Orders of the Day

Children and Adoption Bill

[Relevant documents: Report of the Joint Committee on the Draft Children (Contact) and Adoption Bill, Session 2004–05, HC 400, and the Government's response thereto, Cm 6583. Fourth Report from the Constitutional Affairs Committee, Session 2004–05, Family Justice: the Operation of the Family Courts, HC 116, and the Government's response thereto, Cm 6507. Fifth Report from the Joint Committee on Human Rights, Session 2005–06,Legislative Scrutiny: Second Progress Report, HC 767.]

Order for Second Reading read.

12.26 pm

The Minister for Children and Families (Beverley Hughes): I beg to move, That the Bill be now read a Second time.

I hope that we can all welcome the Bill. It was the subject of much debate in the other place, and I think that it has come to us changed for the better. I hope that Members on both sides of the House will be able to support what it offers: much-needed help for children who are often in extremely challenging circumstances, both in this country and abroad.

As I am sure Members will know, every year between 150,000 and 250,000 parental couples separate. One in four of the 12 million children in this country will experience the separation of their parents at some point during their childhood. For every one of those children that separation is a painful and difficult time, and represents the breakdown of their families. It is a difficult time for the parents as well, and we should offer them support; but I firmly believe that our focus should be on the needs of the children, who are often lost in the conflict between the adults.

Mr. Frank Field (Birkenhead) (Lab): I welcome what my hon. Friend is saying, but does she accept that one of the huge costs of the separation of parents is often incurred by the children? That burden is increased when one of the separated parents is not allowed access. The Bill makes useful suggestions for strengthening the courts' power to insist that access be granted when it can be granted safely. Would it be possible to arrange through the normal channels for us to have plenty of time on Report to discuss suggestions from Members on both sides of the House on how we might add to the powers of courts to ensure that the needs of children to see both their parents are observed?

Beverley Hughes: I am aware of my right hon. Friend's considerable expertise and commitment to ensuring that our arrangements to deal with those difficult issues for children are the best that we could possibly have. There is a range of potential provisions, only one of which consists of legislation. What we can do before parents go to court, and what we can do in relation to the nature of the decisions that courts make on access and contact, are equally important. However—I am sure that this will be a subject of debate, as it was in the other place, as we go through the detail of the Bill—we would not want any different legal model

to compromise the interests and welfare of the child, which are paramount. Having said that, it is our view—this is enshrined in case law—that for most children it will be in their best interests, subject to safety issues, to have continuing contact with both their parents. That is something that we want to

facilitate. Indeed, when the Bill was debated in the other place, that was one thing on which both sides were agreed. Children need to have the love, close interest and involvement of both their parents wherever it is safe and in their best interests. We should make every effort to support families in achieving that.

Mr. Field: I thank my right hon. Friend for what she has just said.

Beverley Hughes: I can only thank my right hon. Friend for thanking me. That was a most straightforward intervention. I am grateful to him for those remarks.

I will come to the provisions of the Bill in detail shortly. It is important to remember at the outset that the provisions deal only with the 10 per cent. of separating families who turn to the courts for help in resolving arrangements for contact with children. However, the Bill does not sit in isolation. Just as important is the action that we are taking to help parents to agree a way forward without the need for court intervention if they can.

It will not surprise any hon. Member, all of whom have a great interest in this matter, to hear that parents who agree contact arrangements between themselves, without the courts being involved, tend to be much more satisfied with those arrangements. Therefore, where we can, we want to take steps to help more people to agree their own arrangements without going to court. We have announced a programme of work, including producing new parenting plans to help in working out those arrangements, access to specialist legal advice through a telephone helpline, which is working well, and stronger encouragement towards mediation to help parents to avoid the need for a court-based solution.

As we know, however much success we have with those arrangements, there will always be a minority of cases where people need to turn to the courts for help. Those will be the most difficult, most emotionally harrowing and most highly contested cases. They will be the cases that probably will not resolve themselves if left to continue and where the ongoing conflict could risk harm to the welfare of the child or children involved. Where the court is called upon, we must ensure that the intervention does not entrench the conflict any further, but offers a positive way forward for everyone, and most of all that the court proceedings and the solution remain uncompromisingly focused on the needs of the child or children.

Ms Sally Keeble (Northampton, North) (Lab): As my right hon. Friend knows, in the most difficult cases, the court will make orders for supervised contact, or contact at contact centres, yet there is a woeful lack of those. As this issue moves forward, particularly when she comes back to the detail, will she look at that matter? In Northamptonshire, for a variety of complicated reasons, there has been low take-up at the centre that serves that area. In my town of Northampton, all the

contact centres are provided on a voluntary basis. It is important in these difficult cases that there is proper provision for safe, supervised contact, and safe contact centres.

Beverley Hughes: I agree. We need to think creatively about how we can extend provision both for unsupervised and supervised contact centres. The Government have already put considerable resources into that. Since 2000, some £5.3 million has gone to the sector, and in the last spending review a further £2.4 million was provided to develop 14 new centres for supervised contact in England. There will be a further sum totalling £7.5 million for 2006–08 to support that. The development of extended services in schools and children centres offer us enormously creative possibilities for contact to take place, probably non-supervised contact. I have already been to children centres that are being used for non-

supervised contact and access. We need to ensure that we use those facilities to the full for the benefit of parents.

Mr. Peter Bone (Wellingborough) (Con): In my constituency, we have some contact centres that are run by the voluntary sector. They have some funding but are worried that the funding is drying up and will be moved away to Government-funded centres.

Beverley Hughes: That is not the case. Much of the money that I mentioned is going to the local level. Contact centres for supervised access that are run and managed by voluntary agencies have a great role to play. It is not the case that that money is simply for Government or local authority-run centres. By and large, they are run in partnership with voluntary agencies. We want that to continue because they have great expertise. Many parents find the concept of supervised contact undertaken by a voluntary agency more palatable than the concept of supervised contact at a centre run by a local authority or by the Government.

Margaret Moran (Luton, South) (Lab): Does my right hon. Friend accept that many of the contact centres that have received Government funding come within the ambit of the national charity for contact centres but that some fall outside that, are still run by the voluntary sector and are not receiving the investment to which she referred? Will she examine that matter to ensure that all contact centres have the same high-quality supervision and training for staff? My contact centre in Luton is run by the WRVS, and very good it is too, but I fear that some contact centres simply do not have the quality of staff and training that are desperately needed in such difficult circumstances.

Beverley Hughes: I take my hon. Friend's point. The role that staff play in those situations, particularly for supervised contact, can be critical for the parents and children concerned. It is very important that they are as high quality as we can make them. I will certainly look at that matter.

Where the court is involved, we have to ensure that whatever intervention we make does not entrench conflicts any further. The Bill will be critical in achieving that and in maintaining the focus on the child. It offers the court new powers to facilitate contact, and to enforce contact when that becomes necessary.

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Clause 1 offers the court the power to direct parties to participate in "contact activities", ranging from parenting classes to domestic violence perpetrator programmes, and explicitly including the power to require attendance at an information session with a mediator to explore the benefits of mediation. We believe that those activities will help parents to begin to face up to the difficulties, and the conflict, behind their disagreement over contact arrangements. That can be key to helping the court to reach a resolution without the need for fully contested proceedings.

Vera Baird (Redcar) (Lab): Clearly, the ability to refer to such groups is valuable and can help in the most difficult cases, but I am far from sure that the resources are currently available at most courts for such projects. How will the Department go about finding what is out there already and ensuring that the gaps are plugged, so that, for example, domestic violence perpetrator programmes will be available at literally every court if they are needed?

Beverley Hughes: My hon. and learned Friend raises an important point that we are considering actively. We are piloting various forms of activity to which we think that we can direct parents. We are trying to promote through local authorities the provision of parenting classes. We accept that the support parents need when they are separating is rather different from the support that they may need when they are not separating but trying to cope with the behaviour of their children. We are looking

with local authorities at the availability of what is likely to be required and trying to ensure that, when courts wish those activities to take place, they will be available. That involves a variety of local agencies, including local authorities and the probation service.

Mr. Stewart Jackson (Peterborough) (Con): I listened very carefully to the right hon. Lady's opening remarks and the lesson to be learned from the lack of success—I will not say failure—of the family resolutions pilots is surely that without an element of compulsion, the desired objectives simply will not achieved. Such an approach will not work on a voluntary basis alone.

Beverley Hughes: The hon. Gentleman raises a fundamental point. The model and culture in this country has been based on the understanding that unless people come willingly to the table to participate in sensitive activities such as mediation, they almost certainly will not work. But he is right to draw attention to the fact that we want to encourage as many people as possible to avail themselves of the undoubted benefits that voluntary dispute resolution practices can bring to separating parents.

As the hon. Gentleman may know, we have published today the evaluations of the family resolutions pilot project to which he refers, and of the in-court conciliation project. Although the findings are, as he suggests, mixed, both projects have provided very important information on what parents value and find helpful, and on what works well and what does not. In both projects, certain approaches demonstrated good success rates in helping parents to reach consensus and to avoid further dispute in court. We all know how important that is to outcomes for children. So although

the results are mixed, we will take the positive findings and try to build them into further development of voluntary dispute resolution. But forcing people down that road is a very serious step that is likely to be counterproductive. As I said earlier, we are making it possible for courts, through directed activity, to insist on a session with a mediator to explore the benefits of mediation, but it would be a step too far to force people to participate in mediation itself.

Tim Loughton (East Worthing and Shoreham) (Con): Did I hear the Minister say that she is publishing today the findings of the family resolutions pilot and if so, would it not have been slightly more helpful to have had them ahead of this debate, particularly given that the project finished last September? I accept that the best form of mediation is that to which people come willingly; otherwise, it does not really work. But where one party fully embraces the mediation route, the other flatly refuses it and the case therefore goes to court, what is the penalty against the person who has decided not to participate, or the reward for the person who has gone along with the court's wishes?

Beverley Hughes: Although the project finished a few months ago, we received the evaluations only very recently. Indeed, I understand that the original date of publication was the end of March, so we have been able to bring it forward to coincide with today's debate; but it was not possible, given the original timetable, to publish beforehand. *[Interruption.]* I understand that the evaluations have been published today on the departmental website and are available. After the debate, I shall clarify for the hon. Gentleman's benefit precisely where he can find them.

Tim Loughton: That is not very helpful to the House. If the Minister thinks that vital information that is germane to this Bill may be available on her Department's website, she should, at the very least, out of courtesy and respect to those participating in this debate, have ensured that Front Benchers were notified that the document was available before we made our submissions to this debate. Would that not have been common courtesy?

Beverley Hughes: I agree that the hon. Gentleman should have received those evaluations, and it was our expectation that he would. I apologise and I shall certainly pursue the matter, because I accept that

he should have received them.

Annette Brooke (Mid-Dorset and North Poole) (LD): May I endorse the point made by the hon. Member for East Worthing and Shoreham (Tim Loughton)? I certainly have not received notification of the evaluations' publication; indeed, I did intend to ask the Minister about them in my speech.

Beverley Hughes: I apologise to the hon. Lady, as well, and I shall certainly investigate the reason why the evaluations were not sent directly to her.

Mr. Eric Pickles (Brentwood and Ongar) (Con): On a point of order, Madam Deputy Speaker. Would it not

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help the good conduct of our deliberations if somebody printed off copies of those important documents, so that Members can read them before they participate in the debate? Surely that would make for a better debate.

Madam Deputy Speaker (Sylvia Heal): Order. While I can well understand hon. Members' desire to see those reports, it is outside the remit of the Chair to make that order. But I understand the point being made.

Beverley Hughes: I accept the general point being made and as I said, the documents have been published on the departmental website today, some four weeks in advance of when we expected to publish them. They are important and they will prove particularly important in Committee, where we will discuss the detail of what works and what does not. But as I said, I shall investigate why the Opposition spokespeople were not sent copies, which they should have been.

As I said, both pilot projects are important in helping us to understand what works best for parents in avoiding the need to go to court. Where a court order does prove necessary, clause 2 offers a new power to ask the Children and Family Court Advisory and Support Service to monitor that order and to make sure that it is followed. If it is not, the court will hear about it. As many Members know from the experience of their constituents, in some cases, after the long and difficult process of a court dispute, a contact order is made only for it to be ignored. We have all heard sad stories of non-resident parents being unable to spend any time with their children, despite such contact having been directed by a court order, which is often obtained only after considerable struggle. We also know of cases where a non-resident parent is not complying with a contact order by not providing the contact that their children may well greatly need.

Courts often find themselves with no realistic way to deal with this problem. The only sanction at their disposal is to hold the person breaching a contact order in contempt, leading to a fine or committal to prison, but they are understandably reluctant to do that because of the impact on the child concerned. The courts have told us that they need broader powers to address this problem realistically, and to respond to the circumstances of particular cases. In 2002, a committee chaired by Lord Justice Wall produced a report entitled "Making Contact Work", which called for these powers. The Bill responds to the recommendations made in that report.

In addition to providing the ability to require participation in contact activities, clauses 4 and 5 provide new powers to respond to breaches of contact orders, in line with the recommendations in "Making Contact Work".

Annette Brooke: Will the Minister clarify the following point, which I may not have understood fully? On enforcement of a contact order and the imposing of a subsequent penalty, community programme-based punishments have a slight drawback, in that they might not be in the best interests of the child.

Can such punishments be imposed under the terms of the Bill, and are they in fact permissible?

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Beverley Hughes: The hon. Lady is to some extent confusing contact activities with the responses that a court can make to breaches of contact orders, such as requiring unpaid community work of some kind. Clause 1 deals with activities that can be directed, but which are intended specifically to facilitate compliance with a contact order prior to that point.

Clauses 4 and 5 will give the courts access to enforcement orders, allowing them to direct those in breach of an order to undertake unpaid work. They will allow the courts to order compensation to be paid from one parent to another in circumstances where the breach of an order causes genuine financial loss. One example is the cost of a holiday that had been planned with the child concerned.

Tim Loughton: I have two questions for the Minister. First, how many breaches of contact orders have resulted in the penalty of contempt of court, which she says the courts are reluctant to use? Secondly, the Minister said that a financial penalty is proposed to replace contempt of court, but what will happen when a parent with custody who is on benefits and relies on maintenance payments from a former partner is not able to pay that penalty? Will the proposed penalty be in the best interests of children who rely on maintenance payments to meet their basic living costs?

Beverley Hughes: I do not have the figures to answer the hon. Gentleman's first question, but I shall give them to him after this debate. On his second question, we are proposing not a financial penalty, but a means of redress for parents who can demonstrate that they have paid out money to have contact with a child in respect of a special arrangement that has subsequently been aborted by the non-compliance of the other parent. It is important to describe that as a financial loss rather than a financial penalty. We are not proposing what might be called a fine, but that a financial loss can be repaid. All the circumstances under which compensation orders are made will be taken into account by the court, and that will include the direct or indirect impact on the child. We believe that the provisions will give the court greater flexibility in dealing with those who fail to comply with contact orders—a flexibility that the courts have told us that they genuinely and urgently need.

Tim Loughton: I am grateful to the Minister for giving away again, but we need to tease out some detail, although I am sure that we will do so in Committee. It does not really matter whether we call this proposal a fine, a penalty or compensation. Let us say that a parent with custody has frustrated a contact order with the result, for example, that a holiday with the non-resident parent costing £500 is aborted. The Minister has suggested that, in those circumstances, the court would direct the parent with custody to pay compensation of £500. However, what will be the penalty if that parent relies on maintenance or is on benefit and cannot afford to pay? What is the next stage of the process?

Beverley Hughes: The court will consider all the circumstances of each case. If a compensation order for a certain amount of money is made, the court will take account of the ability of the non-resident parent, in the case set out by the hon. Gentleman, to pay the money.

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The court will put the arrangements in the compensation order. If the money is subsequently paid, the court will reconsider the matter and decide what action to take. It will look at all the circumstances in the round, including whether the contact order has subsequently been complied with in full. The details of each case are for the court to decide.

The provisions in this part of the Bill have been asked for by the courts. They want the flexibility that

will allow them to act against those who breach contact orders, without that having a disproportionate effect on the child. We all understand how important that is. When they make contact orders, the courts have a single guiding principle in mind—that the welfare of the child is paramount. That principle is set out in section 1 of the Children Act 1989. It underpins all our policy and is the foundation of this Bill.

Ms Keeble : When assessments for contact orders are made or breaches of contact considered, will my right hon. Friend the Minister say—either now or later—what attention will be paid to domestic violence? Such violence affects 66 per cent. of all CAFCASS cases, and parents with care often breach contact orders because they are worried about a child's safety in the care of a violent former partner.

Beverley Hughes: I hope that my hon. Friend will bear with me, as I shall come to that important point in a moment. It was raised in the other place, and I am sure that it will be the subject of detailed discussion in Committee.

Vera Baird: My hon. Friend the Minister is very generous in giving way, although I think that she is getting bored, so I will not bother again after this intervention. In connection with enforcement, is it possible that people found to have denied an ordered contact without a reasonable excuse could be required to allow compensating contact? Such an approach might be suitable when the person involved is short of money, and would give the deprived parent an extra allotment of time with the child. That approach has some good points, although it contains the curious notion that one parent can be punished by giving the child to the other. Is that an idea that merits further reflection?

Beverley Hughes: My hon. and learned Friend will know better than I that the courts already have the power to vary the amount of contact, so the option that she sets out is available to them in principle as things stand. However, the courts must decide what is in the best interests of the child, without using that child as a reward for one parent and a punishment for the other. The risk is that compensatory contact could be seen to be used in that way, and that is something that I am sure that we would all want to avoid.

When a court, with the principle of the paramountcy of the child in mind, makes an order for contact, that order should be followed for the sake of the child. The court should be able to act if it is not. Much of the debate on the Bill in the other place centred on whether any

change should be made to the paramountcy principle—whether we should be more specific and say that the child's welfare is normally best served through contact with both parents, or whether we should specify that contact should never be ordered until the court has first satisfied itself that it is safe.

The Government believe that both of those positions are well intentioned. They stem from concern that the right outcome for children is not always achieved, and that the law should be more specific about what the best outcome is. However, were we to accept either position, we would irrevocably compromise the clear statement in the Children Act 1989—that, in any case, the court must do whatever is best for the welfare of that individual child. It should not have to make an assumption, independently of the facts, about what is best for the child, and then be forced to row back if that assumption turns out to be wrong. The court should look at the circumstances of the case, think about the child, and make its decision.

Mr. Stewart Jackson: I agree with most of what the Minister has said, but I have read the *Hansard* report of the debate in the other place with great care. Neither my noble Friend Baroness Morris of Bolton nor the Liberal Democrat Baroness Sharp of Guildford made any concession in respect of the paramountcy principle, so perhaps the Minister should revise her views on the matter.

Beverley Hughes: The point of view that I set out certainly was expressed in the other place, and that may happen again when we discuss the Bill in Committee, although it is worth noting that the House of Lords as a whole did not vote to overturn the paramountcy principle and insert a presumption of contact.

In respect of a court making a decision on the basis of the principle that the welfare of the child is paramount, it should have as full a range of options as possible to deal with the case in a way that best serves the child. That is what part 1 of the Bill offers. Of course, in making its response, the court must be fully informed about the circumstances of a case. As has been noted already, the question of domestic violence is often raised in disputes about contact, and it has been argued that courts are not always sufficiently aware of it when making their decisions. We take that very seriously, and a great deal of work has been done across Government to try to address the damage that domestic violence can do to everyone whom it affects—including, in some instances, children.

There are some vital safeguards already in legislation, such as the requirement in the welfare checklist in the Children Act 1989 for the courts to have regard to any harm that the child has suffered or is at risk of suffering. However, we were persuaded in debate in the other place that something further was needed. What is now clause 7 of the Bill places a new and specific duty on CAFCASS to carry out a risk assessment and inform the court of the result whenever it is involved in private law Children Act 1989 proceedings and it has cause to suspect that the child concerned is at risk of harm, including harm as a result of witnessing harm to another.

I have no doubt that we will return to the issue of domestic violence during our debate today and later, but I believe that the addition of clause 7 represents an important change.

Andrew Selous (South-West Bedfordshire) (Con): May I take the Minister back to clause 4? I am not clear in my own mind. Let us say that a parent with custody denies contact that has been ordered by a court, and an enforcement order is then imposed which the parent with custody fulfils. What happens if the parent with custody continues to deny contact? She may fulfil the unpaid community work requirement and continue to deny custody. What will happen then?

Beverley Hughes: Those cases would come back to court and it would be up to the court to decide what further action needed to be taken. Clearly, it would not be right for those circumstances to persist —for non-compliance with a contact order to have taken place, for an order to have been made to do community work, for the community work order to be complied with, but for non-compliance to continue on the contact. The court would have to decide what further action it wanted to take to ensure compliance with the contact order because that would be the primary objective in those circumstances. The community work option gives the courts another element of flexibility in their response, but the objective is to obtain compliance with the contact order.

Ms Keeble: Having had a look at clause 7, may I ask whether those considerations would also apply to breaches of contact orders? People often say that they have breached a contact order because they are concerned about what they have seen happening to the child and they have difficulty in using the process. Will the clause help them?

Beverley Hughes: I believe that it will, and for this reason specifically. I am aware that some women find it difficult to reveal at the start of proceedings that there has been harm to them through domestic violence. The gateway process now makes it more straightforward and prompts people to reveal that there has been domestic violence by means of a tick box. If they tick it they go straight to a CAFCASS member of staff. My hon. Friend should also bear in mind the option for CAFCASS to undertake a risk

assessment not only if harm has been declared by a party to the proceedings, but if it suspects from its dealings with a family that there has been harm through domestic violence. CAFCASS can undertake that risk assessment at any point in the proceedings, including after enforcement order proceedings have started. There is no limit on when CAFCASS, if it has concerns, can undertake a risk assessment and make that and its judgment on the issue available to the court.

Vera Baird: Of course, that would be the ordinary thing to do, but I do not think that the Bill requires that a risk assessment, initiated perhaps by CAFCASS, be reported to the court. Although it may sound an excessive requirement, is it not better to ensure that risk assessments, whether positive or negative, always find their way to the court by including in the Bill a duty for CAFCASS to report them?

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Is my right hon. Friend totally confident that CAFCASS can meet its obligations to do such risk assessments? I have read the thematic review prepared, I think, by the inspectorate of court administration last year, which said:

> "There is a worrying lack of attention to safety planning in almost all the observed sessions",

when commenting on CAFCASS.

Beverley Hughes: My hon. and learned Friend distinguishes two points. There is a requirement that the risk assessment, if undertaken by CAFCASS, be brought to the attention of the court. She questions whether the court takes sufficient account of that. The court is bound to take account of all the information that is germane to the proceedings. I point my hon. and learned Friend to the important judgment at the end of November by Lord Justice Wall on a case in the Court of Appeal. He felt that the judge had failed to follow the guidelines in relation to that particular issue. He took the rather strong step of attaching the guidelines to his judgment. In so doing, he said:

> "I append them to this judgement in the hope that this court will not again be presented with a case such as the present, which not only ill-serves the parties and the child, but does the system discredit, and helps to devalue the valuable and conscientious work which courts up and down the country are undertaking in an attempt to tackle the scourge of domestic violence and to minimise the effect it has on parties and children."

That sends a strong signal to judges and courts that they have to take the issue seriously and demonstrate that they do. I certainly believe that when CAFCASS presents a risk assessment to courts, the onus on the courts, underlined by that judgment, is to demonstrate that they have taken it into account seriously.

My hon. and learned Friend raises the capacity of CAFCASS. It is a developing issue. We have applied increased resources to CAFCASS and will do so next year. I am confident from that point of view, but also from that of its own desire to ensure that the issue of domestic violence comes squarely into the arena when it is appropriate. CAFCASS is charged as the organisation to make sure that that happens.

I will come now to part 2 of the Bill. It addresses a different, but no less vulnerable, group of children —those who are adopted across national borders by individuals in this country. This will often be in the most extreme of circumstances, as a last resort where the child has no chance of a happy or safe family life in their own country. Part 2 contains a number of important measures to help safeguard those children and to improve the procedures around inter-country adoption.

First, and critically, clauses 9 to 12 provide a statutory framework for the suspension of inter-country adoptions from a specified country where there are concerns about the adoption process in that country.

Those would be serious concerns, such as child trafficking, and a rigorous assessment of evidence would always be undertaken before taking the step of suspending adoptions. There is a real need for this power. In 2004, my predecessor as Minister for Children suspended adoptions from Cambodia, as hon. Members will know, in response to evidence of problems with the adoption process. She did this using prerogative powers, but I hope that Members on all sides of the House will recognise the importance of a clear statutory process for us to respond to such circumstances in future.

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Clause 13 provides a power for the Secretary of State to charge to meet the costs of the administration of inter-country adoption casework. That proposal was the subject of some debate in another place, but it was acknowledged that this was a matter of prioritising. With limited funds available, it is vital that we target them at front-line services for vulnerable children in this country, and asking those who can afford it to meet a proportionately small charge is, in my view, reasonable in the context of wider priorities for public spending.

Finally, clause 14 makes further important provisions around the process of inter-country adoption. It amends section 83 of the Adoption and Children Act 2002 to make it harder to circumvent restrictions on bringing children into the UK. Section 83 currently states that where an external adoption order was effected less than six months before the child is brought into the UK, the adopter must meet certain conditions, such as being assessed and approved by an adoption agency. These restrictions are being circumvented, in some cases, by UK residents adopting the children and then leaving them in the care of a person in the other country until six months has passed so that they do not have to meet those conditions. The Bill will, rightly, make it harder for people to circumvent those restrictions by extending the time limit in such cases from six months to 12. Clause 14 also clarifies that certain children brought into the UK for adoption are not also privately fostered children. That will prevent an overlap of functions for local authorities.

Ms Keeble: I have pressed my right hon. Friend often on the private fostering of children, in particular those brought from Africa. I had not picked up the exact implications of clause 14, so I hope that she can say more about its impact on protecting the welfare of such children.

Beverley Hughes: I know that the issue is of great concern to my hon. Friend, and I share that concern, but she is straying on to the important issue of the regulation of private foster carers, which was considered during the passage of the Children Act 2004, which strengthened the notification scheme. A sunset provision was included, so that in the event that the notification scheme does not produce the desired results, we can introduce a registration scheme. My hon. Friend knows that we are actively monitoring the impact of the notification scheme and will come to a decision on its effectiveness. It is an important issue.

Taken as a whole, the Bill offers an improvement in life chances to some of the most vulnerable children in our society and elsewhere. It carries on our commitment to improving outcomes for children based on their individual needs, founded on the principle that whatever the situation, and however severe the conflict between adults, we must put the children first. While there are some contentious issues about precisely how we approach that—in such an emotional area, it would be strange if there were not —I believe that that principle unites the House. We all agree that the needs of children should be paramount, and that that should be the standard to which we hold any change we consider to children's legislation. The Bill has been prepared with that principle firmly in mind and will give children

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facing extremely challenging circumstances a better chance of positive outcomes during their childhood and in later life. I commend it to the House.

1.12 pm

Tim Loughton (East Worthing and Shoreham) (Con): This is yet another Bill with "children" in the title, and is not to be confused with the Adoption and Children Act 2002, the Children Act 2004 or the Children Act 1989. I wish that we could find different titles for Bills, as I have suggested in Committee before now, because it is so confusing. Perhaps we can address that point when we cover the short title in Committee.

This is an important Bill that addresses an important problem. I must first say how disappointed I am with the programme motion, which provides only two days in Committee. My understanding was that we would have four days, or eight sessions.

Beverley Hughes: It is my understanding that the programme motion was agreed through the usual channels. Ministers are relaxed about how much time the Bill should have in Committee.

Tim Loughton: There must have been some confusion, because the understanding of our Whips was for four days. I hope that the confusion can be cleared up and, given the constructive spirit in which we have dealt with other legislation involving the Minister, I hope that we can change the motion. Two days for a complex Bill—although it is short, it is complex, especially in clause 1—is a short time, and we will have several amendments to table and debate.

The Bill has been a long time coming. We have waited patiently for it since it finished its passage through the other place on 14 November, almost four months ago. It is more than six months since it started its passage there on 29 June. Why has it taken so long, especially as the Bill has changed little since it was originally presented? It was preceded by the parental separation Green Paper in July 2004, the next steps progress report in January 2005, the draft Bill and the pre-legislative scrutiny committee, and there is some mystery about why it has taken so long to progress.

We are also disappointed that, although the Government have recognised in introducing the Bill that this serious issue needs tackling, it will fail to provide effective and lasting solutions to the problems that the Minister outlined. I have some questions about who is running the legislation, given the history of turf wars between the Department for Constitutional Affairs and the Department for Education and Skills on the early interventions project and others. The cross-departmental responsibilities of the Minister for Children and Families are being tested in this case, because it is no secret that Departments have dissented on the early interventions project.

I do not wish to break the consensus of wishing the best for children—which we all do—but the Bill is a limp fudge that lacks teeth and relies on a court infrastructure that is already creaking under its workload. It is at full stretch, as the hon. and learned Member for Redcar

(Vera Baird) suggested. In short, we have some severe reservations about the Bill and will seek to amend it substantially.

It was worrying that, in response to some of the detailed questions that we tried to put to the Minister about how the breaking of contact orders and compensation may work, she kept saying that it was a matter for the courts to decide. That is true, but the introduction of the Bill is a recognition of the existence of a problem, and the courts need to have a much stronger steer on how to use some of the

mechanisms that will be introduced to deal with that problem. I hope that in Committee she will not keep falling back on the mantra that it is up to the courts to decide. Of course the courts must decide in individual cases, but they need a strong steer on what the legislation is intended to achieve. That is why we need the detail on how compensatory contact might work, if that is to be one of the measures available.

Vera Baird: I am anxious to probe what the hon. Gentleman means and what sort of strong steer he thinks should be given. Surely the judge will have powers under the Bill to apply appropriately in each case, given its individual complexities and his training, background and experience. What more guidance can the hon. Gentleman offer to the judiciary?

Tim Loughton: The hon. and learned Lady has already mentioned contempt of court, which is one penalty that can be applied at the moment, but the courts are reluctant to use it. The measures in the Bill include penalties for breaches of contact and we need to have clearly set out the expectations as to how those penalties will be escalated if breaches continue to occur. If the Minister says it is up to the courts, the position will remain confused and that is why we need to tease out more detail on that issue in Committee.

Vera Baird: I hope that the hon. Gentleman finds this attempt to clarify the questions as helpful as I do. If my right hon. Friend the Minister produced the record, I suspect that, although we would find that few courts had actually sent parents with primary care to prison, there are probably more cases where they use that threat. Indeed, the district judges who tell people that if they do not comply they will have to bring their toothbrush with them when they next come to court show that the threat is used. Surely the point of the legislation is to remove that dilemma for the courts, because it is bad for a child if their primary carer is sent to prison. There is a raft of different measures, so in what sense is the Bill failing to deal with the problem?

Tim Loughton: I agree that the worst outcome for the parent, and especially for children, is for the parent to end up in prison, which is certainly not something we want. That is why it is essential that there is a scale of penalties with a realistic expectation of imposition. The hon. and learned Lady rightly says that few people, if any, go to prison, so if the threat of that penalty is never actually carried out, it is not much of a threat. I was trying to tease out whether the details of the scale of penalties that the Bill sets out, and which we want to be better set out, will be imposed by the courts if necessary. A threat can only be any good if it is realistic and credible, and somebody believes it will be carried out.

Ms Keeble: Does the hon. Gentleman accept that some of us welcome the provision precisely because we have had to take up cases of constituents who have been utterly terrified by being told in court that they will be sent down for not letting a violent ex-partner have contact with their child? The courts are used to dealing with people who get into debt or who have financial liabilities, even though they are on benefits and can make repayments only at a low rate. It is perfectly possible for the courts to deal with such cases without their being set out in the Bill. The provisions are a welcome alternative to sending women down for refusing contact to violent ex-partners.

Tim Loughton: If there is a threat of violence to an ex-partner and his or her children, I entirely agree that a breach of contact may be justifiable and the Bill makes provision for that—it is a matter on which the court must be satisfied. The Bill also includes clause 7 on risk assessments, which we welcome, and which will provide clearer evidence of the strength of the risk. However, unless the risk is proven—unless the case is put—the assumption should still be that a contact order granted by a court should be adhered to and it is up to the person who has breached the order to prove why he or she was

justified in doing so. If not, and if the risk assessment does not show that there has been a threat of violence, the penalties should be invoked. I am not in any way trying to put at any more risk someone who is at threat from violence, or indeed, his or her children, but the person who uses that excuse with no vindication must realise that there are realistic penalties that will be enforced.

Ms Dari Taylor (Stockton, South) (Lab): Clause 7, the risk assessment provision, is one of the most crucial and difficult parts of the Bill. If the hon. Gentleman has concerns about it, will he explore how it could be made more waterproof?

Tim Loughton: I have no concerns about clause 7. That is the point that I have just made. I said that including provision for risk assessments gives greater security. People who have serious concerns about domestic violence can have them taken into account by the court so that a breach of contact would be justified. I think that the hon. Lady slightly misheard what I said. The risk assessment gives greater security, but if it showed that a person was not at risk, the penalties should be enforced if there was a breach of contact.

Vera Baird *rose—*

Tim Loughton: I had better make some progress, otherwise I shall speak for even longer than the Minister, which will get me into great trouble—*[Interruption.]* I am not criticising her. She generously took many interventions and I am not trying to be churlish. We are having a nice debate. You try to be nice and you get it thrown back at you, Madam Deputy Speaker—you cannot win.

We are determined that the problem of breach of contact should be addressed once and for all, which is why we have done a lot of work to highlight it, through summits held at Westminster, amendments that we proposed to the Children Act 2004 and some key

undertakings on contact provisions in our manifesto for the 2005 general election. When we scrutinise the Bill in Committee, we shall maintain the resolute and principled stance taken on the subject of contact in particular by those doughty fighters in the Lords for the interests of children, my noble Friends Earl Howe and Baroness Morris of Bolton.

The Bill addresses two major but unrelated issues in respect of contact orders in part 1 and adoptions with a foreign element in part 2, as the Minister said. Although we have some concerns about the fashioning of new procedures for overseas adoption, there is a fair degree of agreement in principle, so we shall concentrate our fire, and our time, on the woeful inadequacies of some of the contact provisions.

Let us consider the problem. Up to 200,000 children a year experience the emotional distress of their parents' separation or divorce. That experience is likely to befall 20 per cent. of children before they reach the age of 16—the same experience affected me when I was 11. Members of Parliament are probably not good role models for parents trying to promote stable families. My noble Friend Baroness Morris said that if she was the subject of a CAFCASS report, she would be described thus:

> "Works away from home, involving long and anti-social hours; appears more interested in everyone else's children than her own; and spends long, hot, summer week-ends indoors writing speeches."—[*Official Report, House of Lords,* 29 June 2005; Vol. 673, c. 255.]

Not a very good model for stable family life.

Although 90 per cent. of separations are resolved without resorting to dispute in the courts, the remaining 10 per cent. can end up in protracted, messy and acrimonious legal proceedings, as the

Minister said. There is much work for CAFCASS to do in producing 28,000 or so contact orders and writing 33,000 court reports, and we have concerns about its resource capability to cope with that work load, while acknowledging the improvements that we are beginning to see under the new board, which, with Baroness Pitkeathley and the new chief executive Anthony Douglas, is doing a good job after a traumatic first few years due to the Government's poorly thought-through conception of CAFCASS in April 2001.

From our surgeries, we are all aware of the pain of non-resident parents who are denied meaningful contact with their children and who often live in reduced circumstances that militate against proper relationships with the children. We see cases of multiple breaches of contact orders by the parent with custody, which require multiple and costly returns to court by the non-resident parent. There are horrendous cases of members of the extended family being shut out of the lives of children—especially grandchildren. I stress the important role played by grandparents who feel so much pain when splits go wrong. Grandparents who have given family members great support, acting as chauffeurs, babysitters and bankers, suddenly find after a split that they are left completely out of the equation.

Mr. David Kidney (Stafford) (Lab): I can reinforce the hon. Gentleman's last point. Is it his experience, as it is

mine, that many grandparents come to MPs' surgeries for advice because they are so completely shut out of the process?

Tim Loughton: The hon. Gentleman is right. Indeed, my hon. Friend the Member for Peterborough (Mr. Jackson) held a debate on that very subject in Westminster Hall recently. Just this morning, I heard that a loving grandmother in my constituency, whom I know well, and who has not seen her grandchildren for the best part of 10 years, is in hospital due to the stress caused by that. It is unacceptable that extended family members are just as much victims—even more so—as the people directly involved.

The number of contact orders does not reflect the amount of contact that is given. We hear the complaint that the contact simply consists of passing on postcards or a Christmas or birthday card, and nothing happens face to face. I fear that the contact often takes place at rather soulless and anonymous contact centres, although I acknowledge that some of the voluntary organisations in particular do a very good job in that respect. I am pleased to hear the Minister mention the greater use of family centres and some of the other new measures that will provide a family-oriented environment, because such places can be depressing and certainly not conducive to allowing the absent parent to spend good-quality time with his or her children.

Too often, the parent with custody can use the children as pawns in an ongoing fight against an ex-partner by taking children away when a holiday has been booked, by denying ex-partners access to school reports or school photographs or by moving to the other end of the country, well away from where the ex-partner lives or can visit because of work commitments. None of that is helpful to children, and there are some extreme cases of people who serially frustrate contact orders and seem to get away with it, time and again—hence my concern that any threat against the infringement of contact must be realistic and able to be brought into play.

Mr. Stewart Jackson: Will my hon. Friend comment on the practice that obtains in respect of the existing statutory duty under section 23 of the Children Act 1989, which places a statutory duty on local authorities to consider friends and family first when considering care orders and court orders but is being disregarded in practice by most local authorities?

Tim Loughton: My hon. Friend makes a very good point. We have heard a number of stories where members of extended families and close family friends could effectively step in, in loco parentis, and offer an opportunity, perhaps temporarily, for a stable family upbringing for those children, who are ignored from the equation. In many cases, that is down to the pressure on local authorities but, in too many cases, local authorities do not think that that should be first port of call, although they are obliged to do so. Time and again, when contact orders are frustrated, it causes stress and anguish for parents and an increase in mental illness problems. We are all aware that 40 per cent. of non-

resident parents lose contact with their children within two years of a family split. That is the most alarming figure of all.

Ms Dari Taylor: Does the hon. Gentleman acknowledge that not all contact is effective and nor does it produce a stable outcome? There are relationships in every family unit that cause serious problems—a fact that becomes apparent in my surgery, time and again. Does he also accept that, in vexatious situations and when there has been domestic violence, unsupervised contact can often be very undermining to the development of a stable family unit? We can talk about contact and understand its value but we must also put in place controls if those children are to benefit from the stability of relationships.

Tim Loughton: The hon. Lady is right, and I will come in a minute, if I can, to the presumption that the child will benefit from maximising contact with both of his or her parents, as the Minister has said already. In some cases, that is not the norm, which is when special provisions need to be made. We want a presumption that that will be appropriate for most children, but there are certainly cases of domestic violence where contact with a non-resident parent can be counter-productive and where proper supervised contact may be needed—it is a case of horses for courses—but that is not necessary in the majority of cases.

Mr. Pickles: Will my hon. Friend give way?

Tim Loughton: I am trying to make progress, but I will give way.

Mr. Pickles: My hon. Friend is making some very good points, and he should not be upset that we interrupt him because we want further information from him. My hon. Friend the Member for Peterborough (Mr. Jackson) made a point about other family members who could be involved, but I have noticed the corrosive effect of the secrecy of the courts on social workers. There is a rather patrician view that they do not need to explain their reasons for taking decisions about the placement of children. Does my hon. Friend share my concern?

Tim Loughton: My hon. Friend makes a very good point, and I shall briefly refer to a call for greater transparency in the court system, as that would go some way to address people's concerns about what may be going on. Decisions may be made for perfectly good reasons, but they are not explained properly and can then be misinterpreted and subject to all sorts of other problems. I will mention that in a minute.

Too many contact orders are breached, which is not good for the parents and the extended family, but, above all, it is not good for the children themselves. Everything we do in our approach to the Bill, as with all other children's legislation, will be guided by the principle that the welfare of the children is paramount, which is set out in the Children Act 1989 and is still relevant today.

What are we trying to do with the Bill? It is in everyone's interests to promote stable family life and, wherever possible, to maximise the amount of meaningful quality time spent with both parents,

whether or not they are living together. However, it is not a question of the rights of parents to have access to their children, but rather that the child has a right of maximum access to his or her parents, unless there is an overwhelming case that doing so would be harmful to that child.

The best blend of both parents is what we need to achieve. It is rarely, if ever, the fault of a child that his or her parents separate, and children should not suffer even more as a result by not having equal access to both parents. Surely, that was the principle set out by Ministers in the Green Paper, which said:

> "After separation, both parents should have responsibility for, and a meaningful relationship with, their children, so long as it is safe. This is the view of most people in our society."

In the debate in the upper House, Lord Adonis said:

> "We fully support the position established in case law that children normally benefit from a meaningful relationship with both parents following separation, so long as it is safe".—[*Official Report, House of Lords,* 29 June 2005; Vol. 673, c. 251.]

We entirely agree. Parents do not stop being parents simply because they are no longer partners.

Ann Coffey (Stockport) (Lab): Does the hon. Gentleman agree that meaningful access does not necessarily mean equal access?

Tim Loughton: Yes, I do.

There is much research to support the greater role of fathers in the lives of the children and the benefit that that brings to the child. Figures on the amount of time that fathers spend with their children reflect our country's social development. Compared with 30 years ago, men spend eight times as much time with their children. In the 1970s, the fathers of young children spent less than a quarter of an hour a day involved in child-related activities. Recent surveys show that, on average, the fathers of under-fives now spend an hour and 20 minutes on child care activities during the week. Our society has changed greatly over the past 20 or 30 years, as has the relationship that female and male parents have with their children.

Research overwhelmingly highlights the fact that children whose fathers have been actively involved in their children's lives achieve more academically, have more satisfying relationships in their adult lives and are less likely to get into trouble with the police. Indeed, if fathers are involved, children are less likely to have a criminal record by the age of 21. Pre-school children who spend more time playing with their dads are often more sociable when they enter nursery school. Children benefit equally, if not more, from their mothers, but I am making the point that both parents have an equal role to play and can have an equally beneficial effect on their children by maximising such contact where it is appropriate to do so.

The Government need to do more to enable both parents to play an active role in the upbringing of their children, yet there is a cohort of dejected non-resident parents— predominantly, but not exclusively, fathers—who are being prevented from doing so often unfamiliarly and without good reason. That does not diminish in any way the fact that there are some very difficult non-resident parents, particularly fathers, who may have threatened violence and may have a detrimental effect on children, but they are the minority.

We will table amendments to the Bill that maintain:

> "that the court shall, unless a contrary reasons be shown, act on the presumption that a child's welfare is best served through residence with his parents and, if his parents are not living together, through residence with one of them and through both of them being as fully and equally involved in his parenting as possible."

I emphasise that that should happen where the safety of the child is not an issue. We also propose that contact with the non-resident parent should be frequent and continuing and that it should be reasonable —not a 50 per cent. share of the time or anything as prescriptive as that. We believe that the system needs to be fundamentally overhauled and effectively turned on its head. There should be a presumption of shared parenting and dissenting parents should have to put forward a coherent case explaining exactly why the right of the child to maintain reasonable and substantial contact with both parents should not be respected. Safety and welfare considerations should be duly weighed up by the court. I repeat that, in all that, the welfare of the child is paramount. Surely the welfare of the child is complemented, not contradicted, by maximising contact and interaction with each parent.

Margaret Moran : The implication of the hon. Gentleman's argument seems to be that, at present, the majority of cases do not involve a presumption of contact. Is he aware of the report of Her Majesty's inspectorate of court administration, which states that the presumption of contact with both parents is so overwhelming that children are being put at risk because of it? In that light, his argument does not seem sustainable.

Tim Loughton: I do not agree with the findings of that report, which was based on a rather small sample. The findings did not seem to match up with the material that was being used. The allegation that the hon. Lady has made—I have heard it before—is exceedingly unrepresentative and unhelpful.

We are not suggesting a prescriptive arrangement, or an artificial 50:50 time split that is monitored by a stop watch, as I have said. We have made submissions to the Government on how better contact could be achieved in relation to the study that is being carried out by the Minister's colleague, Baroness Ashton. Our proposals are not unique. For example, best practice jurisdictions across the United States are light years ahead of the UK and are yielding some interesting and positive results. Such legislation is common in many US states. In Canada, the new Conservative Government pledged in their election manifesto to amend the Divorce Act

> "to ensure that in the event of a marital breakdown, the Divorce Act will allow both parents and all grandparents to maintain a meaningful relationship with their children and grandchildren, unless it is clearly demonstrated not to be in the best interests of the children."

Australia is amending its Family Law Act in more than 300 places to introduce the concept of parental equality. Australian judges will have to consider equal time sharing and give written reasons for any departure from equality. A mediation service is being proposed to take account of children's views. Most recently, Italy has followed suit. However, the UK Government apparently have some difficulty getting their head around the concept.

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The fundamental principles behind our amendments met with widespread support in the other House and, at one stage, even secured the support of the Liberal Democrats. Liberal Democrats voted in support of the principles during the passage of the Children Act 2004 through the Commons, but reneged when it came to the crunch.

Annette Brooke : Does the hon. Gentleman concede that that very unpleasant debate was held before the publication of the significant Constitutional Affairs Committee report and the responses to the Green Paper, and also that the Liberal Democrats on that occasion said quite clearly that there was much of the wording with which they agreed and much with which they did not agree, but that neither did they agree with the Government's position? I think that that is quite clear. Will the hon. Gentleman tell the House why his party has changed its mind on abolishing the Children and Family Court Advisory and Support Service?

Tim Loughton: With the greatest respect to the hon. Lady, I think that she is wrong. She is factually wrong on the first count because the Constitutional Affairs Committee report on the Bill was published in the last Parliament and the vote that her colleagues declined to join us on at the last minute happened during this Parliament in July, when all the information was out there. Her colleagues spoke in favour of this principle and strongly indicated that they would back amendments on it. She and I went merrily through the Lobby together during the Report stage of the Bill that became the Children Act 2004 in support of the principle that we are putting forward again today. I was surprised and delighted that she joined me on that occasion, although I suppose that I should not have been surprised that when it came to the crunch, her colleagues in another place did not have the courage of their convictions. However, we shall see what the Liberal Democrats do in the later stages of this Bill.

Mr. Kidney: I will help the hon. Gentleman to move on from that little spat. I am attracted to much of what he has just said and interested in pursuing the point about cases that will go to court because of the intractable attitude of one parent. It will take some time to get a decision from the court. What is his view of the practicality of starting court proceedings on contact?

Tim Loughton: If I may, I will come on to contact—where it all starts—and mediation later in my speech.

Vera Baird *rose—*

Tim Loughton: I want to make some progress, but will come back to the hon. and learned Lady, too.

Our proposals have widespread support among a multitude of family and parenting groups, but I fully acknowledge that many professionals in the judiciary and some voluntary organisations do not share our view. We have engaged them in constructive debate and perfectly respect the position that they have argued reasonably, even if we do not agree with their conclusions.

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It pains me to have to single out one organisation that has behaved reprehensibly on this issue. I would be the first to acknowledge that the National Society for the Prevention of Cruelty to Children has done a lot of good work in raising awareness of child abuse and campaigning against it, promoting good practice by engaging children, and raising substantial funds for services for vulnerable children. Many members of my party in my constituency enthusiastically raise money for the NSPCC, as I have in the past. However, during the proceedings on the Bill in the Lords, the NSPCC put out a briefing note that attacked our amendments as a threat to the safety of children, yet produced no evidence to support its claim.

In its latest briefing note, for our scrutiny of the Bill, the NSPCC has made the following claim:

> "NSPCC believes that any proposals to introduce into the Bill a legislative presumption of contact will be interpreted and put into practice by the courts in a way which is detrimental to the welfare of the child and could ultimately threaten the safety of the child."

In effect, it is saying that if a non-resident parent—predominantly a father—benefits from a presumption of contact, he is more likely to do harm to his own child.

The Parliamentary Under-Secretary of State for Education and Skills (Maria Eagle): Will the hon. Gentleman give way?

Tim Loughton: Let me finish and I certainly will.

In support of its claim, the NSPCC cites the fact that 29 children were killed over the past 10 years during contact visits to non-resident parents. That is an appalling figure. However, it ignores its own research, which shows that over the same period some 800 children have died at the hands of resident parents or carers, and the 2000 publication "Child Maltreatment in the UK", which showed that violent treatment was more likely to be meted out by female carers than male ones.

The briefing is alarmist, sensationalist, misleading, empirically flawed, completely irresponsible and highly reprehensible. It is not worthy of an organisation such as the NSPCC, which claims to stand up for our children. I hope that our deliberations on the amendments will be based on balanced, rational and well-informed debate, rather than the arrant nonsense that I am sure will shock many dedicated and hard-working NSPCC supporters around the country.

Maria Eagle: I have no torch to bear for various elements of the lobby, including the NSPCC, but my interpretation of its comments is that paramountcy is incredibly important and might be comprised by the kind of presumption that the hon. Gentleman suggests.

Tim Loughton: The NSPCC has said quite clearly—it has not minced its words—that if our amendments about a presumption of contact, in which many other people believe, were accepted, the safety of children would be compromised at the hands of their non-resident parents, but has not offered any evidence for that. That is not a helpful addition to the constructive debate that we are trying to have in the interests of children.

Peter Bottomley (Worthing, West) (Con): The NSPCC will have to find another forum to explain why

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it said what it did, but the Minister has the chance to explain why she cannot trust the courts. A non-resident parent should not be denied contact unless the case has been put to a court. If a court decides that contact should be denied, that is fair enough, but if that does not happen, the situation proposed in our amendments is right and should be supported by the Government.

Tim Loughton: My hon. Friend is right. We should not automatically consider a non-resident parent in some way to be inferior to that same parent when he or she was part of a married couple or a couple together, or inferior to the parent with whom custody resides. It is being strongly suggested by the briefing that the NSPCC has insisted on putting out again, and in stronger terms, that in some way non-resident parents are a threat to the safety of their own children. That is disgraceful and insulting to many thousands of parents who are not able to live with their children.

Vera Baird: I will not tangle with the hon. Gentleman about what the NSPCC says. I can see that he has become riled by it. Underlying the courts' position—I hope that he accepts that historically this has always been the case—there has always been a presumption that there will be joint contact, continuing contact, where that is at all possible. That is not something that CAFCASS or the Courts Service conjured up for the report. That has always been the principle for many years. Child charities worry that if the paramountcy principle is ousted so that the safety of the child stops being the first criterion and we introduce parental rights, too much emphasis is given to the need to guarantee what the hon.

Gentleman calls the child's right to see the parent. There must, of course, be a two-way right. Too much precedence is given to that right and not enough is given to safety. Where domestic violence is raised, that consideration is undervalued.

Tim Loughton: The hon. and learned Lady is misinterpreting what I have said. I have not talked about parental rights. I have been clear in saying where I am coming from on this issue. We are constantly told that there is a presumption of equal contact that pervades in the courts, but that does not appear to be working. Why, therefore, is the NSPCC not complaining about the status quo? What harm will we do by putting explicitly in the Bill—something from which everybody starts—that there is that presumption? It will then be possible for everyone to argue why that should not be so in individual cases.

Beverley Hughes: It is for the NSPCC to explain its interpretation of what it has put out in its briefing. The position that we are taking does not imply a qualitative different judgment about the safety or otherwise of the non-resident parent. We must trust the courts to make individual decisions. It is important to understand—I wonder whether the hon. Gentleman does—that a statutory presumption in law is something that the courts must follow in all but exceptional circumstances. Therefore, a statutory presumption starts to fetter the discretion of the courts and makes a fundamentally different model that would compromise in law the principle of paramountcy.

Tim Loughton: The right hon. Lady needs to speak to her colleague in the upper House, Baroness Scotland,

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because, on 16 November, the day after consideration of Report in that House, she said in response to one of my noble Friends that a presumption "is only a presumption." That answers the Ministers question. That does not fetter the courts. The issue is up for interpretation and a presumption is only a presumption.

The system that we are talking about is best served if we can avoid reaching a certain stage by means of prevention. The best solution to acrimonious legal disputes is to prevent them coming to court in the first place. We favour concentrating more on preventive action, which keeps families together. We need to see much more work undertaken by properly resourced professionally trained social workers, who spend more time not fire fighting if something goes wrong, but more time on preventive action to keep families together in the first place rather than pulling them apart. For example, Kent has done some excellent work in that regard. That is one reason why the number of children in care in Kent has fallen dramatically.

We need also to achieve an agreed settlement earlier. As my noble. Friend Earl Howe said in the other Chamber, there is a simple truth associated with contact disputes: if both parties to the dispute are content with the amount of contact that they have with the child, there is no longer any dispute. We must also agree to some form of mediation. We will have further debates about the extent to which that mediation should be imposed on, or agreed with, the parties.

The Government initiated the promising form of mediation in what was called the early interventions project in the autumn of 2003. It was a successful and imaginative project. The prototype was due to be up and running by 2004, with a national roll-out by 2005. The aim was to defuse parental battles and dramatically to reduce the number of court cases. The project was mysteriously abandoned and replaced with the ill-thought-through family resolutions pilot project, which has been mentioned, having been scuppered by the Department for Education and Skills. Perhaps the Minister can give us more detail on that, though that happened under her predecessor.

The family resolutions project, which ran for one year from September 2004 to 2005, with three pilots in London, Birmingham and Brighton, cost more than £300,000. Thousands of couples were expected to come through the process but only 47 couples started the process and only 23 of them finished it. We have already heard about that independent evaluation.

As *The Guardian* put it, that project was a waste of time. That was a great shame because it replaced something that was rather more worth while. We need to set up an expectation that mediation will be used to try to get things sorted before they come to court. We think that it should be close to mandatory for parents to embark on mediation processes before they come to court, and that if they refuse to take up the offer, that should go on their record. Hence my intervention earlier about differentiating between a partner who is perfectly happy to go along with the mediation process and the other party who decides that they will not have anything to do with it, with the result that both parties are subjected to court proceedings. Surely that must count against somebody who had refused unreasonably the mediation process and count more favourably to the person who was prepared to go along with it.

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We want the early interventions project to be restored—it should be given a fair chance. That confidential mediation process would be privileged and could not be cited in subsequent court proceedings. However, there are question marks over the limited financial incentives for divorcing parents in opting for mediation. We are also concerned about the availability of people who are skilled in mediation within the Courts Service. There are many examples of where a more compelled mediation service has brought about dramatic results, particularly in Virginia where mediation has shown that after 12 years 30 per cent. of parents who had attended mediation were in weekly contact with their children as against only 7 per cent. who had been through litigation and had shunned mediation. This shows that mediation does work.

Ms Dari Taylor: Will the hon. Gentleman give way?

Tim Loughton: For the last time, I will give way. I will then finish. The hon. Lady can then make her own speech.

Ms Taylor: I am most grateful to the hon. Gentleman for giving way again. Does he accept or agree with the Cleveland family mediation service that if mediation is to be effective and is to be a useful tool, it should be used well before a divorce comes to court? Does he agree that it should be taken out of that arena? There is a hothouse of sensation once there are court proceedings. Mediation is much more effective before those proceedings. I would be grateful to hear the hon. Gentleman make a statement about how valuable that approach could be if it were to be supported, as it were, in the Bill.

Tim Loughton: I completely agree. I do not need to say any more. I have been making the point that the hon. Lady has outlined. It is something that works. The more that we can take such proceedings out of the court procedure, the more likely the process is to succeed. I do not think that any of us would dispute that.

I have concerns about CAFCASS, to which I shall briefly return. The Minister said that she would fund CAFCASS with increased resources. Yet its budget for this year is frozen, which effectively means a £4 million shortfall. That is at a time when more work is being imposed on CAFCASS. There are still difficulties although I accept that there have been improvements in overcoming the time delays for allocating officers to cases. However, the courts are still congested and it takes far too long before cases are scheduled and come through.

We agree with the proposal to ask CAFCASS to take on greater work with risk assessments and

various other things, but none of it, however well-intentioned, will work unless properly trained, well-resourced professionals at the coalface put them into operation. The same holds for properly trained social workers who undertake preventive and monitoring work in the field and enable cases to come to court. I have attended far too many family courts where good social workers had

not worked on the case when it first came to court. I was in court one day when not a single social worker had worked on the case when it first came to court.

Mr. Stewart Jackson : May I echo the point that my hon. Friend is making so eloquently? A reply dated 27 February to a question that I had asked in correspondence said that as of 30 November, 16.5 per cent., or one in six, private cases dealt with under the auspices of CAFCASS were unallocated. To develop the point made by the hon. and learned Member for Redcar (Vera Baird), I am concerned that the extra work programmes that we are imposing on CAFCASS may put it in a difficult position.

Tim Loughton: My hon. Friend has made a very good point. If the measure is to work, the professionals must be given the tools that they need. CAFCASS is concerned about its budget, and whether it can maintain the progress that it has made since it experienced a significant transformation.

As for court transparency, a great deal of resentment is caused by proceedings in camera. Many decisions are difficult to comprehend, so there is a need for courts to open up as we look forward to the consultation paper promised by the Government. The Select Committee on Constitutional Affairs said before the election:

> "A greater degree of transparency is required in the family courts. An obvious move would be to allow the press and public into the family courts under appropriate reporting restrictions and subject to the judge's discretion."

A less radical proposal would be to make it a rule that all judgments are published in family cases unless there are exceptional circumstances. Judges already have such a power, but many choose not to exercise it. We would therefore like to see the Government's proposals on opening up the court system, as they would provide reassurance for many parents who feel hard done by. Recently, Mr. Justice Munby made a strong plea for more transparency, suggesting that the current restrictions may even breach the European convention on human rights:

> "Because of this secrecy misunderstanding about how the family justice system operates are allowed to grow and fester unchecked and uncorrected."

In Committee—assuming that the Committee of Selection selects me as a Committee member—I will go into greater detail about the frustration of contact orders but, as I said earlier, the Bill lacks teeth. Defiance of contact orders should be monitored by the court system. We should not just rely on the non-resident parent crying foul before we initiate and pay for legal challenges. Serial frustrators are able to play the system, ultimately leading them to be in contempt of court, although the relevant powers are rarely used. Prison is not a practical option, and electronic tagging, I am glad to say, has been dropped. There are problems with the payment of compensation, and I would like the Government to consider the proposal on compensatory contact time, which we support and which was mentioned by the hon. and learned Member for Redcar. Whatever measures are put in place should be on a sliding scale so that the offender has many opportunities to reform their behaviour and comply with the contact orders, subject to checks and balances if they are scared to do so because of domestic violence and other threats.

Penalties must be realistic, and there should be a perception that they can and will be imposed if the offender continues to flout the contact orders.

False accusations, usually of domestic violence, are sometimes made. I am not seeking to undermine the fact that domestic violence takes place, but parents may fabricate claims of domestic violence, and we should come down hard on such claims. We certainly need to speed up investigations of claims of domestic violence. Some interesting work is under way in Australia, where serious consideration is being given to a proposal to compel people to pay costs for vexatious complaints.

Finally, on the subject of inter-country adoption, it is perfectly legitimate to adopt overseas and, in many cases, such adopters perform a humanitarian role. I share concerns about cases of child trafficking, particularly, it was claimed, after the tsunami. There were claims of such cases in Cambodia, which is why a decision was made on that country. We should clamp down rigorously on anything that constitutes the trafficking of children. Procedures were tightened in the Adoption and Children Act 2001, and we supported those measures. I am concerned, however, about the imbalance in adoption numbers. In the past 10 years, about 3,000 children have been adopted overseas, of whom 1,441—almost half—came from China. Many of those children, I suspect, were baby girls. Should we concentrate so much on a country with a questionable social stance on baby girls? The next largest contributor was India, where 235 children were adopted; followed by Guatemala, where 205 children were adopted; then Russia, where 177 children were adopted, and Thailand, where 171 children were adopted. I am in favour of inter-country adoption where appropriate, but I question the imbalance in the countries from where children have been adopted in recent years.

Another problem arises from the fact that, unlike many other western countries, we lack an inter-country adoption agency. How much evidence of trafficking will be required to trigger the suspension of a country from inter-country adoption arrangements? Why are the rules not working if we are clamping down properly on child trafficking? We need to act in the best interests of the child, and I certainly welcome the provisions that allow for special exceptions in individual cases. We are concerned, however, about the scale of charges for work on inter-country adoption. Such a proposal was not included in the draft Bill, and inter-country adoption is already an expensive and bureaucratic business. The British Association for Adoption and Fostering has expressed concern about the Government charging for a service:

> "It is hard to see why one group of UK residents—prospective intercountry adopters—should be singled out for payment of a fee for the provision of a service such as this . . . Any suggestion that public money should only be spent on safeguarding the welfare of children indigenous to this country is surely repugnant both morally and in the light of our international obligations.
>
> We believe any additional financial burden on intercountry adopters may run the risk of a minority seeking to circumvent procedures, thereby putting some children at risk."

We should clamp down on inappropriate inter-country adoption but, equally, we should be wary about encouraging private fostering arrangements by the back door. As we seem to do on an annual basis, we will table an amendment on the registration of private foster

carers. Such registration was not included in the Children Act 2004, although there was a fallback suggestion that it might be introduced. We will therefore revisit the issue, and dust down our amendments on private fostering registration.

The Bill is a short one, but it includes a great deal of detail. Some provisions are contentious,

particularly those on contact orders. It received a great deal of scrutiny in the other place, but it remains a highly unsatisfactory Bill. Many parts are fundamentally flawed, and it is a missed opportunity. Above all, it fails to do what it could and should do, so we are letting down too many children who have been let down by an acrimonious split in a family. We had an opportunity in the Bill to give them a second chance of a meaningful relationship with both their parents, and for most children that is the best start in life that we can give them.

2.8 pm

Margaret Moran (Luton, South) (Lab): I welcome the Minister's strong support for the principle of paramountcy, particularly in the face of comments by the hon. Member for East Worthing and Shoreham (Tim Loughton). Many of us believe that his proposal would undermine that fundamental principle.

I am afraid, however, that the Bill could go further to ensure that the principle of the safety of the child is enhanced. This feels a little like groundhog day, because many hon. Members participating in our debate took part in similar discussions in the Joint Committee that considered the draft Adoption and Children Bill as well as the subsequent Bill Committee. We were concerned that existing legislation had not done enough to safeguard children at risk in contact situations, particularly if there was a risk of domestic violence.

I was pleased that the Government accepted our arguments about the risks to children in contact cases involving violence, and that my amendment was accepted, which extended the definition of harm to the child to include impairment due to seeing or hearing ill treatment of another. For the first time we enshrined in law and recognised the damage to the child caused by witnessing domestic violence and the fact that that should form part of the court's consideration. As the Minister noted, further measures have been introduced to improve family court practice with regard to domestic violence, most recently in January this year, when new court application forms were introduced.

Even so, at that time many of us said that the measure would not be sufficient to remove the risk to children, and so it has proved. None of the measures so far introduced or in the Bill require courts to ensure that contact is safe. To date there is no evidence to suggest that court practice has been improved. That is asserted not just by me, but by all the leading children's charities, including the NSPCC, Barnado's, NCH Action for Children, Women's Aid, the Greater London domestic violence project, Respect, Men's Advice Line and Enquiry Service and others—in other words, all the experts on the subject.

Despite the hon. Member for East Worthing and Shoreham decrying the report of Her Majesty's inspectorate of court administration, we cannot ignore the evidence from its study showing that in the work of

CAFCASS in this regard, there is such a strong presumption of contact with both parents that concerns about safety and the risk to the child are overridden, thereby putting children in severe danger of violence and abuse.

Notwithstanding the legislation and recent Government initiatives, there is still grave concern that children's needs are minimised or ignored, and that many parents and children remain unsafe during contact arrangements as a result of contact orders being awarded inappropriately. If, as we all profess, the safety and welfare of the child should be the key principle throughout the legislation, we need to amend the Bill further in the interests of the safety of the child. It is important that all the proceedings

covered by the Bill have the paramountcy principle at their heart.

I welcome the amendments made in the other place in relation to the introduction of clause 7. That is a significant step forward, but the court is still not required to act on the risk assessment by CAFCASS. I recognise the extensive work done by the Government to tackle domestic violence, but in the interests of children's safety the Bill should incorporate a requirement that the court act upon the risk assessment required under clause 7. It is clear that in the criminal justice system the dangers of separation where there has been a history of domestic violence are recognised, but the same understanding is not evident in many parts of the family justice system.

Much of the debate in the other place and to some extent in the Chamber today has been based on anecdote. We need a great deal more research on the subject of contact and the reasons why contact is not taking place in cases where an enforcement order has been issued. I hope that the Department will take that on board.

Let us deal with some facts. The victims of domestic violence face greatest risk post-separation. Research shows that children ordered by courts to have contact with a violent parent are likely to be abused and in some cases killed. The Green Paper on parental separation recognises that of the 10 per cent. of contact cases that get to court, in at least 35 per cent. of them there are concerns about the safety of the child. CAFCASS officers state that in about 66 per cent. of the caseload domestic violence is a significant factor.

Despite that, judicial statistics indicate that less than 1 per cent. of applications for contact orders are refused. It is clear that parents and children are being exposed to unsafe conditions by court orders. Research by Trinder in 2005 shows that

> "In many of these families there had been violence in the home. Quite commonly, there were child protection concerns. The disputes presented to the court did not reflect straightforward arguments about 'contact'; they reflected a range of issues, including commitment to the child, reliability, parenting quality, the child's reaction to contact, and perceived attempts to bully or control. In short these families experienced problems on a different scale from those experienced by the majority of separating parents, including multiple risk factors associated with poor outcomes for children."

In other words, the family courts are dealing with the most difficult cases where children are likely to be at risk.

That is reinforced by a study of 73 private law family cases, which found that one year after contact proceedings ended, the children were still experiencing similar levels of emotional and behavioural disturbance as children who had been the subject of child protection proceedings. That was linked to distress among the parents and high levels of intimidation and domestic violence.

Rather than a blanket assumption that contact will always be beneficial, the findings emphasise the importance of assessing risk and considering what is best for each child. That is supposed to happen because the welfare of the child is paramount in the Children Act 1989, so why are children still at risk after all this time? First, there is insufficient liaison between the criminal justice system and the family justice system. Following an investigation into the murder of Georgina McCarthy, whose violent ex-husband used contact proceedings to obtain information as to her whereabouts, the Advisory Board on Family Law stated:

> "The view of the Home Office, with which we agree, is that there needs to be much greater

liaison and co-operation between the criminal justice system and the family justice system over issues of domestic violence at all court levels".

When Dame Elizabeth Butler-Sloss was asked by the Select Committee why schedule 1 offenders were still being granted contact with their children, her response was that judges do not always know when they are dealing with a parent who has been convicted of an offence against a child. That cannot be satisfactory.

Clearly, the family justice system does not have good liaison with the criminal justice system, yet we hear that the judiciary would like greater powers to enforce contact orders, even though they might unknowingly be granting contact in high risk cases. How can we legislate to give judges more powers to enforce contact, when the Bill does not contain a clause requiring pre-court checks in all cases? Such checks are needed because domestic violence tends to remain hidden. I understand that two cases in which children were killed during contact visits involved consent orders. The parents' solicitors agreed contact arrangements which were then rubber-stamped by the court, with no consideration of the possible risk.

Mr. Stewart Jackson: Does the hon. Lady agree that some children's charities have already criticised the Bill because the paramountcy principle is not explicitly at its centre, and less so than the 1989 Act?

Margaret Moran: I do not agree with the hon. Gentleman. The representations that I have received state that the Bill includes the paramountcy principle. There are concerns that the paramountcy principle is being undermined by existing case law and practice within the family courts, and we therefore need to reinforce clause 7 to ensure not only that risk assessments are conducted, but that the courts are required to act upon such risk assessments when they make decisions in difficult cases.

Most children's charities argue for a further strengthening of the Bill, because they know that the paramountcy principle has already been undermined by

case law precedents. For example, in re O in 1995, which concerned the imposition of conditions for contact, it was stated that contact is

"almost always in the interest of the child".

It was hoped that court practice on child contact and domestic violence would improve after the judgment in re L, V, M & H in 2000, which stated that the courts should have a heightened awareness of the effects of domestic violence on children and that they should make findings of fact and minimise risk. That judgment also upheld the ruling that contact is almost always in the best interests of the child.

Both case law and the inspectorate of court administration report on the practice of CAFCASS indicate that there is a strong presumption of contact despite the existence of the paramountcy principle, which is supposed to be the court's priority. The inspectorate of court administration report on CAFCASS's activities in such cases states that

"No formal risk assessment was undertaken in any of the observed interviews".

The report also notes

"a worrying lack of attention to safety planning"

and that

"the nature of domestic abuse is not sufficiently understood by most CAFCASS practitioners".

The inspectorate of court administration report identifies the strong presumption of contact as the

fundamental reason for the failure to protect children. CAFCASS officers admit that it is difficult for them to challenge the strong presumption of contact, even when there are concerns about the continuing impact of abuse on a child. Although the hon. Member for East Worthing and Shoreham does not regard the report as significant, many hon. Members do, and it should make us think carefully about what the Bill does to facilitate and enforce contact.

Are the safeguards adequate to ensure that contact is safe before contact orders are enforced? I shall pray in aid the Prime Minister's reply to my recent parliamentary question:

> "We of course are concerned by the finding of the Inspectorate of Court Administration report that there is such a strong presumption by the courts that there must be contact with both parents that concerns about violence and children's safety are overridden. We remain utterly committed to the principle that the welfare of the child should be paramount in the consideration of the courts. We recognise that more needs to be done to address domestic violence concerns".—[*Official Report*, 2 November 2005; Vol. 438, c. 828.]

As I have said, the amendment by the other place is extremely welcome, but it does not require the court to take that advice into consideration, and the Bill should state that that is a requirement. Furthermore, we must examine pre-contact risk assessment, which must be considered throughout all proceedings, including enforcement proceedings. When enforcement takes place, we must ensure that there is a requirement for a further risk assessment should it be necessary to safeguard the care and welfare of the child. We know that the most dangerous points for children and their parents in domestic violence cases are the points of separation and of contact. In the interests of children, it is therefore vital that we not only say that a risk assessment may be taken into account, but require it to

be done before enforcement, because the danger is that domestic violence has taken place after the parents first had contact with the courts. We owe children nothing less than that.

The Bill requires a further provision on the voice of children. The Adoption and Children Act 2002 includes a requirement that children's views should be taken into account, but as I understand it, that provision has not been enforced. We should include a provision in this Bill to enforce section 122 of the 2002 Act, which introduced separate representation for children in family proceedings.

Tim Loughton: I have some sympathy with the idea of taking children's views into account and have cited the example of Australia, where representations by children are being beefed up. However, putting a young, vulnerable child in a court scenario will create problems in practice, and it may be better to conduct such matters from the home of the parent who has custody. Does the hon. Lady have practical solutions on how best to take into account the views of a child without intimidating them, which may prevent them from providing a balanced view?

Margaret Moran: Those concerns were extensively debated in the proceedings on the 2002 Act. Children's charities have introduced many proposals on how we can ensure that children's voices are safeguarded, that undue pressure is not applied and that the child's voice, rather than that of their parents, is considered. I think that we need to seek the advice of children's charities.

Vera Baird: Does my hon. Friend agree that working out how children's voices can be heard in court is an urgent issue? These days, it is easy for child abuse to take place in a criminal context, but it is impossible to bring action because of the tender years of the child, which means that people of tender years are not protected. It is critical that we turn our minds to the whole issue of bringing children's evidence into court.

Margaret Moran: I agree with my hon. and learned Friend. I hope that we will have a detailed discussion on that topic, if we are lucky enough to be selected as members of the Committee.

Mr. Stewart Jackson: I am making a habit of agreeing with the sensible comments made by the hon. and learned Member for Redcar (Vera Baird). Given that the 2002 Act has been on the statute book for more than three years and that there is ample academic evidence that the voice of children acts as a catalyst to obviating the need for a bitter and long-standing dispute between parents, does the hon. Member for Luton, South (Margaret Moran) agree that the Government are remiss in not having acted on section 122 of the 2002 Act? Indeed, perhaps she knows why the Government have not acted.

Margaret Moran: I am not furnishing all the answers today. I hope that we will all seek greater truth in Committee, should we be lucky enough to be selected.

Vera Baird: My hon. Friend is being used as something of a ping-pong ball by me and the hon. Member for Peterborough (Mr. Jackson), who is of course missing the point. This is nothing to do with

introducing the ability to have a child's voice heard in a technical sense—the problem is how to involve the views and experience of the child so that that becomes credible evidence.

Margaret Moran: I thank my hon. and learned Friend for her usual clarity.

Opposition Members and those in the other place have been extremely exercised by the enforcement of contact orders. I would hate for anyone to misunderstand me on this. I agree that in the best of all possible worlds, it is always best for children to have contact with both parents, but we are dealing not with the best of all possible worlds but with cases where the evidence suggests that there are severe risks to the child. We must therefore build into the legislation every precaution to ensure that contact is safe for those children. We are not dealing with the generality of contact orders. Equally, I agree that vexatious parents who deny contact for their own reasons should have the proverbial book thrown at them. Again, however, we must be absolutely certain that those children are safe before contact is enforced. As things stand, the Bill has no such requirement. That is urgently needed.

We need pre-court checks at the beginning of all proceedings to assess whether there may be safety concerns and a more comprehensive definition of risk assessment in legislation or in regulations. Courts must have regard to any risk assessment and order contact only if it is safe to do so. I fully support perpetrator programmes, provided that they are legitimate programmes run by organisations such as Respect and MALE, which have a long history of understanding perpetrator practice, not short courses that purport to resolve domestic violence and treat perpetrators in one day. We have to be careful about what is meant by proper perpetrator programmes, and we must ensure that the voice of the child is heard.

We do not want to experience further groundhog days as parliamentarians, but this is not only an issue for us but one that has serious implications for the lives of our children. Twenty-nine children have been killed as a result of contact arrangements in England and Wales. Serious case reviews indicate that with regard to five of 13 families involved, contact was ordered by the court, but no court professionals have been held to account for those homicides. Children have paid with their lives for the presumption that exists, and will continue to exist unless we amend the Bill, that contact is almost always in the best interests of the child—the presumption that the family justice system abides by and holds so dear. It is time that that is balanced by a legal requirement that the court must have due regard to risk assessments and be satisfied that that contact will be safe for our children. Nothing less will do.

2.33 pm

Annette Brooke (Mid-Dorset and North Poole) (LD): I congratulate Members who have spoken so far on the tone of the debate. We have already had a useful sharing of views and new ideas. That is all-important—after all, we are all trying to ensure that the best interests of the child are served.

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Our debate must focus on the best outcomes for the child. For me, it is important that the principles in the United Nations convention on the rights of the child are upheld. Many articles are relevant to the Bill. Article 3 states that

> "the best interests of the child shall be a primary consideration."

As we have heard, article 12 covers the right of the child to express views freely—

> "the views of the child being given due weight in accordance with age and maturity."

The next paragraph is especially relevant. It states that

> "the child shall in particular be provided with the opportunity to be heard in any judicial and administrative proceedings affecting the child."

The right to be heard and how it is facilitated are critical.

Article 9 states that it should be ensured that

> "a child shall not be separated from his or her parents against their will except"

under some of the conditions that we have discussed. When there is a possibility of separation from one or both parents, the article states that relations and direct contact should be maintained with both parents regularly, except if that is contrary to the child's best interest. Articles 11 and 21 are especially relevant to the adoption provisions of the Bill.

I welcome some aspects of the Bill. I do not feel quite as negative as the hon. Member for East Worthing and Shoreham (Tim Loughton) about it. Its origins go back several years and there has been a great deal of consultation. The issues that part 1 covers constitute an acknowledgement of the great dissatisfaction with the way in which the legal process has handled contact disputes.

As the Minister for Children and Families said, a multi-faceted approach is important. It is also important to try to increase the proportion of parents who resolve contact issues without recourse to the courts, and the proportion of those who have reached the court process but are supported to find agreed solutions. We must also improve the efficiency and effectiveness with which the remaining intractable cases are tackled. We must appreciate that those cases—approximately 10 per cent. of the total— are complex.

To go back a stage further, it is important to recognise the importance of the family unit, with no prescriptive view of the shape that a family may take. The family structure may change for a child, but the important aspect is loving, caring and safe relationships in the family. The preamble of the United Nations convention on the rights of the child stresses

> "recognising that the child, for the full and harmonious development of his or her personality should grow up in a family environment, in an atmosphere of happiness, love and understanding."

I suppose that we could say, "We wish."

The Constitutional Affairs Committee report that covered matters of importance to the Bill was entitled "Family Justice". Sometimes, experiences in my constituency surgeries make me ask, "Justice for whom?" Do we mean justice for parents or for the children? Somehow, one loses sight of the fact that there was a family unit. We need to proceed in such a way as to retain the importance of the family, even if all its members are not located in the same residence.

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Support for the family generally is important. I declare an interest—I wish it were greater than it is—as a trustee of Poole community family trust. I do not believe that it will receive any Government funding in the near future. The principle behind community family trusts of working on relationship education prior to partnerships becoming permanent—for example, by working through checklists and especially through providing relationship education in schools—is excellent.

Such preventive measures are part of what should be a lifetime of family support that can be accessed at appropriate times. When we consider the amount of support that is needed when a breakdown occurs, we realise that such early investment is crucial. Clearly, even in the case of an irrevocable breakdown, if the parents have an amicable split contact arrangements are much easier to tackle.

Part 1 is the result of a process that began way back in March 2001. Following consultation, a report entitled "Making Contact Work" was published in 2002 by the Children Act Sub-Committee—CASC—of the Lord Chancellor's advisory board on family law. Its recommendations covered several issues that we are debating today. However, it was not until July 2004 that the Government published their Green Paper on parental separation, which acknowledged that the way in which the courts intervene in disputed contact cases does not work well. The results of the consultation were published in "Next Steps" in January 2005. We then had pre-legislative scrutiny. That is an excellent process, on which the Government are to be commended. There should be much more of it. The Bill was then introduced in the other place, and we are now debating it today, five years after the process started. It is hardly surprising that people have become impatient.

There has been high drama throughout the period, involving not only the antics of various fathers' groups, but the significant report of the then Select Committee on the Lord Chancellor's Department on the Children and Family Court Advisory and Support Service—CAFCASS—which resulted in the whole of the CAFCASS board resigning. Positive changes have emanated from that and we are now beginning to feel confidence in its ability to change the way in which it works, but it certainly faces enormous challenges. CAFCASS has just completed its consultation paper "Every Day Matters", and I shall say more about CAFCASS later. I want to note the significance of that title. It illustrates the importance of dealing with these disputes in an effective but cautious way. However, we have just been through a five-year process. Surely that is too long.

We have already heard evidence of important case studies and seen data from the Office for National Statistics, but do we really know the extent of contact denial or breakdown? The evidence that I have seen suggests that we tend to get different answers, depending on whether we ask the resident parent or the non-resident parent. Obviously, perceptions will differ, but that makes it all the more important to set up the research projects with great care. It is welcome that the Government are setting up a further research project on what happens between a case arriving in court and a final contact order being made. However, that research could well take 18 months, and we shall have completed our work on the Bill long before that. Research has also

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been undertaken on the gateway forms, although I have not come across its findings. Perhaps the Minister will talk about that later. Time is ticking by—we should have commissioned some of this research rather earlier.

We wholeheartedly support the presumption that the welfare of the child must be paramount, as set out in the Children Act 1989. Given that presumption, I should like to address four issues: safety, mediation, contact and enforcement. If I have time, I shall also mention resources and transparency. I concur with what has already been said about the paramountcy principle being included in all proceedings referred to in the Bill. In particular, it should be added to clauses 4 and 5. I agree with the points made by the hon. Member for Luton, South (Margaret Moran) on that matter.

The Government have made an important contribution to tackling domestic violence, but can we ever do enough in that regard? In relation to contact and the safety of children, there is frequently a history of violence behind the cases that come to court. A statistic that is often cited is that in 2003, 16,000 cases involving domestic violence came before the family courts, but contact orders were refused in only 601 of them. It is difficult to say whether domestic violence is under-recorded. Many groups feel strongly that it is, and I certainly have a distinct feeling that that is the case. However, others will argue that it is over-recorded.

I am pleased also to be able to congratulate the Government on the fact that the availability of supervised contact centres is improving. However, the provision of such centres is still inadequate and many more are needed. We heard earlier about the inadequacy of provision in Northamptonshire. In Dorset, even if we achieve two contact centres, people will still have great difficulty because there is so little public transport.

I am pleased that the Government responded favourably to the Select Committee's suggestion that more innovative solutions should be considered. The Minister mentioned the use of children's centres and extended schools, for instance. I have no idea whether the resources that the Government are allocating will be adequate, but I sincerely hope that they will.

We have long felt strongly that any contact activity should be subject to careful and separate risk assessment to minimise possible risk, especially to children but also to others involved, particularly women. The Joint Committee responsible for the scrutiny recommended that before making contact or enforcement orders, courts should be explicitly required to consider the safety implications for both child and parent. I am glad that the other place agreed to introduce risk assessments. I look forward to scrutinising the new clause in Committee because it concerns a vital issue. I hope that it can be strengthened.

Why are reports of domestic violence increasing? Are we becoming a more violent society? Have the gateway forms encouraged people to come forward and say something, or are people using domestic violence as part of the unfortunate game, as has been suggested? It is encouraging in many ways that people are speaking out more and acknowledging the issue of domestic violence, but when there is a dispute between two parents on whether domestic violence has occurred, a mandatory risk assessment will be helpful. Both sides will have an opportunity to present their points, and the playing field will become more level.

The safety issue needs to be revisited over time. That will be difficult because the situation will not remain static. We hope that some of the perpetrator programmes will be successful. There will be additional strains as time goes on, and domestic violence may occur when it has not occurred in the past. Safety issues should also be considered before the mediation route is taken, although mediation

must be a priority.

The Government have made a good start. We may have criticisms over which project has been adopted and which has not, but there is much more emphasis on mediation and an understanding that it must be better than warfare and conflict, in which the child becomes a pawn. Mediation should be used as an opportunity to strengthen relationships and to ensure that the outcome is the best for the child and does not merely serve the parents' interests. It might be good for the parent to see the child, but if it involves hundreds of miles of travel for the child, that must be borne in mind. Putting the child first is all-important.

Mr. Kidney : I strongly support mediation, but who pays for it now and who does the hon. Lady think should pay for it in future?

Annette Brooke: I understand that if both parents are on legal aid, mediation will be free, but I am not sure what happens when, for example, one parent is on legal aid and the other is not. I hope that the Minister will address the issue. Certainly we should consider it in Committee.

The 10 per cent. of cases that reach the courts are those in which people need the most support and problem-solving. It may seem a small percentage, but in terms of numbers it represents a large tragedy. Each year there are 40,000 applications to the courts over child contact, and 70,000 breaches of child contact orders. That should concern us greatly.

The consultation document issued by CAFCASS, "Every Day Matters", makes some good points about intervention. CAFCASS frequently intervenes too late, long after parents' attitudes to each other have hardened, or long after one parent has created a new household excluding his or her former partner. Indeed, many attitudes have hardened long before the first court application—hence the need for even earlier intervention where possible. Arguments about the fine detail of contact arrangements occupy huge amounts of scarce professional time, often unproductively. Once a court application is made, there is a clear risk of an adversarial model of law being started. The consultation document illustrates why we must put such emphasis on early intervention. However, we must also make information easily accessible. The Minister mentioned the telephone helpline. I understand that booklets are available, but I wonder whether they are necessarily the best format for those who need to access information. I would like to know exactly what is available for parents at the moment and whether, for example, videos as well as printed leaflets are available.

Research by the university of East Anglia and other research indicate that many of the parents among the 10 per cent. that go to court are very young, poorly

educated and on low incomes with extremely young children. Partly because of their lack of education, they often find it difficult to communicate not only with each other, but with those who try to help them. There may be a deep lack of trust between the parents, a history of violence, or poor parenting skills. Parenting skills play an important part in preventing such situations from becoming adversarial, which is when worries arise about the vulnerability of the children.

We agree with the Government—I have done quite a bit of that so far—that mediation cannot be made compulsory. One can put two people in a room with someone but, if they are not prepared to participate, one cannot make it work. However, we support the case for a compulsory referral meeting about mediation. We think that that is where the compulsion should take place. We argue that that meeting should be free, as we do not think that we can compel people to do something and then charge for it. I qualify that by saying that any meeting would need to take account of the principle that the welfare of the child is paramount.

Vera Baird: As the hon. Lady says, it is wrong to compel people to take part in mediation, but is it not also wrong to try to arrange that? There are reservations about mediation where there may be domestic violence issues. Clearly, if someone is to be forced to try to resolve things through a face to face with the person who has been oppressing them for many years, that is an inappropriate model.

Annette Brooke: I thank the hon. and learned Lady. I have mentioned twice in that context that safety must be the prime consideration. It is important that, before we consider mediation, we examine the risk assessments. I said that earlier. I am conscious how dangerous—emotionally dangerous, too—it could be to put two such people in a room.

Mr. Stewart Jackson: I am following the hon. Lady's speech closely. Is she aware of the experience in both the United States and Norway, where empirical evidence shows that compulsion largely has worked, and that when people are compelled to take part in mediation it makes a real difference in trying to save the situation from deteriorating further after divorce or separation?

Annette Brooke: I have heard mention of projects in other countries, but have not come across the full, long-term evaluation of them. I feel that, logically—perhaps my background as a school teacher showed me this—we cannot make people, or children, do something that they do not want to do.

On the family resolutions pilot project, I know that there was general disappointment about the number of cases that were referred to it. However, it was a starting point. I regret that we cannot discuss the evaluation of that project, as we were not aware that it was put on the website today. I look forward to the Minister telling us a bit about it later.

Returning to mediation, it would help if the court application triggered compulsory attendance at the preliminary meeting. At that introductory session—the couple in question might choose to meet the mediator separately—the options for mediation could be

outlined, including offers of other parenting help. That information could be given to the parents face to face, which, I suspect, would be the most efficient way of dealing with some of these difficult cases. The first meeting must be free; otherwise, cost could prove a barrier. Of course, there is the question of what happens if one partner is on legal aid and the other is not. If both are not on legal aid, that could present difficulties.

I take on board entirely the point about risk assessment before mediation and the desire to intervene as early as possible. Here, we need to strike a balance. Perhaps that first meeting could be held even before going to court. I realise that that would present difficulties, but the sooner the conciliation process begins, the better. The whole package—mediation, counselling, parenting classes, contact activities—is important, but we need to consider the money and skills needed to resource such activities. That is particularly true of the domestic violence programmes.

It is difficult to know how big the problem is. Contact is a high-profile issue and we all know of people who feel aggrieved. Indeed, we probably all have friends who have told us how big a problem this is. Such people appear to have genuine grievances and we cannot just brush them aside and say, "We are doing all these other things—it's going to be all right." We need to address the question of contact and bear in mind the United Nations convention on the rights of the child. A child has the right to direct and regular contact with both parents, unless it is contrary to the child's best interest. It is generally acknowledged to be in the child's best interest to sustain a full relationship with both parents but, obviously, in some cases it is not—for instance, if there is a risk of harm. Indeed, relationships involving conflict can be immensely mentally damaging for the child caught in the middle.

We should not be too prescriptive—I would hate to go down the 50:50 route and argue that that is a fair starting point—but we should go a bit further than we currently do. As we have heard, various documents acknowledge the presumption of joint contact.

Mrs. Maria Miller (Basingstoke) (Con): I should be interested to hear the hon. Lady's views on the fact that 40 per cent. of parents lose contact with their children within two years of separation or divorce. We need to focus on that issue, because that is the reality.

Annette Brooke: I thank the hon. Lady for that intervention, but I shall deal with that point in due course as I want to make some progress.

We have talked at great length here and in the other place about whether it is possible to have two presumptions, and what I hear about the possible undermining of the safety of the child worries me. It is a question of listening. In its written evidence to the Select Committee, Resolution—formerly the Solicitors Family Law Association—suggested that there should be a first presumption and then a second: the first relating to the child, and a second, lower-order presumption relating to the right to see both parents. That was the position during one of our debates, but when Resolution gave oral evidence to the Select Committee, it appeared to change its mind, supporting instead the insertion of a statement into the welfare

checklist in the Children Act 1989. It is significant that a major association should, on having listened to what others had said, change its mind in the process of giving evidence.

Vera Baird: I understand the hon. Lady's concern, but Resolution is talking about putting a common-sense presumption in the welfare checklist, whereas the Tory Opposition advocate a legal presumption. However, an absolute legal presumption cannot be changed. If it is rebuttable, it can be rebutted, but it still has to be overturned, and that is a very different matter.

Annette Brooke: That is my point. The Select Committee concluded that inserting a statement into the welfare checklist offered a possible solution and did not have the dangers associated with having two legal presumptions. It also said that the court should have regard—and this is the critical point—to the importance of sustaining a relationship between children and non-resident parents.

That approach was also endorsed by the Scrutiny Committee. I know that the Government heard that request, and I hope that the Minister will say whether there will be any response to it.We have been told again today, as we have been told repeatedly, that the assumption of reasonable contact is established in case law, but we should try to find appropriate wording—perhaps in the form of something added to the welfare checklist—to give some clarity and guidance.

With reference to the point raised by the hon. Member for Basingstoke (Mrs. Miller), what amounts almost to a self-generating bias has been caused by the delays that occurred in the past. It is clear that a resolution is even harder to achieve if a non-resident parent has not had contact with a child for six months or longer. In such cases, the outcome is almost a self-fulfilling prophecy. What can we do? Is it a question only of making the court process more efficient, or can we put in place some mechanism to deal with the problem, where there is no risk of harm? I hope to be able to explore that in greater detail in Committee.

The hon. Member for Luton, South said that it is vital that the views of children are fully considered. My impression is that, in good circumstances, CAFCASS does take account of children's views and deals with them very well. It would be interesting to have some evidence in that regard, but hearsay suggests that that body's response is patchy across the country. I support the NSPCC's contention that

the Bill fails to make any provision in respect of the mechanism by which the courts may ascertain the child's wishes and feelings, or ensure that separate representation for the child is available when that child might be at risk and his or her interests are in conflict with those of the parents.

Section 122 of the Adoption and Children Act 2002 has been mentioned already. I have tabled some parliamentary questions on the matter, but it would be very helpful if the Minister who winds up the debate is able to say whether the provision is likely to be implemented in the near future. A great deal of research exists to suggest that taking a child's wishes and feelings into account can lead to better resolution between parents. We must find the best practice in that respect, but I am sure that all hon. Members want that outcome.

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Much has been said in the debate about enforcement, although I have not devoted as much of my speech to the topic as the hon. Member for East Worthing and Shoreham did. It is important to consider different penalties, and my earlier intervention was aimed simply at establishing whether a range of penalties existed. The community punishment is obviously preferable to sending a parent to prison, which is a last resort, but the way that it is operated by the probation service means that some parents will find it difficult to make sure that the child's interests are not affected. For example, a parent who is sent on a gardening scheme might have to wear a very visible jacket, and her child might think, "That's my mother doing that."

I am not convinced that the community punishment work would be appropriate in all cases. Will the Minister say whether the provisions in the earlier part of the Bill could be applied as part of a contact order's enforcement process so that, for instance, a person could be sent off to an appropriate parenting course? That would add to the range of available penalties, although all matters to do with contact activities, community service and so on obviously require adequate resourcing. We know that delays have been caused by CAFCASS, but in "Every Day Matters" it seems almost to be putting on a brave face. It says that it does not have enough resources, but that it has proposed new solutions. We have to be concerned that CAFCASS is adequately resourced.

I asked a parliamentary question recently and established that while the average training budget per employee was as high as £644 in one year, this year it had slipped down to £390. If we envisage CAFCASS carrying out a much wider range of activities, including risk assessments, training will be all-important. We have to get it right. There is a great deal of concern about the potential under-resourcing of CAFCASS when it is taking on a changing role.

Finally, on part 1, I concur with the Conservative Opposition that increasing transparency where it is safe and appropriate to do so in the family court system will help to address some of the current grievances.

I shall be rather brief on part 2, not because it is not important, but simply because with the interventions that I have taken I have been speaking for rather a long time. It is absolutely right that we have slightly more focus on adults in this part of the Bill, although safeguarding children is still important. We all know that inter-country adoption happens for different reasons. Frequently, people adopt children from within their extended family or friendship ties. More often than not, such adoptions are nothing like that. There are thousands of children waiting for adoption in this country, but they are older children and they have a number of problems. People choose to go abroad to adopt babies. The proposed legislation will cover countries, I presume, such as the USA. It is not simply about people who, for humanitarian reasons, go abroad to adopt children in need.

The procedures for suspending adoptions from other countries need to be clear, transparent and fair. I

supported the decision to take urgent action on Cambodia when trafficking issues arose. The process of inter-country adoption is extremely long. It is an

extensive and expensive process. I have some concerns about the fee issue, which was discussed at length in the other place. I agree with the extension of the time limit from six to 12 months, as proposed in clause 14. It will stop people evading some of the rigours of the adoption procedures in other countries. There is quite a dilemma in terms of time taken and expense, but it is important to get it right. I look forward to debating that fully in Committee.

Baroness Barker moved an amendment in another place to make it easier in appropriate cases for children to be adopted from the UK to overseas, more often than not by relatives. As promised by the Minister in that debate, a meeting has taken place with civil servants. Does the Minister have any update for us on that today? I understand the difficulties of establishing sufficient safeguards for children, but clearly it is important to look at the issue that way on as well.

Baroness Barker said in the other place:

> "Until such time as we have a private fostering system that is properly regulated in this country, we will continue to run up against problems that sometimes are masked as inter-country adoptions but more likely are about trafficking."—[*Official Report, House of Lords,* 29 June 2005; Vol. 673, c. 282.]

Recently, we have seen reports about the number of children in this country who simply disappear as a result of a badly regulated system of private fostering. I, too, have made my cause the need to make progress to proper regulation of private fostering. That is important.

All in all, there are some important and useful aspects to the Bill and I look forward to a constructive time in Committee, where everyone will listen to one another and we will come up with a safe solution, while acknowledging that there are issues about how the current system operates.

3.9 pm

Ann Coffey (Stockport) (Lab): I was a member of the Joint Committee that performed the pre-legislative scrutiny of the draft Bill in February 2005, together with my hon. and learned Friend the Member for Redcar (Vera Baird) and my hon. Friend the Member for Chatham and Aylesford (Jonathan Shaw). I am also a member of the Modernisation Committee, which is conducting an examination of how scrutiny of legislation can be improved. A Committee that gives pre-legislative scrutiny to Bills makes a valuable contribution to ensuring that we get the best possible legislation to achieve the outcomes that we want. It enables interested parties, including lobby groups, to give evidence, both oral and written, to the Committee and allows members to look at the legislation, taking into account those comments. It also enables those comments to be more closely scrutinised and challenged by the Committee members.

The Committee takes its task very seriously because members know that the Government will listen carefully to their recommendations. Indeed, the Government accepted 11 of those recommendations, which shows the benefits of the process in improving legislation. I was particularly pleased that the Government withdrew both curfews and electronic tagging as enforcement orders.

The major clauses in the Bill deal with the very difficult area of how the courts can intervene when separating parents cannot agree on the kind of contact

each parent should have with the child of that relationship. The interest of the child must be paramount in a system that still remains mainly focused on the resolution of disputes between adults. Fathers do not have rights, mothers do not have rights: they have only responsibilities.

Each child and their family circumstances are different, and it is not therefore appropriate to approach the welfare of the child from definitions of parental rights or notions or presumptions of equal parenting. However, it is right to start from the basis that children benefit from having a meaningful relationship with both parents. When their relationship fails, it is the responsibility of parents to come to arrangements about contact that are in the interests of the child. Of course, in the overwhelming majority of cases they do. Nine out of 10 separating couples agree informal contact. Of the 10 per cent. who have a formal arrangement, 90 per cent. work successfully. It is that small and difficult minority who cannot agree and who ask the courts to resolve their disputes that the Bill attempts to address. But as the Joint Committee report pointed out, in the small minority of cases in which a parent has applied to court, the problems of those families may be complex and not easily resolved through any enforcement measure.

In her excellent speech, my hon. Friend the Member for Luton, South (Margaret Moran) referred to the research done by the university of East Anglia, which has provided an insight into those problems. The parents involved were often young, on low incomes and with very young children. The parents' ability to communicate with each other was limited and the relationships were characterised by a lack of trust, empathy or flexibility, often with high levels of anger. The disputes presented to the courts did not reflect straightforward arguments about contact, but a range of issues and the courts were typically presented with competing his-and-her accounts. Given that, many of these families need support and a facilitative approach to problem solving sustained over a period of time. I welcome the provisions in the Bill that will enable that to happen, including the ability of the court to make contact activity directions. Although it is not clear what those might be exactly, there are several activities that could relate to the promotion of contact, such as attending advice or guidance sessions, including those that give information about the value of meditation—I am sorry, I mean mediation, although meditation might also be useful.

It would make sense to look at basing those contact activities in the new children's centres. The Sure Start project in my constituency already gives advice and information to parents to increase their understanding of children's behaviour and their skills in managing that behaviour. Attendance at such a session might help parents in conflict separate out their needs from those of their children and help to resolve disputes between parents.

I also welcome the expansion of the role of CAFCASS in facilitating and monitoring contact in that supportive approach, but bearing in mind the complexity of the difficulties of some parents, I am pleased that the Government have responded positively to the Joint Committee's recommendations on expanding family assistance orders, which are underused. With the roll-out of children's centres and

the establishment of new local children's centres, there will be an opportunity to use all available resources to provide families with help and support not only to resolve contact disputes but to enable better outcomes for children.

We must be clear about the limitations of contact activity directions in dealing with the more complex underlying problems where violence and the fear of violence has been a factor in the separation and continues to be an issue in contact. I very much agree with women's organisations that say that abusive

behaviour in a violent relationship cannot be dealt with by parenting classes and that the primary responsibility must be to ensure the safety of the child in any contact arrangements. However, even when a court has decided that contact is in the child's interests, there will be situations where a parent persistently undermines the decision and refuses to co-operate for reasons that have little to do with the child's welfare, so I welcome the new enforcement powers, including the court's being able to direct a parent to do unpaid work and make financial recompense. Courts are reluctant to send a parent with care to jail and those new powers, together with a more facilitative and supportive approach, will mean, I hope, that that does not have to happen.

I am sorry that the Government did not agree to the time and placement requirement recommended by the Joint Committee as a form of bridging order between facilitative contact activities and enforcement orders. It would have enabled the court to direct a parent to be at a designated place for a designated time. The Joint Committee saw great advantages in such orders, as the court could direct a parent to stay in their house while the non-resident parent had contact with the child in another place, thus preventing that parent from undermining the contact arrangement.

Finally, I turn to the provisions on restricting inter-country adoption. I welcome the proposals to set up a list of restricted countries that the Secretary of State deems have bad practices relating to the adoption of children, such as not having proper systems to verify that children are orphans or not attempting to reunite abandoned or lost children with their families. The Government will of course need to ensure that they have good information about what is going on in other countries.

As the Minister will be aware, one of the Joint Committee's recommendations was that the Government take steps to establish an inter-country adoption agency, which we believed would enhance good practice and inform the Government about unsatisfactory practices in countries where children are available for adoption. It would also inform the Government when a country should be placed on the restricted list. As has already been said, there are about 300 applications each year to adopt children from a number of countries, with a few countries receiving the bulk of the applications. Home study reports are prepared by almost as many individual local authority or voluntary organisations as there are countries, so the channels of communication to the DFES from so many agencies cannot be as good as they would be with a small number of specialist agencies, which could network with similar agencies in other countries. The overseas adoption helpline, in its evidence to the Joint Committee, made a good case for pump-priming money to be made available to facilitate

the setting up of specialist agencies that would perform a linking or mediation function with the state of origin, and which exist in a majority of countries worldwide.

The overseas adoption helpline argued that the establishment of such agencies would result in a more child-protective system for arrangements for adoption by UK applicants, as the agencies would be accredited by, and accountable to, the proper authorities in the country of origin as well as the relevant central authority in the UK. A network of such agencies would provide a mechanism to monitor adoption practices in situ in those states.

The Government did not accept that recommendation, as they thought it unnecessary. They also pointed to the cost. However, 300 applications a year with a charge to applicants of £5,000 for a home study report indicates that there is already a substantial revenue stream, and the DFES plans to recover some of the administration costs at the rate of a further £800 to £1,000 per head.

In other countries, the costs of inter-country adoption applications, like domestic applications, are borne by the state as it is seen as a service to the child, not to the adopter. We do not take that view in

this country.

I would argue, however, that some pump-priming money to set up one or two specialist agencies would be a recognition that, with such complex issues, a degree of specialisation would benefit both the child and the Government. It would also be a good investment for the Government, as it would help to achieve the objectives of the highest practices in inter-country adoption in both this country and the country of origin. I realise that that is outside the Bill's scope, but I hope that Ministers will look at the issue again.

This is a good Bill that will legislate on a difficult issue, and I believe that the Government have achieved a good balance of facilitative and enforcement measures to achieve the objective of ensuring that, as far as possible, separated parents fulfil their responsibilities to their children.

3.20 pm

Mr. Stewart Jackson (Peterborough) (Con): Thank you, Mr. Deputy Speaker, for allowing me to participate in this vital debate, which has been marked by good sense, clarity and shared principles, as exemplified by the speech of the hon. Member for Stockport (Ann Coffey), who clearly knows what she is talking about. For the record, I will confine my remarks to part 1, concentrating on contact orders and the operation of family courts. Other hon. Members may wish to debate the more thorny subject of inter-country adoptions.

I believe that there is a consensus across the House for us to achieve an outcome that is not only practical and pragmatic, but fair and compassionate, with the paramount consideration being the welfare of children, both in theory and practice in statute. I am pleased to say that there is a political will on both sides of the House to put aside party differences and focus on getting the legislation right. We are, of course, dealing not with dry, arcane academic case law, but with people's lives and the future of our children, whose lives may be fractured or broken by the raw emotion and hurt engendered by the disintegration of their families and

the growing phenomenon of divorce and separation. As has been mentioned, the trauma and stress of that affects about 200,000 children each year.

I see that the annunciator says that I am "Nick Herbert, Arundel and South Downs", Mr. Deputy Speaker. I am sure that *Hansard* will amend that.

Two thirds of those children are under 10 years of age. As my hon. Friend the Member for Basingstoke (Mrs. Miller) mentioned, 40 per cent. of children lose contact with the non-resident parents, often as the result of bitter and protracted disputes following separation and divorce.

We agree on much in the Bill. In particular, I welcome the Government's commitment on risk assessments in clause 7, which is supported by hon. Members on both sides of the House. There is a demonstrable need for a more effective method of enforcing contact orders. In so far as Parliament can legislate to change people's lives for the better—as Disraeli may have said in another context, "The elevation of the people"—that is what we are trying to do today. It may not be Catholic emancipation or the abolition of slavery, but we are trying to improve people's lives and to give adults and children a better future, to ameliorate the tragedy of family disintegration.

We agree that, as legislators, we have a duty and responsibility to balance the best of what has gone before, best practice and an evidence-based analysis of the current system with a realisation that there are significant flaws in what passes for the practice of family law today, which is sometimes perceived

as ineffectual and certainly perceived by many people as unfair.

I welcome much of the Bill. I support the insertion of the domestic violence perpetrator programme into the Bill and the introduction of risk assessments, especially given the points made eloquently by the hon. Member for Luton, South (Margaret Moran) about circumstances where allegations or proof of abuse are involved. It is right to reform the Children Act 1989 and I am glad that there is recognition that the principle of children maintaining contact with both parents after divorce and separation should be enunciated, even though I might think that is not expressed sufficiently robustly in the Bill.

The recognition that contact orders are meaningless in their practical application without legal sanction is also welcome. Non-compliance cannot and should not be allowed to be tolerated by the courts with impunity. If it is, we risk undermining the whole discharge of family law. The Bill's proposals establish a marker that creates a disincentive for those who would otherwise flout the will of the court. They restore balance to an area hitherto considered wholly biased against the non-resident parent. As has already been said by my hon. Friend the Member for East Worthing and Shoreham (Tim Loughton), giving the court a range of options, such as the early intervention projects, is realistic and sensible. Most importantly, it recognises that all families— parents and children—are different and that a one-size-fits-all approach is inappropriate in this particularly sensitive area. It goes without saying that I welcome the fact that Ministers have supported the decision not to proceed with tagging, which would have been a grotesque and gratuitous overreaction.

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The failure—or, if I am being charitable, the non-success—of the family resolution pilots, which were launched and discontinued at a hugely disproportionate cost and which involved low take-up and a lack of compulsion, should not prevent Ministers from being imaginative, especially when reviewing the efficacy of mediation in the package of measures. However, voluntary measures will once again fail. As I mentioned when I intervened on the hon. Member for Mid-Dorset and North Poole (Annette Brooke), only a legal obligation enacted by the courts will have the desired effect. Academic evidence from Norway, the United States and other countries has shown that that is the case. I hope that that matter will be debated in Committee at length and in detail.

The wider range of options available to the courts, the improvement in the monitoring of contact and—I agree with the hon. Member for Stockport—the enactment of family assistance orders are positive steps. The idea of a legal presumption to promote contact has attracted wide support across parties.

I want to focus on a reasonably small number of areas that concern me and which remain unresolved in the Bill. At the outset I have to say—this may be controversial—that I believe that there is no contradiction between the presumption of co-parenting and the safety of the child or children subject to a contact order. I do not believe that the case has been sufficiently made that a legal presumption is, in general, in any way at odds with the interests of the child or children. I regret that the Government have not sought to strengthen the Children Act 1989 to give legal power to reasonable contact. I will come back to the word "reasonable" later.

Common sense indicates that children desire successful co-parenting after divorce and separation, and are happier and healthier as a result of it. Those children mostly go on to be settled, responsible and decent adults and to be good parents themselves. That is borne out by research by the National Council for One Parent Families in a study by J. Hunt in 2003.

We are attempting to establish, where practicable, a strong and loving relationship between a child and both parents. Noble Lords and Ladies in the other place debated at length—I believe in relation to amendment No. 2—the word "reasonable", which is enshrined in section 34 of the 1989 Act. I would

also add "meaningful" as a given. I am glad that the Minister acknowledged in her comments to the Joint Committee the use of the word "meaningful". "Substantial" was mentioned by my colleague, Baroness Morris of Bolton in the other place.

The positions taken by organisations such as Families Need Fathers and children's charities such as Barnardo's and the National Society for the Prevention of Cruelty to Children, notwithstanding its ill-judged and intemperate comments in its briefing notes, need not be irreconcilable. The presumption is an instrument that gives flexibility to the courts to tailor their decisions accordingly. Evidence shows that it would only formalise the current situation, where very few contact orders are not granted. That in no way invalidates the paramountcy principle in respect of the welfare and interests of the child.

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A corollary of this practical approach that the Government have not yet fully acknowledged is the strong argument in favour of a greater role for the child's voice to be heard in court, an argument that some Labour Members have advanced. It is one of the issues in the NSPCC briefing paper with which I agree, so it does not get everything wrong. Perhaps the Minister will touch on why section 122 of the Adoption and Children Act 2002, which provides for children to have a legal and discrete right to be participants and to have separate representation in court, remains unimplemented.

I shall make some tangential comments. There has been consensus but the partisan comments of the hon. and learned Member for Redcar (Vera Baird) obscure the issue. We all want children's voices to be taken into account. If an important piece of legislation has been on the statute book for three years and an important section of it remains unenacted, it is surely reasonable for us to ask why that is so.

Vera Baird: Why does the hon. Gentleman not tell us how to do it?

Mr. Jackson : There might be a causal link, given that the Labour party is in Government and the Conservative party is in Opposition. Three years is surely plenty of time to come up with practical and pragmatic approaches to this point, particularly as it has been said that the issue is very important in the context of the proposed legislation.

There is much evidence including that, for example, from the *Family Law Journal*, under the auspices of the National Youth Advocacy Service. Far from exacerbating the bitterness that is endemic in legal wrangles around contact order disputes, allowing the child's opinion to be heard acts as a catalyst in helping to resolve even the most long-standing and protracted difficult disputes.

On a broader issue, the paramountcy principle is only implicit in the Bill—particularly in clauses 1, 4 and 5—and is not as explicit as it was in the Children Act 1989. The Minister may want to comment on that when she replies.

I return to the sensitive subject of co-parenting and child safety. Thankfully, the awful phenomenon of child murder in contact situations is extremely rare. Although that issue is distressing, it must not obscure the case for co-parenting. More particularly, we should resist recourse to stereotypes. There is no definitive evidence that non-resident fathers per se, as a group, are a greater risk to child safety than substitute non-biological partners or non-biological mothers. In this respect, I deprecate the comments of the NSPCC. It has undermined its kudos as a respected children's charity in putting forward arguments that have no basis in fact and no evidential back-up. Let us remember that many of the dreadful crimes that take place involve not natural or biological fathers, but men brought into the family unit in the wake of divorce or separation. They may have very poor or non-existing parenting skills. At present, unlike the natural or biological father, they are unlikely to have been risk assessed.

May I turn to the issue of compensation via community-based enforcement orders for unpaid work and

financial compensation based on affordability? I

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remain unconvinced that the Government have thought through the practical consequences of the relevant provisions and their impact on CAFCASS, especially the availability of appropriate financial resources and, just as important, the uniformity of resources and facilities across the country. Under clause 7, CAFCASS officers will have a considerably enlarged portfolio of duties, and it is imperative that that does not impact on existing work flows, which are very demanding. I wish to take issue with the Minister, because there have been significant staffing shortfalls, long delays in assigning officers to children and a £4 million cut in funding. As I said in an earlier intervention, the chief executive of CAFCASS, Mr. Anthony Douglas, wrote to me in response to a written question that I had tabled, confirming that one in six private law cases that dealt with parental responsibility, contact orders and residence were unallocated to a staff member.

I pay tribute to the work done in sometimes very trying circumstances by the professional staff of CAFCASS, but there is dissatisfaction with the organisation, including complaints about inadequate time spent with children and institutional bias against non-resident parents. We should be mindful lest inadvertently we make matters worse. I am glad that the hon. and learned Member for Redcar has flagged up her concerns and cited the thematic review. The hon. Member for Mid-Dorset and North Poole (Annette Brooke), too, was concerned about the matter. Like other hon. Members, I await further details from Ministers. No doubt, the issue will be debated at length in Committee. Perhaps the Minister will clarify her rather opaque description of a new and robust statutory framework, and the way in which it will affect funding and resources. Above all, we need proper planning, proper training and a realistic business plan for future CAFCASS workflows.

In conclusion, may I make a plea on behalf of non-resident parents—usually fathers—and praise the invaluable role of the extended family in child care, especially grandparents who, as the hon. Member for Stafford (Mr. Kidney) will agree, are the unsung heroes of our sometimes difficult and dysfunctional families? Grandparents contribute 60 per cent., or £1.1 billion-worth, of child care, yet they have few if any legal rights. I truly hope that the presumption of co-parenting in the Bill and other provisions will redress the balance in favour of fathers, reduce the bitterness inherent in many family courts cases, and have a commensurate positive impact on children. At the moment, non-resident fathers believe that they are on the receiving end of a slow legal system that tends to accept the status quo as a fait accompli, appears hostile to them as a result of their absence and, we should remember, imposes significant costs on them for having the temerity to seek equity and fairness. The most recent figures show that 7,000 court orders are breached every year. At the very least, notwithstanding the recognition in the Bill that non-compliance with court orders will not be tolerated, there must be an assumption by the state that it is responsible for upholding court decisions. That burden should not fall on the impecunious shoulders of individual non-resident parents.

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Finally, on grandparents, I declare an interest. I am not a grandparent—I am far too young.

Maria Eagle: No, the hon. Gentleman is not.

Mr. Jackson: Despite her heavy cold, the Minister is as sparky as ever.

I was fortunate to secure an Adjournment debate in Westminster Hall on grandparents' access to grandchildren. The House, and certainly the Minister, will not indulge me if I rehearse the arguments

that I deployed in that debate. Suffice it to say that grandparents, especially paternal grandparents, should not be the de facto victims of family breakdown. In that context, I pay tribute to the right hon. Member for Birkenhead (Mr. Field), who has done so much to keep the issue at the top of the political agenda, like all matters relating to welfare.

I hope that the Minister keeps her word on grandparents and that she will consider the lack of grandparents' legal rights following family disintegration. I hope that she will reconsider section 23 of the 1989 Act, which imposes on local authorities a statutory duty to look first at friends and family in respect of care for children, section 8, which forces grandparents to overcome two hurdles to gain access to their flesh and blood—leave to apply, then a court or care order—and section 17, regarding financial assessment for family and friends acting as carers.

For the most part, I welcome the Bill. It builds on the foundations established by the 1989 Act, which have stood the test of time. I commend the work of colleagues across all parties in the other place. Today, we have an opportunity to help in a small way to prevent the misery and heartache caused by family schism and heartbreak for thousands of children. Let us make the best of that duty and responsibility. With some small caveats, I ask hon. Members to support the Bill on Second Reading.

3.41 pm

Vera Baird (Redcar) (Lab): I was pleased to hear the hon. Member for Peterborough (Mr. Jackson) say that he broadly welcomed the Bill. Although he followed his leader in getting outraged at the NSPCC, he did not follow his leader who said at various points in his speech that the Bill was a wasted opportunity and that it was woefully inadequate. He did not quite say that it needed pulling limb from limb and putting back together again, but his comments were not very far from that. If that is the considered view of the hon. Member for East Worthing and Shoreham (Tim Loughton)—I do not know that it necessarily is—he is on his own.

The Bill has been through pre-legislative scrutiny. There were a large number of eminent, distinguished, knowledgeable and experienced people from the Conservative side on the Committee and all agreed—there was no dissent, and there was no vote even on the Committee—that the Bill was a benevolent and good measure, subject to the odd caveat, as the hon. Member for Peterborough wisely said. I, in common with the Committee, of which I was privileged to be a member, and most of the Lords in the conversations that they had about the Bill, welcome it.

The Bill's emphasis on early intervention, support, re-tasking CAFCASS away from just reporting on the history and making recommendations to becoming

more involved in resolution at an early stage, and the availability of a range of optional projects to help support the right attitude to contact is obviously the right model. Clearly, that must all be properly resourced or it will not work. The Bill offers a sympathetic and rational way forward.

I have three areas of concern, one of which arises from comments from the Opposition, rather than from the Bill—that is, the suggested presumption that there should be joint parenting. I accept entirely that the hon. Member for East Worthing and Shoreham did not speak about an equal split, but if he is speaking about a legal presumption that both parents should be heavily engaged—co-parenting, as the hon. Member for Peterborough said—that worries me immensely. There is a very real difference between that and what Labour Members were discussing when he was speaking and graciously taking interventions—that is, an underlying assumption in the courts which, believe me, does exist and has existed as long as I have been involved in the family courts, that the welfare of the child requires as

much contact with both parents as possible. That is a common-sense assumption which underpins what the courts seek to do. However, that is a far cry from a legal presumption in the Bill which states that it is presumed that there will be co-parenting.

A legal presumption can be of two kinds. It can, for instance, be an absolute one, which means that it cannot be knocked over, whatever happens. On the other hand, a legal presumption can be rebuttable—the words are archaic, but we lawyers love them—which means that it can rebutted, but the onus is on somebody to unsettle what is otherwise an edifice of uncrackable law. If one gives such rights to parents, then one is giving rights to bad parents as well as to good parents, and one is also ousting the welfare of the child as the paramount principle.

If we talked about the issue for a long time, nobody would disagree that both parents should be kept involved, if possible. However, if we were to drive the courts into a framework that disciplines them to say, "These people have rights which we cannot easily get round", we would subvert the paramountcy principle and might put children in danger.

Tim Loughton: I am sure that I am not going to agree with the hon. and learned Lady on this point. Why is this issue so different from the rest of the law, in which there is a presumption of innocence until one is proven guilty? Why can there not be an assumption that a parent is a good parent until they are proven not to be, given all the checks and balances in the courts, which this Bill will reinforce? Why would such a presumption undermine the welfare of the child?

Vera Baird: The explanation why such an approach would undermine the paramountcy principle is straightforward. In a situation in which it is not the child but the parents who are battling, the parents are obviously expressing what one might conjure up as the right of the child to have contact with dad, but it is dad who is fighting for that right, so it is his right. Once one makes that the presumption, the welfare of the child cannot be paramount, so the presumption must be ousted in some other way. In that case, one must bring to the surface the danger to the child in order to rebut

the presumption, which self-evidently means that the presumption of paramountcy is not coming first. I would never agree to that proposal, which is not only technically nonsense, but wrong. It could be extremely dangerous, too, because it would oblige courts to give too many rights to bad parents, which is not what any of us want.

Tim Loughton: Why are they wrong in America, Australia, Canada and Italy? And how has that wrongness manifested itself in gross harm to the welfare of children, because I am not aware of the evidence on that point?

Vera Baird: The hon. Gentleman is not comparing like with like. I am unaware of any legal system that includes a legal presumption of the type to which he has referred. The hon. Member for Mid-Dorset and North Poole (Annette Brooke) discussed the ability to put a presumption into the welfare checklist, but that is not a legal presumption. Most family law systems in societies resembling ours will be based on such a presumption, which is not a legally binding presumption of the kind mentioned by the hon. Member for East Worthing and Shoreham—I hope that he eventually gets why he is wrong.

Child contact is a child-protection issue, and there are dangers. This Government, more than any previous Government, have recognised domestic violence as a serious issue that has been hidden for many years, that is very hard to get the measure of and that is seriously under-reported. That point applies to male domestic violence, too, which the hon. Member for East Worthing and Shoreham and I have discussed before. I talk about domestic violence against women because the vast majority of domestic violence involves women, but there is domestic violence by brother on brother, father on

brother, brother on father, gay partner on gay partner and women on men. In every situation it is a hidden problem that needs teasing out, because, as it is wrapped up in a relationship, it is not easy to speak freely about it.

In this connection, though, it mostly concerns women. The statistics suggest that 750,000 children witness domestic violence annually. Seventy-five per cent. of children who are on the at-risk register for their own safety live with domestic violence, and up to 66 per cent. of children suffer physical violence from a perpetrator who is attacking the mother but also at some point attacks the child. In the criminal justice system, the point where the parties separate is now well recognised as being one of enhanced danger when the violence tends to increase because the perpetrator appreciates that he is losing his grip and tries to use even greater force to bring the person back into the fold. However, that is not half as well recognised in the family sector. When domestic violence is recognised in family courts, it is generally regarded as having come to an end when the couple has split, not as a continuing issue. It is often undervalued because it is perceived as a tactic in a fight.

The hon. Member for East Worthing and Shoreham, whom I know does not think as his words suggest, talked about the need to be rigorous and punitive about false allegations in court. Everybody agrees with that, but he cited only false allegations of domestic violence.

That is a slightly partisan view. Of course, in heated situations where there is a child to play for, more unscrupulous parents make all sorts of allegations against one another, but there is not a high incidence of false allegations about domestic violence, although there is a great deal of it.

Those of us who sat on the Joint Committee that scrutinised the draft Bill had the benefit of the scrutiny unit statistician's figures about a whole range of related issues. In the year for which he gave us figures —I think that it must have been 2003–04—out of 40,000 contested custody cases, 13,000 concerned issues of safety, of which 5,500, or nearly half, concerned child abuse or neglect and the other 7,000 or so domestic violence. It is therefore utterly vital that the child's welfare is paramount and that that cannot be changed. I am pleased that the Government cling to that position and will continue to do so. The question is whether the Bill goes far enough to guarantee the safety of the large number of vulnerable children and domestic violence victims who are present in the statistics.

The Government would say that those worries are adequately addressed by the welfare checklist in the Children Act 1989, the extension of the definition of "harm" to include impairment due to seeing or hearing ill-treatment of another, and the new family court application forms that try to ensure that domestic violence is put at the top of the list so that cases can be verified and dealt with at the outset. However, the joint charities grouping, which consists of a large number of pressure groups concerned with children, including the NSPCC, suggests that there is no clear requirement to ensure that contact is safe. We recommended—

Mr. Deputy Speaker (Sir Michael Lord): Order. I am not sure that the hon. and learned Lady's microphone is working. Until we are sure that it is, perhaps she would like to speak up a little.

Vera Baird: I am sorry. It is rare for me to be accused of not speaking loudly enough. I referred to and commended two recommendations that we made in Committee. They consist of checking the safety of the child at every stage. I mentioned the thematic review, which showed that CAFCASS paid

> "a worrying lack of attention to safety planning in almost all the observed sessions".

I was pleased that the Minister said that CAFCASS is now receiving plenty of resources. It will have to change its culture if it is to move from report writing to active solution seeking. It needs beefing up.

The thematic review makes the point that if we have existed with a family court system in which the stars representing the social workers, the sense of both sides to a dispute and the expertise acquired has never paid sufficient attention to safety planning, that speaks volumes about keeping children's safety paramount. Even the officers charged with the task of recommending welfare outcomes have not had that requirement as high on their agenda as they should.

My second concern about the Bill is the absence of the paramountcy principle from the provisions that deal with enforcement against a recalcitrant parent. Clearly,

the point is to enforce, but orders for contact can only be prospective. The judge works out the likely way in which it will happen but events can call safety into question. For example, something could alarm the mother or make the child afraid so that it does not want to go, and she says, "I won't go through with it." At that point, enforcement is directed at dealing with her. If the paramountcy of the interest of the child is lost then, we lose a good deal of the point of the Bill. That is deeply worrying.

An individual needs to be punished but that should not undermine the paramountcy of the child. We are back to the point that the Bill is intended to tackle. The courts do not easily send a primary carer to prison because that is bad for the child and we are trying to get away from that model. The courts might express concern that, if they make someone do unpaid work at a time when they would otherwise take the child to a football match or do something nice, it undermines the welfare of the child. However, I believe that we could give the courts a strong steer and emphasise using reasonably civilised means to enforce an order, which the court remains assured is in the interests of the child. That model is compatible with the paramountcy of the welfare of the child. If that does not remain at the top of the agenda, we are worried that punishing the person will be put first and the child's welfare will be lost along the way. I hope that those who serve on the Committee can ensure that the paramountcy principle is included in the relevant provisions.

Section 122 of the Adoption and Children Act 2002 about representation for children has been mentioned. It has not been implemented and I understand some of the criticism from Conservative Back Benchers. There is no doubt that all the joint charities believe that it is crucial that the courts hear and understand the child's wishes and feelings about the circumstances to help them decide what would be safe for the child, yet the Bill neither implements section 122 nor orders separate representation when there is risk.

The lobby groups say that separate representation should be considered in all cases where there is a risk and that courts should ascertain children's views in all cases. In principle, I agree strongly. However, I ask a question that I hope will be considered in a broader context than simply that of the Bill. How do we do that?

In cases involving an older child, we can get the kid to give evidence if we have to, although that is not necessarily desirable. Such evidence could certainly feed into a social worker's report in some way. But what about the younger children? And what about the 5,500 out of every 40,000 who are subject to the threat of child abuse or a lack of safety? They need to be able to make an input into the question of contact, and they need to be able to articulate what has happened to put their safety in danger. That can be hugely difficult.

That question is reflected in the criminal justice system, where case after case is brought involving allegations of abuse of young children, usually as a result of physical evidence, which might not be totally compelling, or concerns about the child not thriving. In other cases, a sibling might have said something, or the child might have said something to mum or dad to cause

real concern. But how can a child be facilitated to express what has happened to them, and to give that kind of evidence, which is highly material to a prosecution but equally material to the tortured issue of contact where there might have been child abuse?

There is a provision in the Youth Justice and Criminal Evidence Act 1999 for intermediaries to be supplied to help people who cannot communicate in the normal way to put their evidence before a court. That is used for a variety of vulnerable groups. I had the privilege a few weeks ago of visiting the Barnardo's Bridgeway project in Redcar. The project deals with what it calls troubled children. These are children who are suspected to have been abused. Its primary role is to unearth what has really happened, in order to help the child to deal with it and to give them counselling. It is that unearthing of what has happened, by using very clever methods, and then being satisfied as a professional that is has indeed happened, so as to know how to tackle it through the right kind of counselling, that offers a potential medium for getting complaints of child sex abuse before the courts.

I had a pretty limited opportunity to get to the depths of how those professionals work. Through the use of toys, books and pictures of a specific kind, they try to get the child to go back through the experience, to see whether they respond to anything that registers that they have had an abusive experience. For instance, rather than asking a child a complex question such as, "How did you feel when that happened to you?", they have puppets that represent different emotions. This is just one example of how ingenious these methods are and the potential that they hold. The child would be asked which puppet was there at the time of the experience, and they might hold up the sad puppet or the angry puppet to show that that was how they felt. Or they might hold up the happy puppet, which would show that there was nothing to worry about.

I am not suggesting that we use puppets in court—I think that my colleagues in the legal profession might be a bit worried about that. However, I am suggesting that we all have a big responsibility, in confronting the inability to get children's testimony in these cases, to consider how those kids are not being protected because their testimony cannot be brought forward, and to examine some of these very clever methods, including those being used in the Barnardo's Bridgeway project. We need to acknowledge that, if they represent a well researched and methodologically sound way of getting reliable information about child abuse out of a child, so that an expert can then report it in court, that could be a way forward. I do not blame the Government for not introducing that part of the earlier Bill. It is easy to say that there should be separate representation in all circumstances, but a lot of questions remain about how exactly that should be achieved.

I welcome the Bill immensely. My only reservation is whether we have put safety sufficiently at a premium. Let us cleave to the paramountcy principle at every stage, and let us not lose sight of the opportunity that the Bill offers us to open the door into the world in which some children—not all, but a substantial proportion, as the figures show—suffer from abuse and from the spin-offs of domestic violence. Let us give serious thought to how we can, from now on, try harder to get children's voices properly heard.

4.4 pm

Mr. Eric Pickles (Brentwood and Ongar) (Con): I am grateful for the opportunity to make a modest

contribution to the debate. It is a particular pleasure to follow the hon. and learned Member for Redcar (Vera Baird). I hope she will forgive me if I do not pursue some of her excellent points, as I want to concentrate on a narrower aspect of the Bill, namely adoption. I want to say something about the secrecy of the family court. I think that some of the general rules on adoption concerning foreign nations are relevant to our own system. A particularly sad case in which I have been involved over the last few months has a direct bearing on how adoption works in practice, especially forced adoption, the most extreme of the many issues that we must consider.

My hon. Friend the Member for Peterborough (Mr. Jackson) described the Under-Secretary of State as sparky. I am not sure that I can follow him down that avenue, but I want to record my enormous appreciation for the courtesy that she has shown me in connection with that case and my concerns about adoption. We have had three formal meetings and many more informal meetings. The Under-Secretary has changed my views on a number of important issues. She has also reinforced some of my prejudices, which is a nice feeling—but I am genuinely grateful to her, and grief-stricken by the fact that she is plainly suffering from a heavy cold. I wish her a quick recovery.

As I have said, I am concerned about the secrecy of the family court. I tabled an early-day motion on the subject. Looking around the Chamber earlier, I noted that almost every Member present, apart from Ministers and, obviously, the occupant of the Chair, had signed it. Early-day motion 869, entitled "Workings of the Children Act 2004", stated:

> "That this House urges the Government to remove the veil of secrecy from the workings of the Children Act 2004; considers that the closed door policy of the family courts breeds suspicion and a culture of secrecy which does nothing to instil confidence in those using them, which affects not just the courts but the social services departments of local authorities; and believes that it is possible to preserve the anonymity of children involved in the proceedings without the cumbersome rules which obstruct parents from receiving advice and support, which in particular works to the disadvantage of parents with special learning difficulty."

The hon. and learned Member for Redcar spoke about the concept of the rights of the child being paramount. Her explanation was a good deal clearer than some that I have received from social services departments. However, I am less concerned with the effect on the courts than with the effect on social services. There is almost a process of Chinese whispers, whereby that noble concept becomes bastardised into an unwillingness to disclose, to justify, to listen to arguments, or even to see a need to explain decisions. The law was changed because of Members' difficulties in obtaining information from social services departments. At one time, they were threatened with contempt proceedings and prosecutions for pursuing constituency cases. Since the beginning of April last year, however, we have been able to look at case files and discuss the issues. I may be wrong but I think that I was the first Member of Parliament to take advantage of that, after a constituent who was going through the process brought it to my attention in the early part of April last year.

The change in the law seems to have wholly passed by Essex social services department. Despite the will of the House and the change in the law, it led me through quite an elaborate dance when I wanted to get some basic information from it. At one point, it insisted that I went to court to get special permission, when by Act of Parliament I already had that right. Had it not been for my noble Friend Lord Hanningfield, who happens to be the leader of Essex county council, I do not think that I would have been able to pursue the case to the full.

I cannot go into the details of the case, but I can talk about it in the abstract and discuss the way it

affects the law. It concerned the decision by Essex social services to remove two children from a family because they considered the mother to be stupid and incapable of bringing up the children because of her lack of intellect. The mother had an IQ of around 60. Social services sought to present her as stupid to the point of being unable to understand maternal feelings. In my view, she was a little slow but someone who clearly loved her two children. She was faced with an unending stream of social workers dealing with her case—at one point, I counted 16—who were pushing her in different directions. She was left bewildered and unable adequately to rebut social services' allegations. I want to say a few things about people with learning difficulties and then move to the general question of social services. I want to stay firmly within the terms of the Bill.

A problem has been identified recently with the Meadow case. I do not want to go down that route but it illustrates the fact that, sometimes, proceedings have been initiated because hospital consultants or social workers have been a little over-zealous. It is typical for the person who initiates proceedings to see the complaint through. There is a need for a separation of powers between those who take the decision to initiate an investigation and those who actually conduct it. I am worried—I will come to this a little later—about the targets for adoption and the obvious financial benefits that accrue.

The principal problem is that social services departments cannot be entirely non-partisan in the way in which they identify the issues. Few people who initiate a serious chain of events are likely to admit it when it goes wrong. The temptation is to tailor evidence to fit the complaint. That should be resisted.

I can give a few brief examples of how that happens. As I said, I think that I was almost certainly the first MP to go through the process of wading through a social services file concerned with a forced adoption. It was thick, repetitive and at times confusing. I have talked to the Minister about that. I speak as a former chairman of a social services department and was used to seeing that kind of thing. I was shocked at the sloppiness of record keeping, the shoddiness of the process and the basic injustice. In that file—this is directly relevant—there was misinformation, embellishment and inappropriate assigning of motives.

I shall give just two examples, which illustrate the general problem. In the first example, the husband did not have learning difficulties but was, by mistake, described as having them. The mistake was recognised and corrected in the file but subsequently, such allegations continued to be made, as though it was a

proven fact. More seriously, it was suggested that the child had witnessed domestic violence. It became clear that this was a single incident in which the husband, in a moment of pique, had picked up his slippers and thrown them against the wall. He is a gentle and passive man and at no time were the slippers aimed at anybody; nor was any damage caused, except, perhaps, for a slight mark on the wall. However, the file on that family states that the female child

> "has witnessed domestic violence and this will have an impact towards her development".

Following close scrutiny on my part, social workers told me that there was no evidence of any violence toward either child in the family. No doctors or casualty departments had expressed concern, and there was no evidence of repeated accidents involving the children. Yet the allegation remained on the file.

An allegation was also made of poor parenting and I asked for various examples. I was given two. First, the female child had been given sandwiches and a packet of crisps for her lunch, and because she chose to eat the crisps first, she was too full to eat her sandwiches. That was deemed sufficiently important to be regarded as an example of poor parenting. The second example—we should bear in mind that at this point, I was pressing for another such example—involved allowing one of the children

to stay up late at night to watch television. I asked whether "late" meant 10 o'clock at night, or perhaps 9 o'clock. I was told that she was allowed to stay up until 8 o'clock to watch the end of "EastEnders" or "Coronation Street". I have many middle-class friends with children of a similar age who are allowed to have crisps and to stay up until 8 o'clock. None of them is subject to a care order.

I turn to the issue of stories being embellished. By this point, the social worker was finding me a tad provocative. He said that the mother had screwed up a baby-wipe tightly in her fist and had repeatedly rubbed it against the genitals of the young male child, to the extent that they were "red raw." However, the report actually said that the mother had used heavy pressure, and that the genitals were flattened and "very red". There is a world of difference between "red raw" and discoloured.

I found distressing the way in which motives were ascribed in the report, without any obvious discipline. The father was criticised because he had refused to leave his job of some 23 years to become the full-time carer. It was said that that showed a lack of commitment. I believe that holding down a job —in his case, a humble job—for 23 years and putting bread on the table week in, week out sets a fine example to one's children. The social workers wanted the father to live off benefits. That might have been a solution, but if someone can set an example to their children by working hard, that is something to be proud of.

I want to return to the way in which the primacy rule can be bastardised. I confess that by this time I was beginning to irritate people, although I am sure that hon. Members will find that hard to believe. I found myself being lectured by a very senior person whom I shall not name, as that would be embarrassing. He said, "We have to consider the welfare of the child. That is absolutely paramount; whatever is best for the child is what we do."

I replied, "OK, but if that rule is applied generally, let's apply it to your children. If I arranged for them to live in the house of Mr. Bill Gates, they would get enormous intellectual stimulation—probably more than you can offer—and they would certainly enjoy much greater financial well-being." The very senior person did not seem to like that, which made me glad that I had not used my second choice of example—Michael Jackson.

I have talked these matters through with people who really understand them. They have said, "Look, Eric, what about the guardian? The guardian is there to look after the interests of children and to be impartial in the process."

I put that approach to various leading counsel with an interest in the matter. Although some guardians may exist who are prepared to stand up to social services departments and act as bastions of freedom, they are very hard to find. Generally speaking, guardians act as cheerleaders for social services departments. They are entirely compliant, and seem incapable of doing more than being a cheering section.

I had the opportunity last night to speak about such problems to the Under-Secretary and I shall give one example of the role of guardians. A leading counsel on these matters—who, by the nature of things, acts sometimes for the local authority and sometimes for parents—told me about one occasion when he was acting for the local authority. Just before proceedings began, people started to gather round the table. He was not paying attention to who came through the door, and was about to begin his contribution when he noticed that the guardian was sitting in the room. "What are you doing here?" he asked, to which the guardian replied, "Well, you know, I'm here as part of the team."

That person should not have been in the room, because the guardian's presence could demonstrate

partiality. The system needs to make sure that the different strands of the process can be separated.

I was enormously surprised to find that there is no national system for the regulation or disciplining of social workers. No royal charter exists that sets out professional standards or disciplinary procedures and thus allows peer judgment to take place. The social work profession needs to address that defect. The solution does not need to be elaborate, but peer evaluation among social workers on relevant matters is important. Without that, there is enormous variation between authorities, which can be as slack as the one involved in the Climbié case, or as tough as Rochdale in the face of ridiculous accusations of satanism.

I shall quote briefly from Andrew Scott, an admittedly newly qualified barrister who deals with these matters on a daily basis. I suspect that he may be known to some hon. Members, as he has made quite a reputation for himself. He said:

> "I don't think the public appreciates how low the threshold is. When children are taken from their parents, it is not because there is a certainty of future harm or even that, on the balance of probabilities, those children could be harmed. It is enough that there will be a possibility of future harm. If there is a 70 per cent. risk of a child being harmed and every child with that risk was taken into care then, in 100 such cases, 30 children would be taken from families where they would come to no harm. Sometimes, I wonder whether children are being protected, or whether it is social workers' careers."

Those are wise words. There may be a temptation for local authorities, possibly because of the financial advantage, to move towards adoption when other solutions may be possible.

Mr. Scott goes on to say:

> "There's an unspoken fear that children from poor backgrounds are being freed up for middle-class adopters."

I would like to give an illustration which, of all the features of the case, has really chilled me. It is about the question of duty of care. In the April before the children were finally taken with a view to an enforced adoption, there was a case conference. The second child had not yet been born. The conference was considering whether to put the child on the at-risk register. The daughter was already on it. On the basis of the facts before it, the conference decided that it was not necessary to put the young boy on the register and furthermore that it was appropriate to take the young girl off it. Somebody at that conference, notably the chairman, did not like that decision. There was no change of circumstances and no other substantial incidents had taken place. Yet the same circumstances were seen as making it appropriate to put the children into care with a view to permanent adoption.

Let me say what I think needs to be done. Those who investigate a complaint must be independent of those who initiate it and those who may in due course be called on to care for the children. A proper code of conduct for social workers is long overdue. I certainly believe that those with special learning difficulties deserve special care. We are told that in 1 per cent. of all families one partner or the other has learning difficulties. We are also told that 20 per cent. of children in care have one parent with learning difficulties. There is some dispute over the figures, but whether they are precisely right or not, they demonstrate a problem.

The secrecy of the family courts needs to be opened up. We wait for the consultation document. I

believe that there is a strong case for judgments to be published and that they can be published while retaining the anonymity of the child. I have one additional suggestion. It goes back to the Meadow case. There is a question whether the professional witnesses should be identified. If the Government take the decision that they should, I will generally support that. Once you become involved in a case you get e-mails from all over the country. Some are heartbreaking, but they all have strong emotion running through them. Very normal people sometimes become irrational. I recognise that there might be a problem obtaining witnesses if they are routinely named.

As an absolute minimum, each professional witness should be given a unique identifying number. I think that that is important—I suspect that hon. Members understand—because we need to establish a pattern so that if we get a problem with the veracity of a witness we can have another look at them.

We need to change the rules with regard to advice. Parents are put in the dreadful position of being unable to seek advice. They cannot talk to their county council or unitary authority; they cannot talk to friends or members of their family. Only recently could they come and talk to us. I can give examples of where there is a

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problem. In care or adoption proceedings it is understandable that parents want to take a fair amount of time off. Under the existing rules, parents cannot tell their employer why they are absent from work without going back to the court. Psychiatric evaluations are also often necessary in such proceedings, but people cannot make full disclosure without first going back to the court. We have to find ways to solve those problems, and I wholeheartedly endorse the Committee's recommendations for greater transparency.

It might be slightly controversial to say so, but some cases resemble attempts to make bricks without straw. Once the facts have been established, the courts are reluctant to revisit those facts or their interpretation. However, if adoption has resulted from fraud or seriously erroneous evidence, we should have a procedure to enable that adoption to be overturned, although the period in which that could be done should be limited. In care proceedings, any carer who is accused of abuse should have an automatic entitlement to legal aid; the opportunity to instruct an expert of their choosing; a right of appeal against any findings; and legal aid for any appeal.

I am grateful for the opportunity to raise these issues, but I wish to make one final point. I hope to be a Member of Parliament for many years to come—[Hon. Members: "Hear, hear."] Well, that is marvellous and makes me feel wonderful. However, the case I have described will haunt me, because a grave injustice has been done and the system has let those people down. Those two young people now live in my constituency in a flat that is spotlessly clean and well maintained, with a bedroom full of toys that their children will never see. The beds are made up and presents are waiting for them. While there will be an attempt to overturn the original care proceedings, everyone understands that the likelihood of reversal is not great. When the state intervenes in people's lives, we must ensure that it does so fairly. In the case that I have dealt with over the past few months, that intervention was "intervention beyond the humane."

4.33 pm

Mr. David Kidney (Stafford) (Lab): Child contact disputes can be tremendously painful and affect everyone involved in them. They can leave long-lasting damage in their wake, so it is in everyone's interest to keep them to a minimum. For families, it is a deeply personal and private decision whether parents should live together or separate, and, if they separate, what arrangements should be made for

caring for their children. We—as the decision makers—and the agencies and courts that affect those people's lives should be very aware of the difficulties that people have in engaging with the state when they have to make those private decisions.

I have often wondered about the preparations that we make for having children. I cannot recall going on a parenting course and I have never had any help with the tricky questions that have arisen from time to time as I have raised my children. People have expected that I will naturally know what to do because I am a parent. That is the case for many people.

As we consider how, through the Bill, we can reduce the number of painful disputes and the severity of those that we cannot eliminate, the starting point for our deliberations should be much further back. The Bill may not be able to cover some of my interests, such as a universal parenting support service, but we should remember that services for parents in difficulty are woefully inadequate. There is some preparation. The external assessment process for adopting and foster parents may prepare them for what is to come. Some people attend marriage preparation courses, during which they may give some thought to their future duties and responsibilities as parents.

I want to draw the House's attention to a little-celebrated change in the law eight years ago, whereby unmarried parents who jointly register the birth of their child both acquire the joint parental responsibility automatically accorded to married parents under the Children Act 1989. Many people have overlooked that change. I asked my local register office why we could not have a ceremony to mark the registration of a birth and was told that there was one but not many people asked for it. Such a ceremony could be an occasion for parents not only to celebrate the joy and pleasure that they will derive from parenthood, but to learn a little about their duties and responsibilities, which is relevant to our debate about parents' responsibilities for the welfare of their child when they are in dispute.

The Children Act is that rare bird—a good law passed by a Conservative Government. We should recognise the success of a long lasting, wise law. The concept of joint parental responsibility, much overlooked in today's debate, has been extremely successful. The statistic has become hackneyed in our debate today, but in nine out of 10 cases parents who separate come to their own agreement about the future care of their children, because they exercise their joint parental responsibility. Most of our focus has been on some of the cases in the other 10 per cent. The existing law is sound, but some of the practices about which we have heard today are unacceptable. We need to give thought to them in designing legislation to improve the situation.

When parents separate, children benefit from a continuing relationship with both of them, provided that it is safe. The Children Act makes the welfare of the child rather than the rights of the parent the paramount consideration for the family courts. Both parents have equal status and equal value in the eyes of the court. When I was involved in such a case as a lawyer, the court was certainly gender-neutral.

Mr. Simon Burns (West Chelmsford) (Con): Will the hon. Gentleman give way?

Mr. Kidney: I am happy to give way to the newcomer to the debate.

Mr. Burns: I am grateful to the hon. Gentleman, although I am not that much of a newcomer as I have been in the Chamber for almost an hour.

There is a slight problem with the hon. Gentleman's use of the word "equal". When people separate and try to set up arrangements for their children, under existing law—whatever lawyers may say—it is in fact the mother who has care of the children and will decide when the

father sees them. That is why many agreements are made without problem. Fathers fully understand that they cannot fight in the court for a 50:50 arrangement because the court will not give it to them.

Mr. Kidney: I respect the hon. Gentleman's opinion, if what he has just said is his opinion. However, I profoundly disagree with everything that he says about the assumptions that fathers and courts make. I think that he is wrong on both counts.

Mr. Burns: I do not know the hon. Gentleman's background and whether he has ever been put in such a position, but may I tell him that, for most fathers who have found themselves in that position and have had to negotiate a deal, what I have said in my earlier intervention is, in fact, the case?

Mr. Kidney: I do not want to extend this discussion, but for 20 years I was a practising solicitor in the family courts and dealt with a great many cases that involved divorce and the care of children. My experience in those 20 years was that the two situations that the hon. Gentleman describes were very infrequently relevant factors in the cases in which I was involved.

The law is clear, but the current systems for resolving disputes must be improved, which is what we set out to achieve with the Bill. There is clearly a need for specialist family services to provide support as part of the overall system with which I want to deal, and even for compulsory family services for some families, such as those in conflict, those with addictions and, perhaps, mental health difficulties, and certainly in cases of family violence.

In general, in cases where disputes that involve children occur during the breakdown of a relationship between the parents, the first port of call should be mediation. We need not wait for a breakdown in communication before mediation takes place. It is a structured process, whereby a couple are helped by an impartial third party—the mediator—to negotiate their own decisions for the long-term benefit of their children.

Research has shown that five hours of mediation can promote sustained contact and an ongoing relationship between parents and their children. A long-term study of outcomes in the USA was referred to in a briefing that we have received from National Family Mediation and which resulted in a book called, "The Truth about Children and Divorce" by Robert Emery, who says that, 12 years after the event, 30 per cent. of parents who had attended mediation were still in weekly contact with their children, as against just 7 per cent. who had been through litigation.

Mediation should be, in the words of National Family Mediation, the routine method for resolving child contact disputes early if the family have not already reached their own agreement. I agree with the Grandparents Association that mediation should also be available to grandparents and other relatives who have been involved in children's care.

I asked a question earlier about the funding of mediation, because that is relevant if there are barriers to something that could be successful and save costs downstream. Publicly funded solicitors' clients are

required to consider mediation unless it is unsafe—for example, because of an allegation of domestic violence—before they can go on to receive further legal help with their court cases. In the past, they may have received legal aid. For those clients, mediation is free. No contribution is required from them, and there is no suggestion of a statutory charge being placed on their property after the case has finished.

Andrew Selous : In the hon. Gentleman's experience of cases where such matters come to court, do the courts sufficiently take into account the importance to the child of grandparental and other extended family relationships, or are they not considered sufficiently seriously by the courts?

Mr. Kidney: The point that I want to pursue in a little while is that the enemies of dissatisfied parents, grandparents and wider family members are usually obstacles that are nothing to do with what the court would decide if it had a fair opportunity to make the decision. Those obstacles are things such as cost, which I am about to mention, and whether those people can get into the proceedings.

Delay in the court process is also an obstacle. By the time that a judge makes the final decision some way down the line, circumstances may have changed so much that what everyone thought would be a fair outcome a year earlier no longer seems appropriate. I want to talk about how to sweep away the obstacles of cost and delay to get a fair outcome. It is my experience that if grandparents can get themselves in front of the court, their argument gets a fair hearing.

I was explaining how a person with legal assistance gets all the mediation for free, but a person who does not qualify for legal aid gets none of it for free. A person who already thinks that that is unfair and that, if the mediation does not work, lawyers in the court case will have to be paid, will worry that mediation involves a wasted cost and will be reluctant to incur that in the first place. The first thing to address is: if mediation is such a successful route and might save lots of costs later, is it not worth investing something in the mediation process for both parties to make it an attractive solution for the early resolution of disputes?

I would need to be in the position of the Minister and her officials and have the budget in front of me to make an assessment on the actual design. There are a number of choices. We could continue to load the cost on to the parents with a system of assistance from public funds, depending on how low the parents' income was, or we could have a publicly funded system, but with contributions from some parents, in the way in which NHS dental contracts now require contributions from some patients. Either way, we need to remove the obstacle.

If mediation has not been tried or has been tried and failed, the courts will be involved. The Children Act 1989 states clearly, very early on, that any delay is likely to prejudice the welfare of the child. It is my experience that that is definitely so and, unfortunately, that that happens too often. The Under-Secretary of State for Constitutional Affairs, my hon. Friend the Member for

Lewisham, East (Bridget Prentice), in answer to a question from me, wrote that Government-commissioned research shows that

> "almost a quarter of cases lasted over a year or arose following previous proceedings".

She continued:

> "almost a quarter of cases have two or more repeat applications and about a third of these are the result of enforcement issues, while over a half are . . . driven by the need to have a previous order updated."—[*Official Report*, 28 November 2005; Vol. 440, c. 170W.]

My central argument is that such delay distorts the decisions that judges can make at the end of the case because new situations might develop in the time that it takes to get there. Sometimes the delay in effect decides for the judge what the outcome can be. That does not seem like the fair solution that people thought that they would get when they started court proceedings much earlier.

What does the Bill do to reduce delay? On its own, it is silent about that, but it introduces a new power

to direct parties to undertake a contact activity—information sessions, classes and counselling. It is possible that that could be the first thing that a court orders immediately after somebody applies for a decision. In that instance, if something comes of the information sessions, classes and counselling, it might bring about an early resolution of the dispute and achieve a satisfactory outcome for both parties. That will depend on the order being used and resourced so that things happen quickly, as well as whether the parties feel that they get sufficient help through that route to resolve their dispute. Clearly, the approach will not work if parties retain hardened attitudes.

On the resources to make the approach work, it has been mentioned in the debate that, in some parts of the country, there are contact centres and admirable voluntary schemes where such work is undertaken very well. Mention has also been made of the Children and Family Court Advisory and Support Service. I hesitate to say that CAFCASS will make that approach work because we have also heard that it has to carry out the new risk assessments, administer the reformed family assistance orders, presumably carry on its current role regarding inquiries and reports to courts and, hopefully, fully resource its public law cases, which are an important priority for it.

I do not know how many other Members have received a briefing from the probation officers' trade union—the National Association of Probation Officers—that describes a budget crisis at CAFCASS last summer, management cuts this year and a stand-still budget next year. That does not sound like the basis for CAFCASS being in a position to help us to make a success of the new orders and thereby reduce the delay that is causing so much harm in some cases. If delay continues, the current dissatisfaction, of which we are all well aware, will grow.

Some say that there is an alternative in the approach of early interventions. I found the explanation for early interventions in an article in the *Family Law Journal,* family law 455. It refers to a report of a seminar in London in April 2003 called "Early Interventions—

Towards a Pilot Project". It contains many references to the presentation that day from the Florida judge, John Lendermann, under the title "How and Why Most American States Changed to Early Interventions". His article describes how it was based on a statutory requirement for frequent and continuing contact founded on child development research. He said that children did better when both parents were kept in their lives. He added that the basis of the whole scheme is well publicised in parenting plans setting out cycles of contact in the average case.

I have some difficulty with the concept of the average case. The problem with these few cases is how highly individualised they are in terms of the needs and demands of the parties to them. Nevertheless, the judge said that the combination meant that American parents knew what sort of orders the courts might make in the absence of exceptional circumstances, and that by implication they concentrated more on making a success of the alternative. It is clear from that description, as it should be in this country, that allegations of domestic violence should be taken out of the process immediately and dealt with separately by courts.

In the judge's scheme in Florida, the remaining cases are streamed through a two-stage process. The first is that separated parents are mandated—I think that that means that they are made—to go to group parent educational classes where their post-separation responsibilities to their children and each other are explained to them. They are given the opportunity to agree a parenting plan and exit system. For the remainder—what the judge describes as resistant parents—he says that they are obliged to attend a single session of contact-focused mediation. He says also that Florida has a standard standing temporary order, which is issued in every case, binding the parties to maintain contact prior to the first hearing. The judge describes in his article that therefore only a minority of cases, mostly involving

serious issues, need further intervention. Florida's overall caseload was up and costs were down. Enforcement was a rarity and delay was negligible. Most disputes were resolved within a few weeks.

There are some difficulties in what is described. When the hon. Member for East Worthing and Shoreham (Tim Loughton), who spoke from the Opposition Front Bench, gave the House his presentation, I thought that he was trying to move towards a situation in this country where costs would be down, enforcement a rarity and delay negligible. That is an outcome that I would like very much to achieve with him. However, I do not think that the Bill will achieve all of those things. We need to consider what more might be needed.

As a summary of my view, I think that there should be robust systems for screening for domestic violence. There should be specific procedures to deal with those cases once they are identified. We should hear the families' views, including the children's views. We should certainly consider the separate representation of children in appropriate cases. We need to identify those cases where continuing contact has already been shown to be in the beginning of the case in the child's best interests, and there is a danger that that continuing contact will cease unless something is done at the early stage of the case and not at the end of it. That was the point that I wanted to raise.

The more that I listen to this debate, the more I appreciate how crucial the new amendment in the other place could be for risk assessment, which will be undertaken if clause 7 becomes part of the Act. I have described both domestic violence cases and cases in which contact should clearly be maintained during court proceedings, otherwise it would be lost and a decision made against the court's wishes. All those things can be identified in a robust risk assessment and targeted approaches designed as a result, and I hope that that will happen in future. Children's welfare certainly includes protection from physical and psychological harm, so our systems of dispute resolution must be vigilant so that they can detect cases of domestic violence. It is important not to put parents in danger, even at the early stage, as I mentioned, of mediation, and certainly not during the proceedings. It is important not to put children at risk of harm through contact before the risk assessment is made.

The new family court application forms will protect children from domestic violence, as will the extension of the definition of harm to include impairment due to seeing or hearing ill-treatment of another. Following the amendment that was made in the House of Lords, we have gone further in the Bill and introduced risk assessments. We have made attendance on domestic violence perpetrator programmes a possible condition of contact, but we still need to ensure that there is an assessment before every step of the proceedings and that we act on the result, so that there is clear reporting and prioritising of cases.

We have limited enforcement powers, including fines and imprisonment for contempt of court, but those powers are not often used, for the reasons that hon. Members have given. The courts will be able to order community-based enforcement, unpaid work and financial compensation paid by one party to another, but there are many uncertainties about the new powers, some of which we have discussed. While I support the extension of enforcement powers, those uncertainties reinforce my strong view that we must sweep away obstacles that arise early in the process, such as delay and cost, so that we can deal with more disputes more effectively.

Part 2 deals with adoption. The Joint Committee that considered the draft Bill and the Joint Committee on Human Rights both recommended that the Bill should require the Secretary of State to pay particular regard to the United Nations convention on the rights of the child when deciding whether to impose special restrictions suspending inter-country adoptions from a particular country. I very much

agree with that suggestion, which would provide an important safeguard to ensure that the power to issue special restrictions is exercised in conformity with, and in support of, the convention.

The Bill is necessary because of the difficulties relating to some contact disputes, as we well know. It goes in the right direction, as most speakers have said. It has been improved in the other place and, in my view, it could be improved still further in the House. My strong wish is that we continue this debate in Committee and hammer out a position from those that have been articulated today to make the Bill much better and much more effective in reducing those disputes.

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4.58 pm

Andrew Selous (South-West Bedfordshire) (Con): May I begin by commending the Minister for Children and Families, my hon. Friend the Member for East Worthing and Shoreham (Tim Loughton), who spoke on behalf of the official Opposition and, indeed, all hon. Members on the tone and manner of their contributions? These are emotional issues and there are many different perspectives on them, but everyone who has spoken today has made a considered contribution. Indeed, I am heartened by the extent of consensus in the Chamber. We are all united in wanting children to be safe, both in their own home with the parent who has custody of them, and with non-resident parents. We are united as well in agreeing that it is in children's interests to have ongoing contact with both their mother and their father, although there will be some exceptions where that is not in the best interests of the child.

The first aspect that I shall consider is prevention, which is not specifically dealt with in the Bill. Again, I commend my hon. Friend the Member for East Worthing and Shoreham, who touched on trying to prevent couples from splitting up. I also commend the hon. Members for Mid-Dorset and North Poole (Annette Brooke), who referred to that, and the hon. Member for Stafford (Mr. Kidney) who mentioned the important topic of marriage preparation. We miss that all the time. It is not something for which we can or should legislate, but it is a matter of political will and a matter for greater funding priority than it is currently given.

Is it possible to reduce the workload of the family courts and of CAFCASS, which we have been hearing about? I would argue that it is. There is a growing body of evidence around the world that that is the case. Let us start in America. The community marriage policies that have sprung up there have halved—yes, halved—the divorce rate in some cities. Modesto in California and Austin in Texas are two examples. The university of Texas has undertaken independent corroboration of the effect of community marriage policies across America and estimates that they have prevented some 31,000 divorces and that the divorce rate across all those community marriage policy areas is significantly lower than in areas without it.

In Australia, there is a concerted effort to tackle the problem. We heard briefly from some hon. Friends about the family relationship centres in Australia, which play a role in making sure that the arrangements are correct for children when parents have separated. They also do important preventive work beforehand to try and help couples stay together and make marriages successful. Those organisations are not run by the state but receive some support from it. Given that the Government are considering reform of the Child Support Agency, it is interesting that the Australian child support agency is involved in helping non-resident parents to be good parents and provides materials to enable them to do that. That is a good example of the way in which, cross-departmentally, across all the agencies of Government, we could do better in this country. In Singapore and Malaysia, both Governments are taking the matter seriously. Similarly, Dubai in the middle east came to my attention

recently.

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I am trying to set up a project in my constituency. Last week, we launched our own community marriage policy and, in time, I hope to develop two community family trusts. I know that the hon. Member for Mid-Dorset and North Poole has an excellent one in her constituency doing very good work in schools. I am envious of that, and want the same in my constituency. I hope that all hon. Members might take more of an interest in such projects, so that we can reduce the flow of parents and children coming into the family court system and reduce the demands on CAFCASS. We have heard from almost everyone who has spoken today that CAFCASS will have great difficulty in coping with the extra demands placed upon it by the Bill.

Mr. Kidney: Does the hon. Gentleman remember that a couple of hon. Members spoke about the new children's centres that are planned for many parts of the country as being places where contact can take place? Does he agree that they could also make admirable focuses for parent support services? In my constituency, Stafford, I have an ambition to get Home Start to be the front-of-house service for supporting parents.

Andrew Selous: The hon. Gentleman is right that children's centres are good forums for support centres for parents, but I am discussing support for couples, which is a slightly different point. Support for parents is important, but almost the most important thing that parents can do for their children is to be kind to each other. If parents do that, it sets a wonderful example to their children and helps them to stay together, which benefits their children.

I am particularly interested in the point that my hon. Friend the Member for East Worthing and Shoreham made about the contribution of social workers in Kent. Neither the voluntary sector nor social services have a monopoly in that area, but much more could be achieved through working together.

Mr. Stewart Jackson: Does my hon. Friend support the work of the charity Parent Talk? Last week, I attended an event specifically designed to help parents cope with the difficult job of parenting that that charity put on in a primary school in one of the most deprived areas in my constituency. Support includes videos and booklets to help keep together families which are sometimes in difficult financial circumstances.

Andrew Selous: I do not know that particular charity, but it sounds excellent and I happy to commend it, given what my hon. Friend has just said about its work.

When I mentioned the work of community family trusts to the Prime Minister on the Floor of the House on 7 December, he was full of praise for their work, but the projected budgets for them across the country have been released since then, and, as the hon. Member for Mid-Dorset and North Poole said, they are not good, which concerns me. When the Under-Secretary of State for Education and Skills, the hon. Member for Liverpool, Garston (Maria Eagle) and I debated

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fatherhood in Westminster Hall, she agreed to ask her officials to examine best practice around the world. The Government could do so much more.

Annette Brooke: I am sure that the hon. Gentleman will not be surprised to hear that, despite the excellence of the community family trust in Poole, plans are being made to close the office because,

although some grants have been achieved from outside bodies, the funding is not sufficient to maintain the current excellent service.

Andrew Selous: I am sorry to hear that. The onus is on local community family trusts to try to raise as much money as they can. Some of the central support for the work of community family trusts has been cut and I hope that today's debate will enable Ministers to review some of those decisions. As the hon. Member for Stafford and others said, it is right that the focus should be on mediation, avoiding cases going to court in the first place and early intervention.

I, too, have examined the situation in Florida, which is also mentioned in the Department for Education and Skills publication, "Children's needs, parents' responsibilities":

> "Schemes to divert parents away from court have been developing, including the scheme led by Judge John Lendermann in Florida whereby parents are given information about the damaging impact of their conflict on their children and invited to work out a parenting plan with the help of a mediator. Other programmes are being developed to help and support parents by teaching about their new roles as collaborative mothers and fathers after separation."

We should be going in that direction in the United Kingdom, and I share the concerns expressed by the hon. Member for Stafford that the Bill does not explicitly state how we can do so and whether sufficient funds are available.

Clause 4 deals with the enforcement of court orders, which remains an area of great concern to me. Over the past four and a half years, several constituents have come to me to complain about this. Typically, they are good, concerned fathers who regularly pay their child support as they should, month by month. Some of them have been back to the court 30 or 40 times to try to get their disputes resolved and to have enforced the contact that they have been granted by the court after it has weighed up all the considerations. They have come to me and said that neither the court nor the police have been interested in ensuring that the contact that they were granted is enforced.

That was graphically illustrated to me in my constituency surgery about two weeks ago, when a serving company sergeant-major came to see me. He sat down in front of me and took off the fleece that he was wearing, and right in the middle of his chest was the symbol of his office as a warrant officer in the Army—a large crown. He said, "I don't believe in the antics of Fathers 4 Justice"—who, it is worth remembering, have physically changed the shape of this Chamber since we last debated these issues. He went on, "I stand for what this country stands for. I am a serving soldier and I have done everything right. I pay all the money that I am required to. I have a court order that has stamped on it the same crown that I wear as the badge of my office, yet it is not worth the paper it is written on in terms of my ability to see my children." That is an absolutely

scandalous state of affairs for a good, caring father who has every right to see his children, and whose children will be missing out on the input of a good and dedicated father. The tragedy is that the gentleman who came to see me is one of 7,000 non-resident parents every year who find that the court orders that have been granted to enable them to see their children are being breached.

My worry is that it is not sufficiently clear exactly what will happen if these contact orders continue to be breached. When I intervened on the Minister during her opening speech, she said, properly, that the matter would be left to the courts. However, as Members of Parliament, we collectively represent the High Court of Parliament. It is important that we make it absolutely clear that, where people have acted properly, the court has duly considered all the information, the non-resident father clearly has no history of domestic violence or anything similar, and the court has said that contact must happen, that

contact is in the best interests of the child and we must ensure as a Parliament that it happens. That is fundamental.

If the constituent whom I spoke about, or any other such constituent, comes back to see me after the Bill has passed into law, I will feel that I have failed him if the contact that the court has said that he should have with his children, and his children with him, is not being granted. I am sure that the Minister understands the seriousness of this. We have to ensure that the law has teeth and that where contact has been ordered it really does happen.

The difficulty will centre on what series of escalating steps—my hon. Friend the Member for East Worthing and Shoreham mentioned this—is put in place by the courts to bring that about. It is clearly sensible to have parenting intervention programmes to try to convince parents to do the right thing. I like the idea of giving compensatory time. We could also consider fines going from one parent to the other so that the child does not lose out, with perhaps some mechanism to ensure that that money is indeed spent on the child. It is a vital issue. Many non-resident parents—often fathers—give up their house and the day-to-day care of their children. In many cases, another man moves into their house and lives with their children for most of the time. If the one thing that they have been given—a right by a court to see their children—is flouted, it is a massive injustice for the children and the non-resident parents.

I echo all the points that have been made about grandparents, but why confine the comments to grandparents? Uncles, aunts, cousins and the extended family generally are vital for the development of our nation's children. Many of us have benefited from close relationships with all members of our extended family. Our view of the family is much too nuclear in this country and in several European countries. We could greatly benefit from a more southern European approach. Contact and enforcement is important not only for the non-resident parent but for all those who have loved and cared for children. For many grandparents, uncles and aunts, the children whom they will not see have been an incredibly important part of their lives. We must ensure that the matter is taken seriously for their sake, too.

I want to raise a practical point. We cannot legislate for it, so it properly does not appear in the Bill, but it concerns me and I should like to consider it. When non-

resident parents travel some way from their homes to see their children, there may not be a contact centre in which to see them. Supervised visits have to take place in a contact centre, but if the visits are unsupervised and there is no contact centre, where do they go? There is an expression, "McDads". In the summer, it may not be so bad—perhaps there is a park or another place outside on a warm day—but where, physically, do we expect non-resident parents to spend any quality time with their children? I am not looking for state provision from the Minister but I am trying to think of solutions.

Perhaps charities can help. We have heard much about children's charities today. Perhaps the NSPCC or other charities that have been slightly criticised may like to consider the problem. Perhaps churches, faith groups or anyone in a community who has space in their home and a heart for such matters could help. Perhaps arrangements could be made to put non-resident parents and their children with people who would like to open their homes to them. The non-resident parents could relax and play with their children in a familiar, family environment. That would have to be done by agreement and negotiation, but it is an important matter that some of my constituents who are non-resident parents—and non-resident grandparents—who have to travel some way have raised with me. I do not look to the Government for an answer—it is properly not within their remit—so Ministers can relax. However, I hope that they at least agree that it is an important matter to consider in the context of the care of

children with non-resident parents.

Other hon. Members have mentioned delay. "Justice delayed is justice denied" is a common saying about the law. That is nowhere more true than when children are involved. Childhood is finite and crucial. If a parent misses specific stages of a child's development, they are gone for ever. That is a tragedy. Speed is therefore important. Of course, we must get things right but speed is also vital and I hope that that will be taken fully into account.

5.19 pm

Mrs. Maria Miller (Basingstoke) (Con): We have had a full and wide-ranging debate. We have heard that children everywhere must cope with increasingly complex and difficult family relationships. Every year, 150,000 children have to deal with the distress and upset of divorce. One in five children are likely to go through their parents' separation or divorce before they reach the age of 16. That is difficult for any child.

Indeed, parental divorce is seen by children as one of their biggest concerns and fears. We need to bear that in mind as we discuss the Bill. We have heard that great importance is put on children maintaining a relationship with both parents after separation or divorce, and that has been accepted by all speakers on both sides of the House. However, the harsh reality is that after only two short years of separation, 40 per cent. of non-resident divorced and separated parents lose contact with their children. That should set alarm bells ringing for all of us.

We have also heard arguments on both sides of the House that reinforce the fact that the Bill does not grasp the full magnitude of the social problems faced by children growing up in this country today. We must not miss the opportunity to get to the heart of the problem, because we face many challenges as we consider this very difficult and sometimes apparently intractable problem.

There needs to be a change in the way in which family law deals with establishing and maintaining contact between non-resident parents and their children, and a change in the way in which we ensure that the law is put into practice. We have heard today that many other countries are considering new and different ways of doing that, and it seems entirely appropriate that we should examine those options in more detail in Committee, to see whether we can learn anything from them. Those countries' legal systems are not dissimilar to our own, so I hope that that would not be a difficult challenge for us to undertake.

There is also common ground between the Government and the official Opposition on these matters. The Government's Green Paper clearly states:

> "After separation, both parents should have responsibility for, and a meaningful relationship with, their children, so long as it is safe."

The document goes on to say:

> "It is in the interests of the child to have a meaningful ongoing relationship with both parents".

That is important.

It should not be the role of the Government to dictate the relationship between parents and their children, but it is their role to ensure that systems are in place to provide guidance when it is needed. The Bill lacks explicit guidance on the important role that both parents can play in ensuring the well-being of their children. The Green Paper was more explicit about such provisions, but the Bill is not.

As I have said, there is common ground between the Government and the Opposition. We all agree that the child's welfare is of paramount importance, and we must ensure that any legislation designed to support children has that at its heart. We need to debate these matters as they appear to children. I am not a lawyer, and perhaps Members of Parliament should try to speak not as lawyers but as Members of Parliament. I am married to a lawyer, and I know that it is sometimes difficult for lawyers to get out of the habit of speaking as lawyers, but that is an important challenge for us.

First and foremost, we should focus on the everyday, practical problems that children face. We should then let the judiciary decide how they are dealt with, when it comes within its remit to do so. Indeed, the judiciary itself says that family law does not fit easily into the judicial system, and some of the problems that we have discussed today suggest that that perspective is correct.

We have all agreed today that parents play a pivotal role in achieving the best outcomes for children. We have also agreed that the vast majority of non-resident parents want to stay in contact with their children, and we need to keep in the forefront of our minds that, in 90 per cent. of cases, it is perfectly safe for them to do so. However, anyone reading the transcript of today's debate might find that somewhat surprising.

The Bill attempts to encourage contact and to make the sanctions that are in place workable. We cannot help feeling, however, that it merely tinkers at the edges of a more deeply rooted problem. There is a general feeling that a lack of confidence in the family court system has resulted in many parents settling for less contact, or unreasonable contact time, as legal fees and court time

make it difficult or even impossible for non-resident parents to dispute cases. I have encountered many such instances in my constituency, and most Members who are present can probably think of one or two in theirs.

All too often, as others have said, even when parents have not had to resort to the courts, non-resident parents find it difficult to secure the time with their children that they need in order to maintain and develop the parent-child relationship. Difficult situations are often compounded by non-resident parents' living in accommodation that is not suitable for their children to visit, let alone stay in. My hon. Friend the Member for South-West Bedfordshire (Andrew Selous) made that point. A parent who has had to leave the family home may well be living in bed-and-breakfast accommodation, or other accommodation that is deeply unsuitable for a child to visit.

Lengthy and costly judicial process only serves to exacerbate the problem. As we heard earlier, the Government's own research shows that one in four contact and residence cases lasts more than a year, and a quarter of all cases involve multiple applications resulting from enforcement problems. The system often fuels existing tensions between parents, and a feeling of marginalisation for non-resident parents. Clearly none of that is in a child's best interests.

The law should make clear that we value the contribution of both parents to the future welfare of a child whenever that is safe—and, as I have said, it is safe in the vast majority of cases. If a child's relationship with his or her parent is to flourish and not wither on the vine, time is needed. We must examine ways in which the legal system can become more accessible, and can work better to bring about successful outcomes for children rather than fuelling conflict in already difficult and emotionally charged circumstances. That is why we will seek fundamental amendments to the Bill, including a legal presumption of co-parenting and an explicit statement of reasonable contact, backed up by early intervention and mediation.

We have heard a great many speeches today, which will give us some interesting topics to think about

before the Committee stage. My hon. Friend the Member for East Worthing and Shoreham (Tim Loughton) made a powerful case for some of the changes that I have talked about. That led to a useful discussion on many issues, including co-parenting and children's safety. I am sure that we shall return to them in Committee.

My hon. Friend the Member for Peterborough (Mr. Jackson) made a number of interventions as well as his speech. He made an important point about the invaluable role of extended families, particularly grandparents. As we all know, they have a noted role in child care. I expect that we shall hear more of that next week. I agree that it is important for us to understand grandparents' role in children's lives. We must also ensure that the legal approach, which at present can seem rather hostile to that group of people, is amended so that we can support them more. Perhaps we should take a leaf out of the book of Canada, the home country of one set of my own children's grandparents. I am sure that I shall gain some useful input from them in the next few days.

My hon. Friend the Member for Brentwood and Ongar (Mr. Pickles) focused on adoption, which is an important element of the Bill and should not be

overshadowed by the debate on part 1. He drew extensively from his constituency experience, broadening the debate in a useful and helpful way. My hon. Friend the Member for South-West Bedfordshire raised the issue of preventing marriage breakdown, which I agree should be given more priority, and cited a number of examples in the United States. Divorce rates have been significantly reduced there because the importance of supporting marriage has been acknowledged. My hon. Friend the Member for East Worthing and Shoreham made an important point about not automatically assuming that a non-resident parent would be an inferior parent.

Labour Members raised issues that were raised by my hon. Friends. The hon. Member for Stafford (Mr. Kidney) talked about helping parents to be better prepared for the responsibilities of parenthood, and made a strong case for increasing mediation. Importantly, he questioned the Bill's silence on the issue of delays in court proceedings, which can be corrosive and destructive during the separation and divorce process. We should pick up on that matter in Committee.

The hon. and learned Member for Redcar (Vera Baird) talked about a number of aspects of the Bill, including CAFCASS's capacity to meet the requirements of the Bill as regards risk assessments. Importantly, she touched on the issue of safety and the hidden aspects of domestic violence, of which we should all be aware when we discuss the Bill. It is an important issue.

The hon. Member for Luton, South (Margaret Moran), who made a considered contribution, raised the important issue of domestic violence and child care and various other aspects of the Bill, including the importance of clause 7. The hon. Member for Stockport (Ann Coffey) touched on the importance of mothers and fathers and the fact they have responsibilities, which, again, we should keep to the fore.

As my hon. Friend the Member for East Worthing and Shoreham pointed out, there is a fair amount of agreement in principle on the issue of inter-country adoption, although we have some concerns about the fashioning of the new procedures and will consider that in a little more detail in Committee. We feel strongly that it is perfectly legitimate to consider overseas adoption but we share the Government's concerns about the cases of child trafficking in recent months. However, we must be vigilant that restrictions do not lead to a growth in private adoption.

In Committee, the official Opposition will seek to challenge and to encourage the Government to face head on the scale of change needed to achieve a better result for children, who are all too often caught in the middle of their parents' separation or divorce. We will encourage the Government to be bolder in

the Bill to achieve those ends. We know that the Government often have regretted not having the courage to be bolder when seeking solutions to the important problems that are faced by our country. I can reassure Ministers that we will do all we can to ensure that that is not the case in this instance.

5.33 pm

The Parliamentary Under-Secretary of State for Education and Skills (Maria Eagle): I agree with the hon. Member for Basingstoke (Mrs. Miller) that we have had

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a very interesting and constructive debate. I congratulate her on what I think is her first effort at the Dispatch Box, which was extremely accomplished.

Dr. Julian Lewis (New Forest, East) (Con): The first of many.

Maria Eagle: No doubt it is but that is not a matter for me to decide.

I congratulate hon. Members on both sides of the House who have participated in an extremely stimulating, wide-ranging and well-argued debate. It is apparent from their speeches that they approach the issue with a passionate commitment to try to ensure that children caught up in the divorce or separation of couples, and the bitterness that sometimes results, are not harmed too much by that experience. There is no doubt that that commitment was apparent even if it was also apparent that there may be one or two slightly different approaches to how best to achieve that. That is no different from the tone adopted when the Bill was debated in another place and during later proceedings on it. The hon. Member for Mid-Dorset and North Poole (Annette Brooke) was right to say that proceedings on the Bill have been going on for some time. That lengthy deliberation is only correct because we need to get things right; the future of the children whom we are trying to assist depends on our doing so.

The debate did occasionally descend into slightly bad temper and we had a couple of somewhat vehement spats between the hon. Members for East Worthing and Shoreham (Tim Loughton) and for Mid-Dorset and North Poole. There was also a spat involving the hon. Gentleman and the NSPCC, which was of course unable to defend itself. However, it will doubtless find an opportunity to do so when the debate is over.

I want to sort out what I believe to have been a genuine misunderstanding—it does not happen very often—between the usual channels. The hon. Member for East Worthing and Shoreham suggested that the Government are trying to avoid giving the Opposition the time that they want for consideration in Committee, but I assure him that that is not the case. There has been a genuine misunderstanding, in that the usual channels on our side gave what was asked for, but I assure him that the Government intend to be flexible and to provide more time in Committee if required.

I shall deal with some of the points and broad themes that were raised, although I will not have time to deal with them all, given that most Members spoke at great length. It is clear that contact with both parents is in the interests of the child if it can be done in safety; indeed, there is general agreement in all parts of the House on that point. I would argue—as my hon. and learned Friend the Member for Redcar (Vera Baird) argued, perhaps more eloquently than I ever could—that case law already suggests that the courts start from the position that contact between a child and their parents is generally in the child's best interests.

The different perspectives expressed on the Floor of the House disagreed on the question whether such contact compromises the safety of the child in some instances, or the paramount interest of the child's welfare, given that such contact often breaks down. The Children Act 1989 does of course contain the

paramountcy principle, and the Government and I believe it incredibly important that that principle, which was established with the support of Members in all parts of the House, be retained. We heard from my hon. and learned Friend the Member for Redcar an excellent exposition on what changing the presumptions would mean in legal terms. It is undoubtedly true that many fathers are unable to spend the time with their children that they would like to spend, and it is right that we offer them support and encourage a positive relationship between children and both parents after separation. The Bill attempts to ensure that we do just that by providing the courts with more flexibility in enforcing contacts that they have ordered, on the basis that they are in the interest of the child. That is what the Bill is about.

However, we need to be clear that any presumption—even if couched as a principle in the absence of evidence to the contrary—represents a different legal model from the one enshrined in the 1989 Act. To place something else on a level with that which is supposed to constitute paramountcy is incompatible with the paramountcy principle. I am certain that we will continue to have legalistic and non-legalistic arguments on this issue—from lawyers and non-lawyers—as the Bill proceeds through the House, but the Government do not want to do anything to compromise the paramountcy principle.

In the main, Members in all parts of the House had something positive to say about mediation. The issue was raised of whether voluntary mediation is best, or whether mediation could—or even should—be compulsory. It is clear that voluntary mediation is best: one can lead a horse to water, but one cannot make it drink. Can we really expect people to be forced to mediate if they are not in the mood? Requiring mediation before a case can proceed, for example, could simply result in further unnecessary delay if the parties are already well-entrenched in their respective positions and are in no fit state to see that mediation might actually help. However, the Joint Committee considering the draft Bill recommended that the court should be able to direct people to attend an initial meeting with a mediator, and I think that that would be appropriate.

The hon. Member for Mid-Dorset and North Poole asked whether information about mediation was available other than in the form of leaflets. She asked whether a video was available, and I can tell her that the Government are even more modern than that, having produced a DVD on the subject. We are moving into the modern world, and the courts will have to do the same.

The hon. Member for Basingstoke said that some 40 per cent. of non-resident parents lose contact with their children within two years of separation. I have heard that figure before, but I am not sure of its provenance. I hope that the hon. Lady will be able to let me know, perhaps during the Committee stage. However, the omnibus survey by the Office for National Statistics suggests that about three quarters of non-resident parents who have been separated for between two and three years have contact with their children at least once a week, and that fewer than 10 per cent. of them have no contact at all. In respect of longer separations, the survey suggests that about 20 per cent. of children have no contact with a non-resident parent

after two years. That is still far too many, but it is fewer than the hon. Lady suggested, and we might have to return to the matter in Committee.

I am glad that hon. Members on all sides of the House mentioned the positive role played by grandparents and other members of the extended family. I agree completely with that, and note that the Bill can apply not only to resident or non-resident parents but to grandparents as well. It is not restricted to parents, so I hope that it will assist in all of these matters.

The question of resources for CAFCASS and the courts was raised. I can understand that, but the Government have always made it clear that they should have adequate funding so that they can fulfil their responsibilities under part 1 of the Bill. My right hon. Friend the former Minister for Children, who is now Minister for Employment and Welfare Reform, said as much in evidence to the Joint Committee. She stressed that the Bill's provisions will be implemented only when we are satisfied that appropriate resources are available.

My hon. Friend the Member for Stafford (Mr. Kidney) and the hon. Member for South-West Bedfordshire (Andrew Selous) both spoke about how the work loads of the family courts and of CAFCASS could be reduced. We have high hopes that the Bill will enable us to shift resources from too much report writing to more proactive and helpful interventions. I know that CAFCASS is very committed to ensuring that that happens.

The hon. Member for Brentwood and Ongar (Mr. Pickles) was extremely ingenious in managing to talk about public law and domestic adoption in connection with a Bill that deals with private law and inter-country adoption. I congratulate him on that, and I am, of course, aware of the case that he raised. I would take an extremely dim view if any local authority sought to remove children from parents simply because they were learning disabled. Some of the legislation for which I had the honour to be responsible in the previous Parliament will come into force in December, and make it even more difficult for public authorities to behave in that way than is currently the case. There is an increased awareness of these matters, and I am sure that the hon. Gentleman will continue the campaigns on behalf of his constituents for which he is known.

In conclusion, it is clear that we will have a lot more to say in Committee. We might even have a little more time in which to say it, given the accidental error in the programme motion that meant that only four sittings were originally provided for. I look forward to that discussion, as I believe that hon. Members of all parties have a genuine interest in making things better for the children of divorcing and separating couples.

That is certainly true of the Government. If every child in this country is to matter, we must make sure that those whose families separate do not suffer the consequences—that is, lack of development and self-esteem, and an inability to do their very best in future life. We are all in favour of that, and I commend the Bill to the House.

Question put and agreed to.

Bill accordingly read a Second time.

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