrow. I do not dismiss any of these considerations, nor do I dismiss the argument, but in a hard world it does not offer any guarantees of success.

On the other hand—and I am afraid that this is where I tend to stand—there are those of us who see the great danger that this Bill, which uses the device of guidance which has to be followed, to give preference in the provision of services to those with Down syndrome, with the possible result—indeed, the likely result—of those with other, less well known but equally disabling genetic conditions being denied equality of access to provision and becoming worse off than before, because funding is limited and unlikely to increase in the foreseeable future. My noble friend Lord Farmer set out in detail, with eloquence that I cannot match, that this is not a tiny minority but an increasing number of people with other disabling genetic conditions, some of which are very severe indeed, who are not included in this Bill.

What are the consequences of one group, on the basis of a pretty traditional categorisation of diagnosis being favoured, being preferred, while a large number of others are left out of account? It could give rise not to the idea that this is just a door-opener but that this is discriminatory and divisive among a community of people who face the same challenges. That would be a pretty undesirable outcome, were that to occur, dividing people with genetic conditions between sheep and goats. I put it pretty starkly because we cannot hide from the realities of life, which is that there is not enough money. That is where, if some are preferred, others are likely to get less.

I search for possible ways forward. In Committee in the other place, the Minister said something to the effect that the Government recognise that people with genetic conditions other than Down syndrome experience problems similar to those with Down syndrome and will therefore consider the overlaps and linkages between such conditions and Down syndrome, through the consultation on the development of the guidance. Your Lordships can see where I am driving. Clearly, the wording of the guidance is crucial because it is a directive to those who implement it, and therefore what it says will be followed. I take a commitment to consult on the terms of that guidance seriously but, given the potentially dire consequences for those outside the zone of preference, such a commitment is not, by itself, enough to quell my doubts about the desirability of this Bill reaching the statute book. It promises a process but not an outcome.

The timetable is now short to decide the fate of this Bill, so I appeal to the Minister. I hope that when he speaks, my noble friend, who appears to be backing this Bill, can offer some comfort on the score of non-discrimination between genetic conditions, regarding access to funding, based on fair assessment of real

needs. I do not often agree with the noble Baroness, Lady Bennett, but she was right on the money in that the issue is assessment of real needs; it is not between one category of diagnosis and another. I hope that the Government provide us with some way forward to guarantee non-discrimination. Will the Minister be willing to issue instructions, if necessary, to prevent discrimination between people with Down syndrome and those with other genetic conditions?

In 2022, this House cannot pass laws which we have reason to believe would have discriminatory effect. If we do, we can be sure that, after passage, our legislation will be challenged in the courts by an aggrieved party. I am sure we all agree that it would be best to avoid this. I look forward to hearing from my noble friend either now or, if he needs to consider the matter, before we are in Committee, on what the Government have in mind to avoid discrimination by category of genetic diagnosis and instead promote access to provision of services based on assessment of real needs.

12.17 pm

Lord McDonald of Salford (CB): My Lords, this has been a fascinating debate and I am grateful for the chance to contribute.

Most noble Lords who have spoken have supported the Bill. The noble Baroness, Lady Bennett of Manor Castle, and the noble Lord, Lord Farmer, wanted more. I understand that. I listened carefully to the noble Baroness, Lady Neville-Jones, but the fact that we cannot have everything should not mean that we have nothing at all; rather I am glad to add my voice to the chorus in favour of what the noble Lord, Lord Wigley, called “small steps”, for three main reasons.

First, this Bill can be transformative. Investing in children with Down syndrome is demonstrably worth while. I know this from my wife’s experience. For most of the last 18 years, Olivia has supported a girl with Down syndrome. Lizzie is a wonderful person, now a multiple medal-winning international swimmer, on the threshold of adulthood, with the prospect of a high degree of independence.

Secondly, this Bill is urgent. When we were children, a baby born with Down syndrome had an average life expectancy of less than 20 years. Now, a baby born with Down syndrome has an average life expectancy of nearly 60 years. This is the first generation of children with Down syndrome expected to outlive their parents. This new fact needs a new policy response.

Thirdly, the Bill could enhance the UK’s international reputation. Last week, President Zelensky told Parliament that Britain was a great nation. These days, soft power is a large part of Britain’s impact in the world. The Bill would blaze a necessary trail, as the first of its kind anywhere in the world; it will be an example that other countries will want to follow. The Bill deserves a Second Reading and, when it becomes law, it deserves to be funded.

12.20 pm

Baroness Blower (Lab): My Lords, I rise extremely briefly to add my support to the Bill and to acknowledge that the question of “nothing about us without us” is very significant.

I began teaching in 1973, and would never have found a child or young person with Down syndrome in a classroom in front of me, but things have changed and moved on significantly. When I told my daughter, who now teaches a year 4 class, that I would be in the House of Lords today to hear a debate on guidance about services for people with Down syndrome, she said, “That will be really exciting, and so necessary”. One of the things she said to me was, “There just aren’t sufficient representations of the vast range of people that there are in our society available to us to use in our classrooms”. She is a young person who definitely wanted to go into teaching because she felt that it was important to be in a classroom with a range of people with different conditions.

I listened carefully to the noble Baroness, Lady Stowell, and I share her concern that, at a time of constrained resources, there might be a tendency to say, “We have to do this; we don’t have to do that”. But I hope we are better than that. It is so important that we fund the services as they are assessed—that we fund for need, not because a particular person happens to have a particular diagnosis or condition. On that basis, even though this is a small step and there is a risk—unless we fund everything properly—that some people may feel there is privileged treatment, I wish the Bill well.

However, since some of the “relevant” bodies that appear here are school governing bodies, the providers of early years services and academy proprietors, I want to be absolutely sure that the Government will be very clear that all those institutions have a big responsibility to read, understand and follow the guidance. That is an education matter, rather than a medical one.

The Deputy Speaker (Lord Russell of Liverpool) (CB): My Lords, the noble Baroness, Lady Brinton, is taking part remotely and I invite her to speak.

12.22 pm

Baroness Brinton (LD) [V]: My Lords, I declare my interest as a vice-president of the Local Government Association. I thank the noble Baroness, Lady Hollins, and Dr Fox for their time in answering questions at yesterday’s helpful briefing, and the various people and groups who have written to me and other Peers. It was also a pleasure to support the amendments to the Health and Care Bill of the noble Baroness, Lady Hollins, on mandatory training for staff working with people with learning disabilities and autism. I am delighted that the Government agreed. I too pay credit to the noble Baroness, Lady Hollins, for her outstanding campaigning over many years for people with learning disabilities.

My Spanish nephew Alex, now in his late 30s, has Down syndrome. As a family we have seen this baby grow into a fine young man, hampered only by the perceptions of others. My sister has had to fight for his rights, be it for a Covid vaccine this year or for his medical needs over many years. She had to take on the education authorities because there was no integration at all in schools: “children like that” went to a special school that was, in reality, a hospital, with locked doors and staff in white coats. She won her campaign and he was the first child with Down syndrome to go

[BARONESS BRINTON]

to mainstream primary in Majorca. But the most important part of his story so far is that he is a fantastic sportsman. Twelve years ago he won a European championship in karate; he has also swum in national competitions, and I cannot tell you how proud we are of his achievements. Yet too many people do not see past the condition, nor understand that every person with Down syndrome is an individual and has differing needs.

Another Alex, the same age as our Alex, is the daughter of our very close friend. She went to primary school and Sunday school with our children, and now lives happily in a house near her mum, with support from carers. She is non-verbal and needs constant support when awake. She loves her house, her daily routine and her family. As with almost all people with Down syndrome and their families, it has not been easy, but for this Alex, it works.

So when I read this ambitious and laudable Bill, my first question was: how will this help people with Down syndrome and their families? Our role in the Lords is to make sure that legislation delivers the intention of a Bill and does not create unintended consequences. I share the concern of the noble Baroness, Lady Neville-Jones, that inadvertently this Bill will create a hierarchy of disability that risks doing harm to the rights of other disabled people, particularly people with learning disabilities, which may also be discriminatory.

By their very nature, the Bill and subsequent guidance will create a unique and separate focus on the needs of people with Down syndrome, as well as duties and rights that are exclusive to this group, which risks undermining the principles of equality and non-preferential access to resources across education, health and social care, and employment. There is also a danger that it may disadvantage individuals with other disabilities who do not have the same legal recourse if providers fail to abide by the guidance. Can the Minister tell me what work will be undertaken to ensure that the Bill does not disadvantage people with disabilities other than Down syndrome? If the Minister believes that no such work is required, what is the purpose of legislating to provide exclusive duties relating only to people with Down syndrome?

I am also concerned that the Bill lacks power to achieve its aims, which risks causing confusion among public bodies and people with Down syndrome and their families about their duties and their rights.

In common with people with learning disabilities generally, people with Down syndrome and their families face significant inequalities and discrimination in our society. The current framework of legislation that we have to address this includes the Care Act, the Children and Families Act, and the Equality Act. However, they have been systematically weakened by underfunding and by removing mechanisms through which people can secure redress.

Understandably, expectations have been raised very high by the Bill, yet I see evidence from the Minister that it and the resulting guidance have no power to address these deep-seated problems. For example, can he explain how it will ensure that people with Down syndrome can secure appropriate and adequate social

care and that our classrooms include additional teaching assistants? The Bill does not say that. Can the Minister provide examples of the differences he believes that this Bill will make in the context of health, social care and education?

Dr Liam Fox commented that the Bill

“sets a precedent that can be followed later on in other areas.”

That has been commented on by noble Lords this morning. Will the Minister tell me whether it is the intention of the Bill to set a precedent where each diagnosis will require a new set of guidelines and, if so, what continued role the Government see for the existing legal duties which underpin disability equality? In Committee in the Commons, Gillian Keegan said at the Dispatch Box:

“We recognise that people with genetic conditions other than Down syndrome may experience problems similar to those of people with Down syndrome, so we will consider the overlaps and linkages between such conditions and Down syndrome through consultation on the development of the guidance”.—[*Official Report, Commons, 26/1/22; col. 8.*]

I know that by giving one group rights when resources are scarce, others will not get them. I echo the question asked by the noble Lord, Lord Farmer: what happens to those who have other genetic conditions, or none, but have learning disabilities, who must rely on the good will of Ministers in the future, and to those with learning disabilities who may not fall into this category? Here in Watford, our CCG decided some years ago to close the children's respite centre, Nascot Lawn, because in its view respite care was not statutory. Children eligible for respite care have multiple and profound needs, and personal care for them has to be delivered by nurses or by family members trained by hospitals. Twice the Nascot Lawn families won High Court judgments against the closure and the removal of that respite care and the lack of proper provision.

The CCG repeatedly said that its resources were scarce and it had to prioritise just statutory services. It closed in 2018, and these children and their families have struggled ever since to get the support they need. It did not matter that their EHCPs said that these children and families needed respite care; it was all about resource. At least one family could not manage to look after their child without that respite care: being on duty 24 hours a day and every night had taken its toll. Will other people with high levels of need but who are not people with Down syndrome move even further to the back of the queue?

There is also concern that the Bill and guidance risk undermining principles concerning person-centred assessment and support, embedded in law, whether in relation to support for children and families or support for adults, by elevating the condition and suggesting that this predicts needs. That is why I gave the illustration of our two people named Alex. This not only represents a regressive step politically, by advancing a medical model of disability and elevating diagnosis over individual needs; it will also create considerable legal and regulatory complexity for local councils, the NHS and schools at a time when they are already stretched in meeting statutory duties. Will the Minister recommit to the principles of person-centred rather than diagnosis-centred assessment and support and tell me what work will be undertaken to embed this person-centred approach at every stage of the development of the guidance?

Given that it was announced in the Commons that there may be a “named person” on integrated care boards, which we have discussed at some length during the passage of the Health and Care Bill, what role will they have in ensuring the compliance of public bodies with the guidance? Will that be solely for people with Down syndrome, especially in the light of the past practices of CCGs, which I have outlined?

I will make a brief point on the proposed guidance. As my noble friend Lady Jolly said, will Ministers ensure that the principles of “No decision about us without us” ensures that the voice of people with Down syndrome is represented? Although the Commons has a mechanism to scrutinise guidance, that is not true in your Lordships’ House, so will the Minister undertake to ensure that there is time for a debate on the guidance, as it is published and debated in the Commons? As the noble Baronesses, Lady Bennett and Lady Uddin, outlined, government resources have been a real issue. The net is full of holes not through a lack of guidance, White Papers and good will but through a lack of government investment and strategic leadership for over a decade.

I think that everyone who has spoken at Second Reading today and in the Commons is passionate about ensuring that people with Down syndrome and their families can remove the current structural and social barriers that they face. The concerns that a number of Peers have raised today are important, and the Lords needs to be able do its job and to have responses from the Government in Committee and on Report to ensure that the Bill can deliver its aspirations and that it will not penalise others with learning disabilities because of a new hierarchy of resources. So will the Minister agree to meet those who have spoken of their concerns today prior to Committee, when it is clear we will be looking at a number of amendments?

12.33 pm

Baroness Thornton (Lab): My Lords, we have had a fascinating debate, in which the passion for supporting people with Down syndrome is absolutely undoubted in this House. I pay tribute to and congratulate Dr Fox, on bringing the Bill forward, and the noble Baroness, Lady Hollins, on her tireless work for those with learning disabilities over many years. These Benches have often been pleased to follow her lead and support her in this endeavour. I do not doubt that many of the 40,000 people with Down syndrome and their families will be watching and listening to this debate today, so I am happy to assure them that the Labour Benches will support the Bill at Second Reading.

We recognise that there are questions that will need to be answered during the Bill’s passage, and I am sure the noble Baroness, Lady Hollins, is aware of that. Of course, the first, identified by several noble Lords, is that singling out Down syndrome potentially misses the opportunity to ensure that authorities consider other conditions: autism, Rett syndrome and Williams syndrome. Indeed, the Genetic Alliance has contacted me to express its concern about other conditions being relegated. We do not want to create a hierarchy.

For example, as has been mentioned, antiviral Covid treatments have recently been approved for people with Covid-19 who are at the highest risk of becoming

seriously ill. Down Syndrome is at the top of the eligibility list whereas other genetic conditions that confer the same or similar risk of becoming seriously ill are not mentioned at all. We do not want to be involved in something that inadvertently creates those kinds of problems and challenges for other learning-disabled people.

However, I welcome the department’s commitment that new guidance will be formed in consultation with key stakeholders. As your Lordships’ House may know, the Health and Care Bill, which many of us here have been involved in, sometimes late at night, has finished its Report stage. I need to congratulate the noble Baroness, Lady Hollins, on the commitment that she gained only this week, and I quote her from *Hansard*:

“I am very grateful ... to the Minister and to all those working behind the scenes for reaching this point and accepting my amendment, as well as for committing to include a learning disability and autism lead on integrated care boards.”—[*Official Report*, 16/3/22; col. 398.]

My first question is that I wonder whether the noble Baroness may have inadvertently made the Bill a redundant piece of legislation because of the success that she has already had in raising the issue and getting it included in the Health and Care Bill, which we have had before us for what seems like quite a long time—the last month or so. That is my first question to the noble Baroness and the Minister. My second question to them is that I would like to be assured that the work being undertaken will not disadvantage other people with learning disabilities. I would like to be assured by the Minister that if the Bill proceeds, people with Down syndrome, in their diversity, and their chosen advocates will be meaningfully involved at every stage of the co-production of the guidance.

I am concerned about some of the rhetoric that has surrounded the Bill. I would like the noble Baroness and the Minister to confirm that the Department of Health and Social Care has no plans, as a consequence of the Bill, to develop any new guidance or amend any existing guidance concerning maternal healthcare and reproductive rights.

I wish the Bill the best, and I look forward to the discussions that we shall have about it in Committee in your Lordships’ House.

1.38 pm

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con): My Lords, I thank my friend, the right honourable Member for North Somerset, Liam Fox, who was here earlier; I thank the noble Baroness, Lady Hollins, for introducing the Bill in this place; and I thank all noble Lords for their contributions today.

Many who have spoken today have talked about their experiences of their own contact with people with Down syndrome. When I was a child growing up in Edmonton in north London, there were a couple of children in our neighbourhood who I sometimes used to play with who had Down syndrome. It is interesting to note that the words we used to describe them in those days would today be considered offensive. It is absolutely right that, as language evolves, we learn how to describe people with different conditions.

[LORD KAMALL]

On that note, I take this opportunity to thank Rachel Ross from the National Down Syndrome Policy Group for sending me and other noble Lords the appropriate language and terminology. It is important that we get this right, and I know that there is cross-party consensus on that. If noble Lords have not received that, I have a copy in my pack and I will be happy to forward it on to them.

I want to be clear at the beginning that if there are no amendments, the Government will be able to give time to the Bill to support it. I should be clear about that from the start.

We agree on the need to improve life outcomes for people with Down syndrome; that case is compelling. It is very common for people with Down syndrome to experience compounded health risks compared to the general population. Some noble Lords have made the point that people may have more than one condition. We should be aware of the statistics: nearly half of children born with Down syndrome have a heart condition. People with Down syndrome face an increased risk of early onset dementia, and the NHS recommend regular check-ups to look for these signs from the age of 30. People with Down syndrome are also far more likely to experience recurring infections and become seriously unwell. This can be life threatening. Sadly, although life expectancy has increased, the risk of death for adults with Down syndrome can be around five times higher than for the general population. Despite this, people with Down syndrome are living longer. In 1983, the average person with Down syndrome lived to 25 years old. Life expectancy is now typically around 60 and has increased substantially in recent years.

There are existing legal frameworks in place which require health, care, education and housing authorities to consider a person's individual needs regardless of their condition. However, there is evidence to suggest they have not always worked as intended for people with Down syndrome. That can be due to the lack of understanding or appreciation by commissioners and providers of services of the unique needs of people with Down syndrome, reducing the quality of care they receive and their overall life outcomes. For example, children with Down syndrome may remember and learn information in different ways from other children. This Bill is a significant opportunity to drive forward important changes, raising understanding and awareness of the needs of people with Down syndrome.

For the first time, legislation will require the Secretary of State to produce guidance to health, care, education and housing authorities about how to meet the needs of people with Down syndrome. Those authorities must consider the guidance; the relevant authorities will not be able to ignore it, and they must provide strong reasons for not following it. The practical impact of this guidance should not be understated. It will raise awareness and understanding of the needs of people with Down syndrome, and it will support authorities to recognise how to adapt services to meet those needs, ensuring that people with Down syndrome, their families and carers can get the support they need. That is why the Government support the Bill.

I recognise that there are concerns that a condition-specific Bill may be divisive. I hope that I can gently disagree, but also reassure noble Lords. This Bill is not about enhanced rights for people with Down syndrome; it is about making sure these identifiable and unique needs are not overlooked when planning, designing and delivering services. The Government have committed to develop the guidance through inclusive consultation with all interested parties, including some of the organisations named by noble Lords and, of course, people with Down syndrome and their families, those operating services and the organisations and individuals that represent people with Down syndrome. In the other place, as noble Lords have acknowledged, the Minister of State for Care and Mental Health made a clear commitment that in developing this guidance we will consider the links and similarities that Down syndrome has with other conditions. This consultation will make sure that all the available evidence and experiences can be considered to identify what support and interventions will best meet people's needs.

We anticipate that the guidance will be published within a year of the Bill receiving Royal Assent, should it do so. At that time, Members in the other place and your Lordships will have the opportunity to scrutinise the guidance when it is laid before Parliament. Of course, people with Down syndrome and their families need to feel confident that this guidance will not be ignored—that it will result in action, and there will be avenues available to them if they do not believe they are receiving the appropriate care and support. There will be accountability at local level to make sure that this guidance is implemented. The Government made the commitment in the other place that statutory guidance relating to the Health and Care Bill will require ICBs to have a named person overseeing how the guidance is implemented and taken into account in practice.

I reassure your Lordships that this does not restrict the oversight to health and care authorities. ICBs are required to work with local authorities to establish integrated care partnerships, which bring together organisations to decide how to best address public health needs, including housing and education provision. The guidance will be subject to regular review to make sure that it remains current.

If noble Lords will allow me, I shall try to address some of the specific questions that were asked. It is important that I try to answer them. In response to the noble Baroness, Lady Jolly, officials are talking to stakeholders about this Bill, including the Down's Syndrome Association and the National Down Syndrome Policy Group, to understand how it fits in and alongside wider policy on learning disability. We will keep the guidance under review and expect to update it periodically as policy and practice changes. I hope that this will be living, learning guidance, rather than just something that sits on dusty shelves for years. If we think about how our language and understanding has evolved, of course it is only right that we update that guidance as research increases and we learn more about this condition and other genetic conditions.

I am afraid that the reality is that it is difficult to say when an in-the-round look at services for people with Down syndrome was last done. In some ways, the fact

that we cannot directly answer the question of the noble Baroness, Lady Jolly, highlights the need for this Bill and to shine a light on this issue. It is through wide consultation that we will determine the appropriate and best practice of this service for people with Down syndrome. I hope that noble Lords will contact me, as the Minister responsible, if they are contacted by any organisations which say that they have not been included in the consultation. I know that sometimes, noble Lords kindly apologise for writing to me, but that is my job as the Minister, and I accept that I should be held to account in this place. I hope that noble Lords, if they feel that any organisations are being ignored, will write to me.

The noble Baroness, Lady Bennett, rightly raised concerns, which we have received, regarding how this relates to abortion. For the avoidance of doubt, the Bill is limited to the needs of a person with Down syndrome after they are born. This means that it does not address abortion. This Bill gives authority to the Secretary of State to produce statutory guidance which will clarify existing frameworks and practices. Statutory guidance cannot be used to amend primary legislation such as the Abortion Act. By setting out in statutory guidance the steps that would be appropriate for health authorities to take when providing services and support to people with Down syndrome and their families, we believe there will be a wider positive impact for expectant parents who are told their unborn baby may have Down syndrome. However, the Bill is still about the child after they are born.

I thank my noble friend Lord Farmer for engaging with me on this issue. The Government rightly recognise that people with other conditions may experience similar problems. This is why I reiterate the commitment made by the Minister in the other place that we will consider the overlaps and linkages, as my noble friend Lady Neville-Jones said. We recognise the concern about services prioritising different groups of people in a way which is not focused on assessing people's needs. I point out that any preference of which noble Lords may be fearful would be unlawful under the Equality Act 2010. The guidance is about making clearer the steps that could be taken to meet the unique needs of people with Down syndrome. This is something the guidance could emphasise strongly. We will engage and consult upon this in detail when developing the guidance.

Turning to one of the issues raised by the noble Baroness, Lady Uddin, I hear the concerns expressed about consulting with people with Down syndrome and other conditions. We are committed to ensuring that this guidance works, and that it evolves as we learn more. We believe that the best way of addressing this is to do it once the Bill has passed. Issues were also raised about the completion of the SEND review. Unfortunately, it has been delayed due to the pandemic. Also, the pandemic has highlighted some very real issues, and exacerbated some of them. Therefore, even though it is irritating that it has been delayed, it is only right that we take advantage of the light which has been shone upon the exacerbation of those conditions to ensure that we have appropriate guidance.

The Department for Education plan to publish proposals arising from the review of a public consultation by the end of this month. It is important to hear from a wide range of people, including the noble Baroness, Lady Uddin, given her years of experience, as well as the many organisations with which she has worked over the years. I emphasise that this is not about giving preference to people with Down syndrome. It is clear that to do so would be illegal under the Equality Act 2010.

In conclusion, I know that there are noble Lords who have concerns about this, and I am grateful to the noble Baroness, Lady Thornton, for her commitment that she will support the Bill. I make a plea to all noble Lords. Given, as my noble friend Lady Neville-Jones said, the time frame and the amount of legislation we trying to get through, if this Bill is amended, it may well fall.

Some of your Lordships may have read the Robert Caro biography of Lyndon B Johnson. In that book, it talks about his amazing career and at the end, one of the things it covers is the 1957 Civil Rights Act. That was criticised by a lot of people for not doing enough. Johnson's plea to them was, "Let's take this, bank it and build on it". That led the way to the 1964 Civil Rights Act. Now I am not saying that I want to equate those Acts in any way with the Bill, but they are about recognising issues that ought to have a spotlight shone upon them.

I therefore make this plea to noble Lords: let us together take this step. Please let us support the noble Baroness, Lady Hollins, for all the work she has done and for the way she has pushed the Government during the Health and Care Bill and highlighted many of these issues. One of the things I find as a Minister in this place is how much I am still learning daily, about not just my portfolio of technology, innovation, life sciences and international relations but the many conditions that people have, and what more we can all do to help them. I hope that noble Lords will feel able to support the noble Baroness, Lady Hollins, and not amend the Bill, otherwise we risk not taking that first step.

Baroness Neville-Jones (Con): My Lords, on the basis of what my noble friend the Minister has just said, is he open to further discussion on the Bill between now and Committee? I did ask, but I do not think he said whether he was ready to talk further. I think there are perhaps others in the Chamber who might be interested.

Lord Kamall (Con): I hope the noble Baroness will not take this personally and I am sorry I forgot to answer that specific question. I am sure noble Lords will recognise that a number of questions were directed at me. I hope they will also recognise that I always try to answer as many questions as I can, and we go through *Hansard* to make sure that we sweep up afterwards, as it were, and write to noble Lords. I will of course be happy to have further conversations. It may be me or the relevant Minister at other times, but I am very happy to make sure that there is a Minister who will consult with the noble Baroness, and with any other noble Lords who feel that their concerns are not being heard enough; we can make that commitment.

12.52 pm

Baroness Hollins (CB): My Lords, I thank all speakers today for such a stimulating and informed debate, and others who were unable to be present, including my noble friends Lord Crisp, Lady Watkins and Lady Campbell, and the right reverend Prelate the Bishop of Durham, who had hoped to speak. I also thank David Nuttall, the Department of Health and Social Care civil servant who leads for learning disability, for his advice and help in preparing for today, and the Minister for his assurances.

I hope to reassure the noble Baroness, Lady Bennett, that there is no intention or possibility of this Bill affecting women's reproductive choices. The Bill gives authority to the Secretary of State to produce statutory guidance which will clarify existing frameworks and practices. It cannot be used to amend primary legislation, such as the Abortion Act. The noble Baroness also mentioned that the Down's Syndrome Association was not involved in drafting this Private Member's Bill. I have spoken to the chief executive of the association at some length. When I asked her about the Bill, Mrs Boys said it would be more divisive to stop the Bill than to let it pass, and that it would be more constructive to work alongside others to ensure this guidance is as effective as possible. She told me that she supports it.

If amendments are laid, the Bill will be killed. If there are no amendments, Third Reading will take place on 1 April. If the Bill does not pass, it will fall into oblivion—yet again, out of sight and out of mind. There will not be another Bill for learning disability to replace it. The desire for the perfect is so often the enemy of the good. People who know me well know that I am absolutely committed to empowering people to be fully involved—it is absolutely “Nothing about us without us”. Would it not have been good if somebody with Down syndrome could have stood here today to speak about it?

In the other place, there was a commitment to ensure co-production of the guidance. The co-production and co-delivery of training is embedded in the Oliver McGowan mandatory training amendment, which we have spoken about and which was approved just two days ago. I believe assurances from Ministers that the consultation on the development of the guidance will be fully inclusive.

The noble Lord, Lord Farmer, spoke about 22q deletion syndrome. I know that the Minister in the other place specifically acknowledged that people with similar needs as people with Down syndrome would also be considered in the guidance. I believe that the Bill is another step on the way to improving access to the health, care, education and housing that all people with Down syndrome are entitled to in their desire to live fully participating lives in our shared world.

The former US President Calvin Coolidge said:

“Nothing in the world can take the place of persistence.”

I commit to continuing my drive to see people with Down syndrome and all people with learning disabilities lead full and healthy lives—ordinary lives—in inclusive communities. I believe that the first step to increase awareness and support for person-centred care for

people with learning disability is to talk about it. The discourse in Parliament itself on this Bill is part of the jigsaw. Noble Lords will know that this was my approach in raising the issue of mental health up the agenda—first, get it on to the agenda. I am an optimist. I beg to move.

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

Motor Vehicles (Compulsory Insurance) Bill *Second Reading*

12.56 pm

Moved by Lord Robathan

That the Bill be now read a second time.

Lord Robathan (Con): My Lords, this is a very straightforward Bill and I trust that it will be uncontroversial. It was introduced in the other place by my honourable friend for Wellingborough, Peter Bone, but there was, before that, an excellent debate—which I commend to anyone who wishes to read it—in Westminster Hall on 22 September last year, which was led by my right honourable friend for Chipping Barnet, Theresa Villiers, whose speech I will refer to extensively.

The essence of the Bill is that it removes EU rules that were created by an ECJ judgment in the Vnuk case. For background, if I might explain, Mr Vnuk was the victim of an accident involving a reversing tractor inside a barn in a farmyard in Slovenia. He took his compensation claim to the European Court of Justice. In the United Kingdom, an incident of this nature would be covered by our compulsory employers' liability insurance regime, but not all EU member states have such a scheme to protect employees in the workplace.

In its 2014 judgment, the ECJ therefore shoehorned Mr Vnuk's compensation claim into the EU's motor insurance law. In so doing, it extended the scope of compulsory motor insurance to accidents on private land involving a very broad range of vehicles—essentially, anything with wheels and a motor that does not run on rails, no matter where it is used or for what purpose. This is, of course, manifestly different from the compulsory motor insurance requirements in the Road Traffic Act 1988, which applies to all vehicles that are permitted to be used on our streets and roads.

The UK's approach to compulsory motor insurance has been consistent since the 1930s. It is proportionate and it works. However, Vnuk had direct effect in EU law, which means that it forms part of the retained EU law that we imported on to our domestic statute book via the European Union (Withdrawal) Act 2018. As a result of cases in the UK courts, such as *Lewis v Tindale*, the UK's compensation fund for people injured by uninsured drivers will now be obliged to pay out in the circumstances covered by the Vnuk judgment. For those who are not aware, the UK compensation fund is covered by the Motor Insurers' Bureau, to which I

am grateful for its advice. Every driver who takes to our roads funds the scheme through his or her motor insurance premiums.

The combined effect of the Vnuk and Lewis cases and the 2018 Act is that the scheme now has to bear very significant costs for which it was never designed, and motorists are of course left picking up the bill. Let us be clear: we are talking about accidents on private land, in private gardens, in farmers' fields, on golf courses, inside supermarkets, banks and offices—the list is long. These are places where what has happened, or even the fact that anything that has occurred at all, will often be difficult to establish with any clarity, which gives rise to worrying opportunities for fraud.

Now, if this ruling stands, the Government Actuary's Department estimates that the annual costs to the Motor Insurers' Bureau—and, therefore, to every driver in the country—could rise to over £2 billion. This equates to £50 on every vehicle insurance premium. Probably, of course, it would be more on younger drivers, who are seen as a bad risk.

This situation, and the ruling, have been heavily criticised. The EU is currently changing the rules—it is in the period of, I think, two years in which it has to change them—and changing the law, and the European Parliament's rapporteur described the case's consequences as “absurd overregulation”. It is a huge irony that we in the UK, having left the EU, are still stuck with a piece of law that the EU has changed. This is because it is now part of the retained EU law at the end of the transition period. It is an unfortunate and probably rather foolish omission on behalf of the UK Government.

This Bill puts that right. I want to be clear that this current law—the Vnuk law—covers mobility scooters, golf carts, sit-on mowers, quad bikes, the lot. I mention the last because a Conservative MP was fined a decade or so ago for driving his quad bike 100 yards along a public road, so the law works. He had no insurance; he was photographed by hunt saboteurs and prosecuted—I will tell people who it was if they want to ask me later.

I repeat that employers' liability insurance is compulsory. As a farmer, for instance, I have third-party liability insurance, as do almost all farmers and as do golf courses and people like that. This Bill restores the situation, the status quo ante, before the Vnuk judgment. Various road traffic accidents will determine the insurance requirements. If we wish, at some stage, to determine that change is needed in the future, that will be achieved by proper legislation properly considered by Parliament. The Bill was not opposed, nor amended, in the other place. It has the support of the Government and, as I understand it, of the Opposition. Indeed, I shall close with the comments of the honourable Member for Bristol East—Kerry McCarthy, the shadow Minister for Transport—from 22 September:

“we have operated under the scheme set out in the Road Traffic Act for many decades. It is proportionate and it works.”—[*Official Report*, Commons, 22/9/21; col. 181WH.]

I beg to move.

1.02 pm

Lord Rosser (Lab): As the noble Lord, Lord Robathan, said, the aim of this Private Member's Bill—introduced in the Commons by the Conservative MP Peter Bone—is

to reverse a 2014 decision of the Court of Justice of the European Union that expanded the types of vehicles required to have compulsory third-party motor insurance. It received government support and, indeed, the Minister has written to me—for which I thank her—confirming the Government's support for this Bill in the Lords and encouraging me to support it likewise.

Judging by the length of the list of speakers, I think that it could hardly be described as a Bill which has got the pulses racing in your Lordships' House. Three speakers are listed and all three of us are here because we have to be here. This Bill appears, so far, to have been met with one long yawn in your Lordships' House.

The Road Traffic Act 1988 limits compulsory insurance to drivers of vehicles on roads and in other public places. This legal position, as has been said, was altered by a decision in 2014 by the Court of Justice of the European Union which extended the requirement for compulsory motor insurance to include vehicles used on private land and to vehicles not constructed for road use. The ruling continued to have effect after the UK left the EU as part of retained EU case law.

According to the Government, the ruling would have led to a rise in motor insurance premiums because claims resulting from the expanded range of vehicles specified in the ruling are admissible by the Motor Insurers' Bureau, the MIB being a statutory body that operates a compensation scheme for victims who have suffered injury or loss as a result of uninsured or untraced drivers. The scheme is funded by a levy on motor insurance companies, with the costs of the levy ultimately capable of being passed on to motorists through increases in insurance premiums. The MIB is also responsible for meeting claims made by victims of accidents arising from the use of vehicles on private land, hence the significance of the ruling by the Court of Justice of the European Union as far as the MIB is concerned. As a result, an increase in the scope of claims payable by the MIB, such as that brought about by the ruling we are discussing, could increase insurance costs for motorists.

In her response, can the Minister clarify whether—and, if so, from when—the 2014 CJEU ruling has been applied in the UK? If it has—I am not sure it has—what has its impact been on insurance costs? If it has not, from when would it have become applicable had we not left the EU? The Government say that the ruling could lead to an average increase in premiums of £50 for each motorist.

In the Commons, the mover of the Bill stated that the CJEU ruling had led the EU to revise its European directive but that:

“The revisions it has made will fail to protect motorists in the EU from the associated costs of the compulsory insurance requirement on private land.”—[*Official Report*, Commons, 28/1/22; col. 1209.]

As the Government are supporting the Bill, can the Minister confirm that the EU's recent revisions to its European directive do not affect the Government's assessment that the ruling could lead to an average increase in premiums of £50 for each motorist—in other words, that the £50 figure relates to the EU directive as now revised and not as it was at the time of the CJEU ruling?

[LORD ROSSER]

The Association of British Insurers has stated that the additional insurance cover brought about by the CJEU ruling was not necessary in the UK because the claim would already have been covered by other insurance policies, such as compulsory employers' liability and public liability. The Minister's letter to me states that the Bill

"provides only positives: savings for motorists without any real reduction in consumer protection due to existing protections such as employers' and public liability".

What is the significance of saying "any real reduction", as opposed to the completely unambiguous "any reduction"?

Would the CJEU ruling have led to greater protection for vehicles covered by the ruling—that is, vehicles used on private land; and a potentially greater range of vehicles, including non-roadgoing vehicles—than is provided at present by compulsory employers' liability and public liability? In the context of that question, I refer to paragraph 19 of the impact assessment, which states:

"Bespoke insurance arrangements exist in the GB (and predate the Vnuk decision), such as employers' liability and public liability insurance policies that cover some of the risks on private land. However, these do not provide as much cover as the Vnuk decision, but we consider that these are more appropriate forms of insurance to cover these risks, rather than motor insurance."

Maybe I am misinterpreting it, but to me that paragraph suggests that the CJEU decision would provide greater cover than the existing arrangements under employers' liability and public liability insurance. I would be obliged for a government response on that point.

This Bill will not reduce insurance premiums for motorists. The argument is that premiums will not go up as much as would otherwise have been the case if the CJEU ruling was implemented and that the additional cover provided by the CJEU ruling is already covered in this country by other insurance policies. If that is the case—and I have asked questions on that and on other points—we are not opposed to the Bill, and that stance is in line with the position we took when the Bill went through its Commons stages.

1.10 pm

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, I thank my noble friend Lord Robathan for bringing forward this Bill, which, as he noted, has already had a successful passage through the other place, and I thank the noble Lord, Lord Rosser, for his considered and thoughtful contribution. There is not much more that could be said about the Bill, but I am here as the Government and so I will put our view on record.

This is an important issue, and the Government have been clear since 2014 that they do not agree with the European Court of Justice's ruling in the Vnuk case. That is why the Government support the Bill. The Vnuk decision created an unnecessary extension of motor insurance to private land, as well as to a potentially greater range of vehicles that could include everything from motorsports to agricultural and light vehicles. The excessive liabilities that this would place

on the insurance industry and the potential increases to motorist's insurance premiums are simply unacceptable and unnecessary. These liabilities and potential increases are not trivial. As noble Lords have pointed out, the Government expect that it could cost the industry about £2 billion a year.

Furthermore, if Vnuk had been implemented in full, it would have had a catastrophic impact on the motorsports industry. Drivers would have been likely to be required to purchase motor insurance to compensate injury caused to other drivers, stewards and spectators. Motorsports in the UK are safe and highly regulated. Employers' liability and public liability already provide a high level of protection. Adding a motor insurance requirement would have brought little benefit at a very high cost—some £458 million per year—had Vnuk been implemented.

Stakeholders have consistently informed us that this would have been prohibitively expensive for the sector, effectively making most of the sector unviable. The sector turns over almost £3 billion annually and generates full-time employment for around 38,000 people and part-time work for a further 100,000 people.

This is why we announced in February 2021 that we will remove the effects of Vnuk from GB law. We said that this would include removing the associated financial liability imposed on the Motor Insurers' Bureau via the decision in the England and Wales Court of Appeal case of *Lewis v Tindale*.

I should note that colleagues in Northern Ireland are also progressing legislation in this area, and the Motor Vehicles (Compulsory Insurance) Bill completed its legislative passage in the Assembly earlier in March and is expected to become law by May this year.

There are other positive elements to the Bill. It will ensure that there is consistency across GB and, if the Northern Ireland Bill becomes law, which looks extremely likely, across the UK, which would be very welcome. It also heads off potentially enormous enforcement complications. Had we implemented Vnuk, the police would potentially have been required to monitor newly in scope vehicles never intended to go anywhere other than someone's garden. The difficulty in gaining access to sites of collisions on private land may have led to the need for additional police powers and could also have had the practical effect of lowering the enforcement rate of uninsured vehicles and encouraging crime.

Implementing Vnuk would have meant that a huge range of newly in scope vehicles would suddenly have been required to be registered on the DVLA database, with license plates required—imagine having to register and stick a license plate on your ride-on lawnmower.

Turning to the questions from the noble Lord, Lord Rosser, I will write to him with further details because I sense that I probably do not have full answers to his questions, and they are very good ones. When we were a member of the EU, the Government continued to work on implementing the binding Vnuk judgment, which would have required very complex changes to our law. While the Government have always been clear about our dislike of Vnuk because of its significant negative impact, we have been equally clear that we had a legal obligation to change the law to reflect Vnuk, and we took a number of steps to respect those

obligations. This included a consultation in 2016, which analysed the implications of the ruling and explored policy options. In parallel, we negotiated with the EU over what form the binding Vnuk judgment would take in its translation into the 2009 EU motor insurance directive. As soon as the transition period ended, the Government moved quickly to address this issue, but the pandemic and other challenges have combined to impose unique pressures on the Government, and resources have needed to be deployed accordingly. That is why I am so pleased that this Bill is likely to get the support of your Lordships' House today.

On the second area that the noble Lord raised, I am afraid I will have to go back to *Hansard* and read his question about the £50 and whether it applies to the previous EU law or the current proposed EU law. I will write to him with more details.

On the phrase “real reduction”—rather than any reduction—of course, in any of these circumstances there will always be very small considerations. You could say, “Ah, but what about this and what about that?” That is why the Government are very pleased that we can look at those circumstances, now that we are outside the EU. We will keep our regulations relating to insurance under review, because we are always looking to improve the protection of victims and to improve safety, and will consider what else we might do should any gaps become clear. But it is the case that the Vnuk judgment resulted in an overbearing requirement for insurance in areas and on vehicles that it should not have.

The Bill does not have retrospective effect, and it will come into force two months following Royal Assent. All the provisions in the Bill will comprehensively remove the effect of Vnuk and Lewis from GB law. For these reasons, the Government support the Bill and welcome the great progress that it has made to date.

1.17 pm

Lord Robathan (Con): My Lords, I thank my noble friend the Minister for her detailed explanation of the Government's position, which was most useful. I also thank the noble Lord, Lord Rosser, from the Opposition Front Bench, for what I thought were very sensible questions. I think it has all been said, so I feel no requirement to detain the House any further. On that note, I commend the Bill to the House.

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

Animals (Penalty Notices) Bill *Second Reading*

1.18 pm

Moved by Lord Randall of Uxbridge

That the Bill be now read a second time.

Lord Randall of Uxbridge (Con): My Lords, I beg to move that this Bill be now read a second time. I am delighted to be sponsoring this Bill here in your Lordships' House this afternoon. It was steered successfully through the other place by my honourable

friend Andrew Rosindell MP, who, as I think many Members in this House will realise, is a real champion of animal welfare.

The Bill will be part of the landscape of change that our farmers, animal keepers and animals deserve. I do not think I am speaking out of turn when I say that our high standards of animal health and welfare are something of which we as a nation are rightly proud. The Bill introduces a valuable addition to our enforcement tools to promote early redirection and positive behaviour change for those failing to meet these standards.

Let me give some context to the intention of the Bill. I apologise to noble Lords: I am normally very keen on making speeches as brief as possible, but I think it is worth getting as much as possible on the record—words I used to hate when I was a Whip—because not everybody will be here today to hear these words and it may give them some reassurance before we go further. I want to give an overview of the cross-compliance scheme, which currently sits under the EU common agricultural policy. Cross compliance is a system linking CAP payments to regulatory compliance, because the major vehicle for enforcement of standards on farms and its application of payment deduction is widely regarded as disproportionate. In this scheme, automatic and sometimes swingeing financial penalties can be imposed for non-compliance. Agricultural strategy and policy have been shaped by the CAP for more than 40 years. Now we have left the EU, we have an opportunity to replace this regime with a more proportionate and flexible approach.

As CAP payments wind down and with cross-compliance ending in 2024, there will be a wide enforcement gap between issuing advice and pursuing criminal prosecution. This would allow many offences to slip through the net without appropriate and proportionate recourse. We have an opportunity here to close this gap, improve enforcement on farms and provide new, more consistent penalties. The reason I say “more consistent penalties” is that, with this Bill, we have extended beyond farm animals to include all kept animals, including companion animals and zoo animals, as well as animal products and by-products. Penalties have been designed as the proportionate approach to redirect behaviour when animal keepers and businesses are falling short of the standards required of them. Defra Ministers have given assurances in the other place that penalty notices will not be appropriate for more serious offences—that is important. For these offences, prosecution is still the most appropriate course.

Just as the animal health and welfare pathway will provide advice and positive incentives to produce even healthier, higher-welfare farm animals, it is important to note that enforcement action starts with advice and guidance. It is important to give individuals a chance to comply before financial penalties are issued. The framework for penalty notices in the Bill will apply across animal health, welfare and biosecurity legislation. The measures in the Bill form part of a broader approach to maintaining and enhancing high domestic animal health and welfare standards, enhancing productivity and giving confidence to consumers and, indeed, international trading partners.

[LORD RANDALL OF UXBRIDGE]

The Government published an *Action Plan for Animal Welfare* in May 2021, which sets out a range of reforms to ensure that the welfare of all animals builds on the UK's high standards of animal welfare. These penalties are not intended to replace or substitute any of the other enforcement options we currently have, nor does the Bill introduce any new offences. It is not a stand-alone tool and we expect penalty notices to be used after or alongside advice, guidance or, indeed, an improvement notice. A financial penalty highlights the importance of complying with the rules and rectifying the issue. The use of the penalty notice does not mean that an individual can pay to shirk their responsibility: they would still need to put the issue right.

I shall give a brief overview of the content of the Bill as it is written. Again, I apologise for going through this, but it is important. Clause 1 defines the scope of legislation covered by the Bill and the role of enforcement authorities in issuing these penalties. It also sets out who the enforcement authorities may be. The Bill states seven pieces of primary legislation that it covers. I want to be clear that the Bill does not alter or create any new offences. Only the primary legislation and any subordinate legislation under that will be covered by these penalties. It covers only kept animals—so, for example, if something is not an offence already, this Bill will not make it an offence.

Clause 2 details the role of constables in issuing penalty notices under the Dangerous Dogs Act 1991. Clause 3 is the workhorse of the Bill: it sets out the structure, including the maximum penalty, which is £5,000—I emphasise that that is a maximum penalty—with a reduction of 50% if the fine is paid within 14 days. It also specifies the burden of proof, which sets out that the enforcement authority must be satisfied beyond reasonable doubt in order to issue a penalty. Clause 4 details the measures in place to ensure that the Bill is a reasonable one. It sets out the matters that must be considered consistently by enforcement authorities to give protection both to the enforcement authorities and the individuals who receive penalty notices.

Clauses 5 and 6 state the responsibilities of enforcement authorities once a penalty notice has been issued. This includes the need to surrender any profits to the Consolidated Fund and the need to report annually on the usage of those penalties. In doing so, enforcers will be able to fund their enforcement of the law, but they will be unable to use these penalty notices as a revenue-raising tool—that is important.

Clause 7 emphasises that this is an enabling Bill and the usage of penalty notices will be determined by government, as it continues to engage with stakeholders, many of whom have acknowledged that this will be where the detailed work begins. It is also very important to emphasise that.

Clause 8 gives key definitions, including for local authorities, which by definition also includes unitary, district and metropolitan councils. Finally, Clause 9 gives information on the extent and commencement of the Bill.

I will refer back to a point I made about the type of offences that would be suitable for penalties. I have said that these financial penalties will not be suitable

for the most serious offences. I know that officials in Defra have discussed this at length with key stakeholder groups. Animal cruelty offences are severe crimes that should face the full force of the law and the Bill does not intend to dilute their severity. The Animal Welfare (Sentencing) Act introduced longer prison sentences for crimes against animals and the Bill will not impede its operation.

As has been stated in the other place, these penalties are not to be used for severe offences that should be dealt with by the courts, if there is a concern that the Bill might water down the seriousness with which we respond to severe crimes. I reassure noble Lords that that is not the intention of the Bill; in fact, it is drafted to avoid this. The farming community understandably has a strong desire to understand how penalty notices will be used in practice. As I and others in the other place have said, penalty notices will not be issued for acts that should be prosecuted.

If noble Lords do not mind, I will talk through an example of where a financial penalty would be appropriate; it relates to bovine tuberculosis and the movement of animals. Post-movement tests are mandatory for cattle moved into parts of England with low TB risk from higher-risk areas. This is an important control that helps to protect the east and north of England. Within the areas in England with low TB risk, there may be less awareness of the implications of having to live with the disease because it is currently not a major concern for most who farm there. In many cases, a reminder of why it is important to comply with statutory disease controls will have the desired effect—but, for some individuals, that may not be sufficient. So although not testing is an offence, it is often not a proportionate measure to prosecute. A notice would be issued to the farmer to resolve the issue in a timely manner by carrying out the test. If it is not resolved, a penalty would be issued to highlight the importance of complying with the notice and reducing the risk of spreading the disease. I trust that this gives both noble Lords and indeed farming NGOs a greater understanding of where penalty notices will add value to our enforcement abilities.

I reiterate that the Bill extends beyond animal welfare alone: it covers legislation spanning health, welfare, biosecurity and animal by-products. The majority of offences captured by it fall under those other areas. For these offences, there is currently a gap in our enforcement options between advice and prosecution. Penalty notices are an additional tool, to be used alongside other tools to influence behaviour change.

Penalty notices are not a new introduction to the world of enforcement and, as many of your Lordships will know, they are already used in both civil and criminal enforcement regimes. England uses financial penalties for minor environmental offences, such as littering: a person who drops a cigarette butt on the floor may find themselves receiving a £50 fine. Although all environmental offences are wrong, we can see how this offence, compared to more serious environmental crimes, would be suited to a fine instead of pursuing a court case as a first step. This is the aim of the Bill: to introduce a financial penalty system that works for

animal health and welfare offences too severe for just advice and guidance, yet not severe enough that pursuing a court case is an appropriate first step.

The devolved Administrations are also introducing financial penalties in the animal health and welfare space: Scotland introduced powers in 2020 to be able to introduce financial penalties in secondary legislation, and Wales has published a White Paper with proposals to use civil sanctions for relevant animal health and welfare offences. The Government are proposing criminal financial penalties in England so that we can have the option to still pursue court action in the event that an individual chooses not to pay the penalty.

The Bill itself introduces enabling powers, and much of the detail will be determined in the secondary legislation and formal guidance that is yet to come and which will be laid before Parliament. This Government have committed to ensuring that penalty notices are applied fairly by building on the matters to be considered in Clause 4; this is one of several safeguards in place.

It has been reiterated many times in the other place that officials are committed to working closely with stakeholder groups to make sure that these penalties are applied fairly and proportionately. I wish to highlight that commitment here, as I am sure my noble friend the Minister will do later. I make particular reference to my honourable friend Victoria Prentis MP, for her commitment in the other place.

It has been identified that the farming sector could benefit from a consideration period of two weeks, during which the inspector or enforcement authority takes some time between identifying the problem and issuing the penalty notice. This consideration period would allow for the issue to be put right and, if it is not, a penalty would be issued. After this consideration period and the issuing of a penalty, there is an additional safeguard in place: if an individual disagrees with a penalty they have been given, they have the option simply not to pay it. In this case, the enforcement authority would choose whether to pursue court action or not.

Let us not underestimate the significance of this safeguard. Enforcers would need to ensure sufficient evidence was collected to prove the guilt of the individual in order to take the case to court. This is no small task, and it is an extremely powerful safeguard, which I trust reassures noble Lords that these penalties will not be applied over-zealously. Although officials have identified the farming sector as one that would benefit from a consideration period, that does not mean that every offence or sector would benefit. The framework will allow for the issuing of on-the-spot fines and more delayed issuing if there is a consideration period in place.

I highlight that penalty notices will be tailored to fit the offence, and the animal sector in which it applies. Defra has committed to engaging fully with industry and other experts to decide how penalties will be used in practice. The general public, as well as noble Lords in this House, care greatly about animals in this country. This Bill is a small but important step towards improving the way in which we positively change behaviours that are harmful to the health and welfare of animals, as well as the biosecurity of our nation. The current

enforcement toolkit needs additional options to tackle offences that are too severe for just advice and guidance, yet not severe enough for immediate criminal prosecution. This is a strong but simple tool that will clearly communicate the importance of following the rules we have in place.

To sum up, the Bill is broadly supported by the House, by animal health and welfare organisations and by the public. I beg to move.

1.32 pm

Lord Carrington (CB): My Lords, I declare my interests as a farmer, as set out in the register, and my membership of the National Farmers' Union, which broadly welcomes and supports this Bill.

Like the noble Lord, I welcome this Bill, which fills an important gap in animal health and welfare legislation. My one concern—and this is the same issue raised by the noble Lord, Lord Randall—relates to the lack of a defined appeal procedure in the primary legislation. Happily, the Farming Minister in the other place has now provided some clarity and assurance that discussion with involved parties will be at the centre of any enforcement proceedings and will be covered in secondary legislation. This will enable farmers to give reasons for an appeal before facing the blunt instrument of a penalty notice charge, which is important in cases where there is a misunderstanding or misinterpretation on either side. Without this assurance, the farmer has a choice only of paying the penalty or facing prosecution. A simple, specified appeal process before a prosecution would save a lot of time, aggravation and money for all concerned. Could the Minister reconfirm that that assurance will be covered in secondary legislation?

I make one other observation in relation to animal cruelty and the application of penalties. Like other sheep farmers in the Chilterns, we have faced an increasing number of attacks—including the horrific gouging out of newborn lambs' eyes, and their consequent deaths—by ravens and red kites, both of which, despite their growing numbers, are protected birds and for which farmers cannot obtain a licence to kill. Only this morning—I do not exaggerate—I witnessed such an attack on a lamb by a raven. Surely, licences to shoot these birds should now be considered.

It seems a terrible irony that a farmer can be prosecuted but not those kites and corvids. Perhaps, however, the Minister could consider penalty action against those who introduce or release previously extinct and dangerous species, whether bird or mammal, into our countryside without also introducing the means to control them. Perhaps this could be covered in the animal sentience legislation, like the suffering of crustaceans. Surely, lambs have feelings too?

1.36 pm

The Earl of Shrewsbury (Con): My Lords, I congratulate my noble friend on bringing forward this Bill to your Lordships' House today; I believe it to be a most worthwhile Bill. I, too, was initially approached by the Whips' Office to promote it, but, thank heavens, my noble friend, who is always most knowledgeable and a stalwart on matters concerning animal welfare, piped

[THE EARL OF SHREWSBURY]

me to the post—I use that expression as it is a racing day, the Cheltenham Gold Cup. He possesses a much wider knowledge of these issues than I do.

I declare an interest as a non-farming member of the NFU, and as a member of BASC and of what was the Game Conservancy, the GWCT. I have a lifelong interest in domestic animals, agricultural animals and horses. I am a member of the APPG on horseracing and bloodstock.

I must say that I am not always supportive of the actions—or, sometimes, lack of them—of the RSPCA. In that respect, I have a couple of questions to pose to my noble friend Lord Randall or the Minister. Many years ago, my wife and I owned a child's pony. The poor thing contracted African horse sickness, which is nearly always a fatal condition. We spent much time, effort and money on caring for him and treating him. A neighbour reported us to the RSPCA, which sent someone to look at the animal. He told us that we should have the pony dispatched, totally contrary to the advice of our expert horse vet. In such circumstances, under the terms of the Bill, would the RSPCA be able to issue a fixed penalty fine, even in the knowledge that we were sound on animal husbandry and were following the vet's advice?

Secondly, when our daughter was at university, we loaned out her horse to someone who took the animal to DIY stables. Two years on, we were tipped off that the mare was not being cared for and was in an appalling condition, so we collected the animal and had to spend a great deal of money to bring her back to normal health. I reported the person to whom we loaned her, and the DIY yard, to the RSPCA. I have been in horses and racing all my life, and I have never seen a worse case of lack of adequate welfare. However, the RSPCA inspector who visited refused to take any action whatever, stating to me that he had seen pit ponies in worse condition. Under the terms of the Bill, would the person to whom the animal was loaned and the DIY yard where the animal was kept be liable for a fixed penalty?

I make one further point. I believe what the noble Lord, Lord Carrington, said about corvids and red kites taking out the eyes of newborn lambs to be absolutely correct. These matters should be proportionate. When you reintroduce birds and various animals into the countryside environment where they have been either extinct or close to extinction, there should be a method for controlling them. At home, we have buzzards, so many we cannot count; originally, we had very few. The Wildlife and Countryside Act did a great deal of good, but we are now over-buzzarded and they are nothing but a nuisance and cause major problems.

I believe that the RSPCA carries out a very good job in general, and I applaud and wholly support the intention of my noble friend's Bill. It provides a most sensible change to the current situation and an enhancement, and it will serve to ensure that this country's enviable record worldwide on animal welfare goes forward successfully.

1.39 pm

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I congratulate the noble Lord, Lord Randall of Uxbridge, on his very detailed introduction to the Bill, which I understand has government support. I shall not repeat the rationale that the noble Lord so eloquently stated.

It is important that everything is done to protect animals, both farming and domestic. Most animals are well cared for but occasionally there are lapses either of care or of recording on farms. A system of penalty notices is an excellent bridging gap between providing advice and guidance or the prospect of a criminal prosecution.

In many debates over the last two years, the UK's reputation as a world leader in animal welfare has been mentioned on many occasions. This is a reputation we should be justly proud of and protect into the future. The way in which both livestock and domestic pets are treated says what kind of a society we are and how we wish to be treated.

Occasionally there will be lapses due to the inaccurate completing of forms. In 2019, there were 45,000 farmers keeping cattle and 61,000 sheep farmers. Every movement must be recorded to protect public health. This is vital. I lived in rural Somerset for over 40 years but recently moved to Hampshire. Last week we received through the post a notice telling us that we were in an area where avian bird flu had been detected and advising us to keep any poultry we had inside—we do not currently have any. This was a first experience of such a notice for us. Only by keeping accurate records will such information be available to the general public. It is, therefore, quite right that action should be taken against those who either accidentally or deliberately record details inaccurately.

A penalty notice is an excellent stepping stone to make farmers aware of their lapses and bring the constant offenders into line. The threat of a criminal prosecution should be a sufficient deterrent, but used for minor offences it is a sledgehammer to crack a nut. Far better to head this off for minor offences but to keep it for serious breaches of animal welfare where animals are suffering as a result of neglect or cruelty.

It is important that there are measures to ensure that those selling kittens and puppies must include their licence numbers on any online adverts and that microchipping of animals takes place before rehoming. Sadly, there are still those who seek to import puppies raised in puppy farms and not given the attention and care that we would expect when buying a puppy. A penalty proportionate to the harm caused is important to act both as a deterrent and as a measure to help safeguard vulnerable young animals.

On the detail of the Bill, which I suspect will not be debated in Committee, Clause 3 lists the various offences covered in the Bill. However, I note that it does not cover the Dangerous Dogs Act, which will continue to be within the remit of the police. However, some concern has been expressed by the public and the animal charities that the breeds of dogs covered by the Dangerous Dogs Act need reviewing and that some

dogs are covered which are not believed to be dangerous. Are the Government considering reviewing the Dangerous Dogs Act?

Clause (1)5 refers to “persons who may be specified by regulations” and paragraph (c) indicates that “any other person that the Secretary of State considers appropriate” may enforce these regulations. This is very wide. Can the Minister or the noble Lord, Lord Randall of Uxbridge, give an indication of just what kind of appropriate person this might be?

According to Clause 3(3)(a) the fixed penalty notice may not exceed £5,000, and paragraph (b) states that “the maximum fine for which a person convicted of the offence is liable on summary conviction.”

Can the Minister say why this is not £5,000 and/or paragraph (b) instead of both? Can he also say whether the fixed penalty fine is a flat £5,000 or whether there is a sliding scale of fines up to a total of £5,000?

Clause 8 gives a list of the enforcement authorities and the explanation of what a “local authority” means—the noble Lord, Lord Randall, referred to this. Local authorities are currently under severe financial constraint. I am somewhat concerned that the fines imposed are to be paid into a consolidated fund, less expenses. What is the consolidated fund to be used for? This could appear a somewhat obscure tax and is likely, therefore, to be resisted. Is the consolidated fund to be used to reimburse local authorities for the work and expense that they will incur in carrying out the function of issuing fixed penalty notices? The noble Lord, Lord Randall, has given some information on this.

This is an excellent piece of legislation that should make it easier for culprits to be brought to proportionate justice and to understand the implications of their actions in terms of animal cruelty. I congratulate the noble Lord, Lord Randall of Uxbridge, and fully support the Bill.

1.45 pm

Baroness Jones of Whitchurch (Lab): My Lords, I congratulate the noble Lord, Lord Randall, for taking over the baton from his colleague Andrew Rosindell, who presented the Bill in the Commons. The noble Lord, Lord Randall, has been a doughty fighter for animal rights and the environment and he has made the case for the Bill very persuasively today. Of course, we recognise that this is effectively a government-sponsored Bill; it would not have got this far if it were not, so the issues that I raise today are ones to which we hope the Minister will be able to respond as much as the noble Lord who has sponsored the Bill.

In essence, we support the Bill. Anything that adds to the arsenal of measures that can be taken against those who transgress animal welfare legislation should be welcomed. However, as my shadow Defra colleague, Daniel Zeichner, made clear in the Commons, this applies only if these are additional measures that do not lead to a watering down of existing legislation. There is a danger that fixed penalty notices could be seen to trivialise more serious animal welfare abuses.

The Minister in the other place has already made clear that the new penalty notices framework is intended to be applied to existing offences already subject to

prosecution—so they were judged worthy of prosecution by those drawing up the previous animal welfare legislation. These new fixed penalty notices also allow the offender to remain anonymous rather than publicly being held to account in the way that they would be if the case went to court. I am keen to seek assurance from the Minister that the application of fixed penalty notices will be only for administrative offences, such as failing to microchip a dog or indeed the examples that we have heard this afternoon about the movement of animals, rather than any animal neglect or abuse issues. This issue has been raised by the animal welfare charities and it would be good to get assurance on it on the record.

It is also clear that one reason for the Bill is to help tackle the backlog of court cases, which the Government have allowed to reach unacceptable levels. If this is the case, we would hope that the total number of cases for breaches of animal welfare legislation, either through fixed penalty or court hearings, should increase in total. I hope that the Minister can confirm that this is the Government’s intention. This point has been reinforced by the RSCPA, which rightly points out that, as the Bill is drafted, the number of fixed penalty notices issued by local authorities will be anonymised and/or amalgamated, so we may never know exactly how many have been issued. It is also important that enforcement bodies can share data and information, particularly when it comes to the movement of animals around the country and the need to track persistent offenders.

Our concern about the unintended consequences of the Bill have been raised by Battersea Dogs & Cats Home. Its concern is that the burden of proof in issuing fixed penalty notices is “beyond all reasonable doubt”, which is a higher test than the original legislation. Is there a danger that offenders will be let off for offences where they would otherwise have been found guilty? Does this mean that the number of successful cases will drop rather than rise?

There is also a more fundamental concern about the Bill: we do not know which offences in which Bills will be covered by the fixed-penalty provisions, as that is all to be set out in subsequent secondary legislation. There was some discussion in the Commons about a grid being produced to make clear what the intent is, so I am sorry that that suggestion has not yet reached fruition. This is the sort of issue that the Secondary Legislation Scrutiny Committee and the Delegated Powers Committee have raised concerns about in the past. We really are sailing in the dark in understanding the scope of the legislation before us today, and indeed when it comes to having a chance to influence the detailed provisions in the future. So while we understand the good intentions of those putting forward this legislation, there remains a nagging concern that it could result in a less rigorous and effective regime.

The RSPCA has raised some points of detail that I would be grateful if the Minister could address. Can we be assured that the enforcement officers given the powers to award fixed-penalty notices are appropriately trained and assessed as competent? It would certainly be easier if the powers were limited to use by animal health or welfare officers who have already reached a level of training and competence.

[BARONESS JONES OF WHITCHURCH]

Is it intended that prosecutions for the same offence could still occur if the fixed-penalty notice is not paid or the behaviour that resulted in the notice is not rectified? Otherwise, fixed-penalty notices might become discredited and allow repeated breaches of the animal welfare legislation to carry on unchecked.

The maximum fixed-penalty notice fine is set at £5,000, but is it intended that guidance will be issued, setting out the breaches of legislation that could incur this maximum fine? Otherwise, enforcement officers might opt for trivially small sums that did not match the seriousness of the crime.

There are many questions that still need to be resolved and I hope the Minister will be able to address some of them today. I also hope that, in taking the legislation forward, he will agree to work closely with the animal welfare charities, so that we end up with legislation that strengthens our existing legislation and drives up animal welfare provision in this country. I look forward to the Minister's response.

1.52 pm

The Minister of State, Department for the Environment, Food and Rural Affairs and Foreign, Commonwealth and Development Office (Lord Goldsmith of Richmond Park) (Con): My Lords, I thank my noble friend Lord Randall for his sponsorship of this important Bill and for his continuous and totally reliable championing of animal welfare, both in this place and previously in the other place. Supporting the Bill is part of the Government's continued commitment to improving animal health and welfare. While the Sentencing Act allows for higher sentencing for the worst cases of animal cruelty, the Bill will allow for the introduction of financial penalties to address less serious offences.

We in this country are rightly proud of our high standards and strive to maintain and improve our position as world leaders in animal health and welfare. As a society, we continue to demand these high standards from all those who keep animals, whether they are companions in our homes, work by our sides or help to produce the food that we eat. The Government are therefore committed to addressing not only the most abhorrent acts of cruelty but those less serious offences that, when ignored, could escalate, posing a greater risk to our nation's animals.

We currently lack an enforcement option that will sit between and work with warning letters or improvement notices before criminal prosecution is undertaken. The Bill introduces a new system of financial penalties for animal health and welfare offences. It is simple but vital, as it will allow enforcers to deliver an effective and proportionate penalty to those who break the rules. Though straightforward, this measure has the potential to have a significant impact on how our standards are enforced.

A useful example of that might be if a pet breeder fails to include their licence number in online adverts for puppies and kittens. Businesses that breed animals must have a valid licence. Accidentally missing the licence number from an advert or forgetting to microchip animals before rehoming them might seem trivial and unimportant, but proper registration is critical to ensure

that people can buy pets with confidence from a legitimate source and with the high health and welfare standards that they rightly expect. That is where a penalty notice is useful.

We must look at the bigger picture when it comes to enforcement and, of course, we must get the balance right. We want to provide early redirection to guide people towards compliance but not arbitrarily penalise those who have made genuine mistakes. I am sure that we can all appreciate the need for a different approach for someone who has accidentally forgotten to log an animal's movement, for example, and the cruellest acts of animal abuse. This Bill will support that early redirection, so we can reach our shared goals of protecting and improving the health and welfare of our animals.

I will briefly answer one of the questions put forward by the noble Baroness, Lady Jones, whom I thank very much for her constructive words. I will make it clear that criminal prosecution will always be the most appropriate course of action for the most serious crimes. The introduction of penalty notices absolutely will not water down our ability to prosecute those who commit them. It will, however, provide a means for enforcers to consider less serious transgressions. I will return to this point in a few moments.

As the noble Lord, Lord Randall, has so eloquently explained, this Bill covers a vast range of legislation. It will create a practical and consistent tool for enforcers across the animal health and welfare space. Other offences in comparable areas can lead to a £5,000 penalty, such as offences under the eggs and chicks regulations, and offences for fishing under the Marine Management Organisation. We consider it to be proportional, therefore, for penalty notices to have an equivalent maximum of £5,000. The Bill also provides enabling powers and allows offences to be "turned on" via secondary legislation. This ensures a targeted approach which considers the differences across sectors and species. Determining which offences will have options for on-the-spot fines, versus consideration periods, will be part of the discussion officials have with NGOs, subject matter experts and enforcement authorities, should this Bill pass and become law.

I will now respond to a comment raised by the noble Lord, Lord Carrington. In some sectors, like farming, there will be a period of consideration for the inspector and the animal keeper—as the noble Lord acknowledged in his remarks. This will sit in between an inspection and an offer of penalty notice. It will allow the farmer or animal keeper the time they need to present additional information, or a chance to rectify the issue in a reasonable timeframe. As the noble Lord also acknowledged, this commitment was made very clearly at Third Reading in the other house by the honourable Member for North Oxfordshire on 4 February. In her speech, she used bovine TB testing as an example of how this option might be used.

I turn now to the appeals process more broadly. I will avoid going into the minutiae, but I am happy to do so if noble Lords ask me to. Penalty notices have been designed with the safeguarding of farmers, animal keepers and animals themselves in mind. The Bill establishes that an enforcement authority can withdraw a penalty notice at any time before payment, allowing

for any misapplication of the penalty notice to be rectified. One imagines that this makes the appeals process much smoother, less bureaucratic, less cumbersome and more doable. To encourage a consistent approach to enforcement, the Bill makes it a mandatory requirement for enforcers to follow the guidance that will be laid before Parliament.

I will briefly return to another of the questions put to me by the noble Baroness, Lady Jones, about engagement with stakeholders. I absolutely commit that we will engage fully with industry and other experts to determine the way penalties are applied to each relevant offence. I hope that in my earlier remarks I reassured the noble Baroness following her concerns that this might lead to watering down. It is absolutely not designed, in any way, to lead to watering down. However, in response to the second part of her question, penalty notices are not designed to replace any of the existing enforcement tools which we have already. That is not the purpose. Clearly, they will not be appropriate every time an offence is committed. Instead, they are designed to complement the existing enforcement for animal health and welfare offences. Enforcement authorities will be required to consider a set of factors when determining whether a penalty notice is appropriate, and the level of that penalty. The correct place to do this will be through secondary legislation and guidance. We have been clear that we will deliver a targeted and tailored approach to meet the sector's needs. I reiterate the reassurances which have been made in the other place in the strongest possible terms.

The noble Baroness, Lady Bakewell, asked a number of questions. The first was simply in relation to the £5,000 fine. I hope that I have already responded implicitly in what I have said so far. This is not a set fine but the maximum—as my noble friend Lord Randall pointed out. It is, therefore, a sliding scale. Not every fine will be £5,000; some will be very much less than that. Clause 4 outlines the factors which the enforcement authorities will need to consider when determining the appropriate level of penalty. Enforcers will be required to follow the guidance which we will lay and publish when deciding the level of the fine.

The noble Baroness mentioned the Consolidated Fund. The enforcement authorities will be able to retain the costs incurred from issuing penalty notices, but any surplus will be surrendered to the Treasury. It is not a revenue-raising exercise. That is not its purpose. The costs will be recovered.

I thank my noble friend Lord Shrewsbury for his remarks generally and his support for this. He gave an example of his own pony suffering from African horse sickness. Clearly his actions were designed to be and were compassionate. It is impossible to imagine that they would fall foul of the rules that we are legislating for today. It would not be appropriate for me to go into details and rule de facto on specific cases, but his starting position and assumptions are entirely right. We have committed to work with a very wide range of stakeholders, including the enforcers, on precisely which offences would qualify for penalty notices. He mentioned one or two charities, such as the RSPCA, which I think, as he does, does a great job. They do not always get things right, but the legislation that we are putting

in place here does not require the Government to include charities as enforcement authorities. There are currently no plans for the Government to do so, but it is possible under the Bill's provisions. Obviously, this will need to be done with full consultation and enormous care, but I struggle to imagine that the examples which he gave would not pass the test that he himself has just set.

I hope that I have covered most of the questions put to me by noble Lords. If any remain, I am very happy to follow up in writing. I know that my noble friend Lord Randall has also made himself available to talk to noble Lords if there are any issues that have not been covered in this debate. In the meantime, I conclude by thanking noble Lords again for their involvement in today's debate, particularly my noble friend Lord Randall. It is testament to his commitment that he is here, having just pulled through Covid. He cannot have enjoyed standing and speaking for as long as he did earlier, but I am thrilled to see him back. I also thank the NGOs, including the RSPCA and the National Farmers' Union, which have been instrumental in supporting the Bill to this stage.

2.03 pm

Lord Randall of Uxbridge (Con): My Lords, I thank all noble Lords for the consideration and contributions that they have given today. I sincerely thank the Minister for reiterating the Government's continued support for this Bill and for endeavouring to answer some of the questions. I am sure that between us we can reassure on some of those other questions that have remained not quite answered. I look forward to supporting the Bill through its remaining stages.

I very much thank the noble Lord, Lord Carrington. He was almost enticing me to go down the path regarding kites and ravens but it is not in this Bill and, as a council member of the RSPB, I do not want to get completely taken down there. However, on that issue, which my noble friend Lord Shrewsbury also mentioned, the populations of some of these have grown exponentially. Only a couple of days ago I heard the first raven over suburban Uxbridge. We do not have many sheep farmers there, but these things are growing; I hear kites regularly. Although it is not in this Bill, we must have a mature discussion about this, otherwise farmers and other landowners might take the law into their own hands and do illegal activities which make the whole situation worse. I echo that.

My noble friend Lord Shrewsbury is far too modest. If I had known that he could have taken this through, I would have been only too delighted to defer to him. As we have heard, his experience with horses and other things far exceeds my own—so I will see if I can find him a job somewhere.

The noble Baroness, Lady Bakewell of Hardington Mandeville, wanted to take us a little bit down the path of the Dangerous Dogs Act, which I do not think is in this Bill. I also thank the noble Baroness, Lady Jones of Whitchurch, for some pertinent questions and will give her the reassurance I can: when it comes to secondary legislation, I shall keep a close eye on this as well. Statutory instruments are not always the thing that people like to get involved with, but they are

[LORD RANDALL OF UXBRIDGE]

probably some of the most important things. I often think that some of the strangest measures, certainly in the other House, are passed on a wet Wednesday afternoon when nobody is watching. So we will have to keep an eye on that.

Anyway, I again thank my noble friend the Minister very much. I also extend my sincere gratitude to those outside the House who have given unrelenting commitment to working with officials to take the Bill to where it is today. As my noble friend the Minister said, I know that officials have engaged particularly with the RSPCA and the National Farmers' Union, and I am thrilled that constructive meetings have brought us to a place of agreement and contentment—he

said hopefully. Officials are fully committed to continuing this engagement when we move to the next stage, which will include, importantly, writing the official guidance and drafting the secondary legislation.

I also thank very much the officials in Defra and the Government Whips' Office who helped with the preparation for the Bill's Second Reading and gave me more eloquence than I would normally exude. I close by once again expressing my gratitude to all noble Lords here today. I very hope the House will give the Bill a Second Reading.

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

House adjourned at 2.07 pm.