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HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

PUBLIC ORDER BILL

Fourth Sitting

Tuesday 14 June 2022

(Afternoon)

CONTENTS

CLAUSES 3 to 5 agreed to.

Adjourned till Thursday 16 June at half-past Eleven o'clock.

Written evidence reported to the House.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 18 June 2022

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The Committee consisted of the following Members:

Chairs: † PETER DOWD, DAVID MUNDELL

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|--|--|
| † Anderson, Lee (<i>Ashfield</i>) (Con) | † McCarthy, Kerry (<i>Bristol East</i>) (Lab) |
| † Bridgen, Andrew (<i>North West Leicestershire</i>) (Con) | McLaughlin, Anne (<i>Glasgow North East</i>) (SNP) |
| † Chamberlain, Wendy (<i>North East Fife</i>) (LD) | † Malthouse, Kit (<i>Minister for Crime and Policing</i>) |
| † Cunningham, Alex (<i>Stockton North</i>) (Lab) | † Mann, Scott (<i>North Cornwall</i>) (Con) |
| † Doyle-Price, Jackie (<i>Thurrock</i>) (Con) | † Mohindra, Mr Gagan (<i>South West Hertfordshire</i>) (Con) |
| † Elmore, Chris (<i>Ogmore</i>) (Lab) | † Vickers, Matt (<i>Stockton South</i>) (Con) |
| † Elphicke, Mrs Natalie (<i>Dover</i>) (Con) | |
| † Hunt, Tom (<i>Ipswich</i>) (Con) | Anne-Marie Griffiths, Sarah Thatcher, <i>Committee Clerks</i> |
| † Huq, Dr Rupa (<i>Ealing Central and Acton</i>) (Lab) | |
| † Jones, Sarah (<i>Croydon Central</i>) (Lab) | |
| † Longhi, Marco (<i>Dudley North</i>) (Con) | † attended the Committee |

Public Bill Committee

Tuesday 14 June 2022

[PETER DOWD *in the Chair*]

Public Order Bill

Clause 3

OBSTRUCTION ETC OF MAJOR TRANSPORT WORKS

2 pm

Sarah Jones (Croydon Central) (Lab): I beg to move amendment 35, in clause 3, page 2, line 26, leave out sub-paragraph (iii).

This amendment seeks to limit the range of acts potentially criminalised by this provision.

The Chair: With this it will be convenient to discuss amendment 36, in clause 3, page 2, line 29, leave out paragraph (b).

This amendment seeks to limit the range of acts potentially criminalised by this provision.

Sarah Jones: I am speaking to the amendments, which we have some sympathy with, on behalf of the hon. Member for North East Fife, who is not in her place at the moment. We are moving on from the lock-on offences we debated this morning to a new offence of obstruction of major transport works. Amendments 35 and 36 would remove some of the language that perhaps makes the scope of the clause too broad. We have already covered the principle behind the objections to the present clauses, which are similar to those on locking on and being equipped to lock on. These clauses are broad, and indeed potentially infinite, but as was said this morning, restrictions on people's fundamental rights must be limited to what is absolutely necessary.

I repeat that no one is denying that people who commit criminal acts should be arrested and charged—in many cases, we know that that is why protesters do what they do—but there are already laws to deal with these behaviours. The Public Order Act 1986 contains offences of organising or taking part in a prohibited trespassory assembly. Where a chief of police reasonably believes there will be a trespassory assembly that may result in serious disruption to the life of the community, they can place a pre-emptive ban on it, and breaching that ban is a crime.

The key point we seek to make in the amendment is that there must be a balance. The Government should not go too far down the road of criminalising protest; that is not what happens in our democracy, and that is why the hon. Member for North East Fife tabled amendments 35 and 36.

Amendment 35 would limit the offence of obstruction to blocking the core activities of major transport works, removing clause 3(1)(a)(iii), which appears to be a catch-all for any protest near or relating to major works. Would that provision also catch construction workers who are on strike at their own places of work or a protest at the entrance to the land where works are being done?

Amendment 36 would remove reference to interfering with or moving apparatus, because the provision in the clause is broad and goes too far. The disruption from apparatus being moved is not such that the Government should seek to introduce legislation to stop peaceful protest.

The Minister for Crime and Policing (Kit Malthouse): Amendments 35 and 36 take issue with the scope of the offence of obstructing major transport works. I understand that the hon. Lady is concerned about the wide scope of the offence, but it is clear from the evidence that the Government need to protect vital transport construction sites across the country. I think the whole Committee was shocked to hear evidence from HS2 that the cost of protest to the scheme was £122 million and likely to rise to £200 million.

Amendments 35 and 36 attempt to limit the potential acts that fall within the offence by removing references to any acts that obstruct steps “in connection with”, or “reasonably necessary” to facilitate, construction or maintenance of a particular project. They would also remove references to acts that interfere with, move or remove any apparatus that relates to the construction or maintenance of major transport projects.

As I said, I understand that there are concerns about the wide scope of this offence, but a balance needs to be struck. Protest against transport sites comes in many different forms and is constantly evolving, as a small minority seeks new ways to inflict further disruption. It is entirely proportionate for this offence to capture behaviour that obstructs any stage of these projects. Furthermore, it is right that this offence should protect from interference key machinery, materials and other necessary apparatus, without which construction or maintenance of projects cannot occur.

It is worth remembering that we are talking about projects that have been decided through a democratic process. In many ways, individuals seeking to impede such projects are latter-day King Canutes, seeking to stop something that has been decided by the House of Commons or other democratic process and should therefore be allowed to take its course.

Mrs Natalie Elphicke (Dover) (Con): Does the Minister agree that the health and safety measures that are so vital to protect everyone, as well as equipment, on construction project sites are simply not respected by those seeking to disrupt, and that that puts everyone at risk?

Kit Malthouse: My hon. Friend makes a powerful point, which we have seen throughout some of the protest tactics that we aim to deal with by means of the Bill. They include a complete disregard for the safety not just of the protesters but of the workers on the sites affected and indeed the police, who have to go and remove the individuals.

Sarah Jones: What is the Minister's view on the Prime Minister's intention to lie in front of bulldozers at the start of the construction of the third runway at Heathrow?

Kit Malthouse: The Prime Minister was then Mayor of London and made his views known in a light-hearted way to indicate his opposition. If he had lain down in front of the bulldozers on a project democratically

decided by the House, he would have committed an offence. Having said that, it is fair to say that the leaders of all major parties at the time went and planted trees at Sipson in the hope that a forest would flourish there. We will see whether those trees last. In any event, for the reasons I have outlined, I urge the hon. Lady to withdraw the amendment, with which the Government cannot agree.

Sarah Jones: Given that the amendment is not mine and I have only supported it in principle, I will not press it to a vote. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Sarah Jones: I beg to move amendment 37, in clause 3, page 3, line 3, after “fine” insert

“not exceeding level 2 on the standard scale”.

A person convicted of an offence of obstructing major transport works may be subjected to a fine. Under this clause there is currently no limit on the fine that may be imposed. This amendment would place a maximum limit on the fine.

I think that if the hon. Member for North East Fife were here, she would say that this amendment makes the same point that she has made in previous amendments and that she has nothing to add.

Kit Malthouse: We oppose this amendment for the same reason I have given in consideration of previous amendments in a similar vein. Lowering the maximum fine for the offence to £500 is simply not proportionate. The penalties available under the Bill must be proportionate, otherwise they will not be a sufficient deterrent. I urge the hon. Lady to withdraw the amendment.

Sarah Jones: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause stand part of the Bill.

Sarah Jones: Clause 3 introduces a new offence of obstructing the construction or maintenance of any major transport works. That would include if a person obstructs a construction worker

“in setting out the lines of any major transport works”,

or

“taking any steps that are reasonably necessary for...facilitating, or in connection with, the construction or maintenance of any major transport works”.

It will also be an offence to interfere with, move or remove

“any apparatus which...relates to the construction...of any major transport works”.

There is a reasonable excuse defence, and the maximum penalty is 51 weeks imprisonment, or a fine, or both.

There is an interesting two-part definition of what constitutes major transport works for this offence. First it is transport infrastructure covered by Acts of Parliament which provide legislative authority, HS2 being the obvious example. The second is nationally significant infrastructure projects that have been granted development consent orders under section 114 of the Planning Act 2008. For example, that could be new airports or airport extensions, major road projects, or railway works.

Like other clauses, the clause is drawn far too broadly and risks having a chilling effect on protest. This clause seems particularly targeted at climate protesters. Megan Randles, Greenpeace UK’s political campaigner, said:

“Time and again, it’s activism that has dragged a reluctant UK government into confronting vital issues, whether it’s the climate crisis or women’s rights. Ministers who...talk about freedoms at every turn should rethink this attack on one of the most fundamental freedoms we have.”

Furthermore, this Bill arrives before the protest clauses in the Police, Crime, Sentencing and Courts Act 2022 have come into effect, and that seems illogical. Would it not make more sense to introduce into law the statutory instruments for those clauses before bringing in a new raft of proposals?

People across the country want to be able to protest against major transport projects or changes in their local area, such as a library closure, or changing woodland into a car park. That fundamental right must be protected, but so must our vital infrastructure and major transport works. There is a balance to be struck. When the measure was debated in the House of Lords, many Members of that House said that the offence of obstructing transport works in clause 3 was “overreaching” and “unnecessary”. Liberty has pointed out that such a low threshold risks disproportionately interfering with people’s rights under articles 10 and 11 of the European convention on human rights and the Human Rights Act.

The Joint Committee on Human Rights felt that there could be issues with the proportionality and necessity of the measures, and that their potential to stifle peaceful and legitimate protest could mean that they were in breach of articles 10 and 11. The Home Office says that the clause is proportionate because the court would take into account the specific facts, but Liberty points out that the Home Office’s human rights analysis says nothing about whether the offence is necessary or how, and the extent to which, it adequately weighs individuals’ fundamental rights to freedom of expression and assembly in the balance of rights.

In evidence, Sir Peter Fahy, who was the chief constable of Greater Manchester police, and before that the chief constable of Cheshire Constabulary, said:

“I would still doubt whether the appetite would be there—the judicial appetite. Police officers are very wary...when cases get to court, the judiciary or the magistrates often give out very minor sentences—whatever might be allowed in the legislation. They find, as happened with the Sarah Everard case, that higher courts then disagree and bring in human rights legislation, or bring in a different interpretation that is in the legislation, which then completely takes the legs of the police from underneath them.”—*[Official Report, Public Order Public Bill Committee, 9 June 2022; c. 53-54, Q116.]*

Will the Minister respond to the idea that if the courts take into account human rights legislation, they may not see as proportionate the punishments introduced by these new provisions? Surely, he does not want to give the police the difficult job of interpreting and applying to peaceful protesters such complex and broadly drawn powers, only to have the courts disagree with them.

During the Lords Report stage of the Police, Crime, Sentencing and Courts Bill, when these offences were first proposed, the JCHR raised a concern about their excessive breadth. For example, the proposed new offence of obstructing major transport works would potentially cover a wide range of minor acts, including moving any apparatus that relates to the construction or maintenance

[Sarah Jones]

of major transport works, and even moving any apparatus that belongs to a person acting under the authority of the person in charge of the works. The Bill contains no requirement that these acts are committed with any disruption or disruptive intention. Will the Minister explain how he understands the term “apparatus”? I think it would be helpful to the Committee to understand how far this goes. The terms “interfere”, “move” and “remove” are also very broad. Perhaps he can shed some light on the kinds of actions that would be covered by those terms.

Amnesty says:

“This provision fails the three-part test of legality, necessity and proportionality. The language is again vague and so broad that even coincidental obstruction of construction work by a big march that just happens to pass through a street where such works are ongoing could be covered in its scope.”

The problem, as articulated by those who gave evidence, is that our vital public infrastructure, such as HS2, should not be seriously disrupted to the detriment of the community and our national life, but we must also protect the rights to free speech and public protest. We believe that the Bill does not manage to deliver either of those objectives. During the evidence sessions, Steve Griffiths, managing director of London Stansted airport, said a couple of times that he was not the expert on legislation. He said:

“I am probably not qualified to comment intensely on the Bill”.—[*Official Report, Public Order Public Bill Committee, 9 June 2022; c. 34, Q60.*]

Another thing we do not understand about the legislation—we covered this briefly this morning—is that using the term “serious disruption to two or more people” is not a sensible way to draft legislation. We need a better definition of serious disruption to start with and to make sure that any legislation we pass is targeted only on the kinds of cases we heard about in the evidence session.

2.15 pm

With the deportation flight protest that Mr Griffiths spoke to us about last week, the problem was not that the protesters could not be arrested and people could not be taken away. They were arrested and they were removed. The issue was with the charge that was laid when they went to court. The disruption that those 1,700 people faced that day would not change if the new offence had existed at the time and it is likely that these protesters would not have been deterred from protesting since they were already breaking existing laws.

The police and courts already have a range of powers that they can use in the minority of cases that involve serious disruption or criminal activity. These include wilful obstruction of a highway, criminal damage, aggravated trespass, public nuisance, breach of the peace, breach of conditions on processions and static protests, harassment, threatening, abusive and disorderly behaviour, trespassory assemblies, preventing others from going about their lawful business and injunctions. John Groves from HS2 acknowledged that in the evidence session:

“We have recorded 1,600 incidents against HS2 since the end of 2017. All of that is unlawful activity—trespass, violence against staff, criminal damage.”—[*Official Report, Public Order Public Bill Committee, 9 June 2022; c. 18, Q28.*]

We think there is a strong case for using injunctions where appropriate to deal with the kind of disruption we saw from protesters at HS2. Chris Noble, the NPCC lead for protest, said:

“Injunctions have been used increasingly frequently, but the challenge is framing them appropriately and securing them within a reasonable timescale so they can have maximum impact.”—[*Official Report, Public Order Public Bill Committee, 9 June 2022; c. 8, Q7.*]

As we heard, HS2 has asked the court to grant a full route-wide injunction, which will have some effect on the behaviour of illegal protesters. Not only can they potentially act as a deterrent but, crucially, they include judicial oversight, which ensures that powers are not misused. The Government could be working to ensure that more effective partnerships are in place to ensure that companies co-operate and that the police and authorities have the capacity, training and guidance in place.

I want to make it clear again that we are horrified by illegal disruption. Some £126 million of taxpayers’ money is spent on protester removal or the cost to HS2 of dangerous and illegal protest. It is not a question of whether we agree or not but a question of what we should do about it. The Bill will not fix these problems, it will not speed up the removal of protesters who are causing serious disruption and it will not be a deterrent for those who want to break the law, for whom fines are of no consequence.

We heard from witnesses such as Steve Griffiths about the large number of people affected by the protests and the scale of the disruption, but that does not mean that we should accept broad-brush legislation that will not even address these issues. The new offences are unlikely to act as a deterrent for the hardline repeat offender protesters we are talking about. Their objective, often, is to be arrested. The more offences for which it is easier to be arrested might be the effect they desire.

Liberty’s briefing quoted Lord Beith, saying that,

“if you try to write legislation around an individual set of circumstances that has arisen, you get into trouble. You turn into general law attempts to deal with very specific cases.”

The reality is that the Bill will not make it easier to minimise the disruption from protests on major transport works. It will just bring more and more people who are peacefully protesting into the criminal justice system.

Alex Cunningham (Stockton North) (Lab): It is a pleasure to serve under your chairmanship, Mr Dowd. I am extremely concerned about the unintended consequences that will result from the introduction not just of this clause but of the other provisions as more and more people are criminalised, as my hon. Friend the Member for Croydon Central said. We have already heard from police chief Chris Noble about the additional stresses the Bill’s contents will have on the police service and the difficulty the police may well have in interpreting which action they can take in which circumstances.

As the Government strive to build up the number of officers, and to replace at least some of those whom consecutive Governments have got rid of, we can expect more arrests, more charges, and perhaps even more convictions, and there will be a knock-on effect on our prisons. I have another interest, alongside that of improving public protection: my nephew Lewis Cunningham, who lives in Beverley, starts his police training in September.

I am sure that colleagues across the House will join me in wishing him well. [HON. MEMBERS: “Hear, hear!”] I thank them for that.

My hon. Friend the Member for Croydon Central has outlined in great detail the flaws in the clause and in the rest of the Bill. There will be another major knock-on effect of the Government’s measures, which will potentially criminalise thousands of people: the measures will affect our courts, which still have dire backlogs. The most recent statistics from Her Majesty’s inspectorate of constabulary and fire and rescue services reveal that the Crown court backlog remains great, and despite various measures having been put in place—they range from extra sitting days to Nightingale courts—it will take years to get the backlog down to a reasonable and manageable level. In the autumn Budget statement, the Treasury claimed that the backlog was caused by the coronavirus pandemic. That is completely false.

The Chair: Order. I appreciate that this is an important matter, but I must ask the Member to stick to the clause, which is on the obstruction of major transport works.

Alex Cunningham: I accept the reprimand, Mr Dowd, but I wanted to emphasise that the Bill has unintended consequences. It will have a knock-on effect on the number of arrests made, the number of police available, the number of court days required, and the number of officers called to court. Those are all consequences of this legislation, which I submit is totally unnecessary, and will criminalise many people. The crisis in the justice system could have been avoided, but this legislation may add to the problem. I am skipping over some of the stuff in my notes that relates directly to courts.

The Chancellor talked about providing more police officers; the same 20,000 were promised years ago, many of whom remain to be recruited. If that promise is fulfilled and more people are brought to justice—I keep saying this—it will mean more officers in court, more arrests, and more stress on the system. The Government need to account for that. We have seen some changes. There have been supportive comments from some people in the justice system, but the bottom line is that the impact on the courts will be tremendous. A National Audit Office report says,

“The Ministry has removed the limit on the number of Crown Court sitting days, but their use relies on courts having enough physical and judicial capacity.”

That capacity does not exist.

The Chair: Order. I appreciate the wider ramifications of the issue, but I must exhort the Member to focus his attention on the clause.

Alex Cunningham: I recognise that, Mr Dowd, but the whole system is in crisis, and the point that I am trying to get across is that the Government have not properly addressed the Bill’s impact on the entire justice system. We cannot look at these measures in isolation; we have to look at their effect across the whole system. The measures could needlessly criminalise hundreds, if not thousands, of people, so we have to consider their knock-on effects.

The crisis in the system means that justice can often be denied, even to those impacted by protesters or those locking on. Those affected deserve justice; unfortunately, it will have to come in the longer term, given the breakdown in the system.

I was going to quote former Member Anna Soubry on the problems that she had in court, but I will not. The Government must look at these measures in the round, rather than in isolation. Resources will need to be available across the piece, and there is no provision in this clause, or any other clause, to ensure that the entire system operates effectively. The time for action is well past. I submit to the Minister that instead of messing around with clauses as simple as this one, the Government should start tackling the crisis in policing, the rise in violent crime, the epidemic in antisocial behaviour and the massive courts backlog.

The Chair: I must ask the Member to stick to the clause. I have asked three times now.

Alex Cunningham: With that third reprimand, Chair, I shall wind up my remarks.

Kit Malthouse: I think we can take from that that the hon. Gentleman is voting against the clause. As the hon. Member for Croydon Central says, the clause creates a new offence of obstructing major transport works. We heard in strong evidence from the police, High Speed 2 and others why the offence is needed, and why the offence should ensure that all stages of construction and maintenance are protected from disruptive action, including necessary steps prior to construction, such as ecological surveys, and why the offence should also cover the removal of, or interference with, apparatus needed for construction.

I reassure the hon. Lady that “apparatus” is a usual term in legal circles; any strict definition in the Bill might result in the Bill not being future-proof, or in its being too definitive in a way that protesters could find a way around. I am sure that it will not be beyond the wit of courts to interpret what “apparatus” means. When they do, anyone found guilty of the offence will face a maximum penalty of six months’ imprisonment, an unlimited fine or both.

As with other offences in the Bill, we have provided a reasonable excuse defence. In reference to something the hon. Lady said earlier, there is a defence for trade disputes, so those on strike will have a defence against this kind of offence. As she pointed out, “major transport works” are defined as works that have either been authorised by an Act of Parliament, such as HS2, or by a development consent order under section 114 of the Planning Act 2008, such as the Silvertown tunnel. The definition ensures that transport works of strategic importance in England and Wales are protected.

The hon. Lady raised the issue of human rights. That is a common issue that courts have to address when looking at offences committed by all sorts of people in all sorts of circumstances, and it is something we are used to. I confess that I am confused by the hon. Lady’s position. She is encouraging and supportive of national injunctions, which carry unlimited fines and prison terms that depend on the views of the judge at the time. They also provide less protection for the accused, as judges generally require a lower burden of proof in deciding whether the case is proven. Of course, we heard strong evidence last week that injunctions are cumbersome, long-winded, expensive for people to put in place and unpredictable in their efficacy.

Sarah Jones: We will talk properly about injunctions under the new clauses, because we have a new clause on that. To clarify, we are not calling for big thing called a national injunction; we are calling for a national approach to dealing with all the complications that arise when there is a large infrastructure issue, and when we might need local authorities and the private sector, working with Government, to do what is needed as quickly as possible. We did not suggest a national injunction that is one chunk of a thing.

Kit Malthouse: Maybe I misheard the Leader of the Opposition on the television when he called for exactly that: a national injunction. The hon. Lady has neatly pointed out the complexity—for example, in HS2, there are different landowners, geographies, areas and phases of development—of obtaining an injunction that covers the whole of the works. The point still stands that, as far as I can see, she is content for people to be punished and to go to prison under an injunction, but strangely not under a criminal charge. I do not understand that asymmetry. As far as I can see, a criminal court has greater protections for our fellow citizens who are accused of such crimes—not least a higher burden of proof—than the civil courts, where injunctions are heard.

Sarah Jones: The Minister made that point to several of the people who gave evidence to us, but they did not accept it. Our point is that the Bill automatically criminalises things that are not criminal offences. An injunction is time-limited, specific, and pertains to an area where serious disruption is being caused; that is not the same as a lock-on offence, which might just be some women locking arms and therefore automatically committing a criminal offence. Those are very different things.

2.30 pm

Kit Malthouse: Part of the hon. Lady's repeated case is that there are already plenty of criminal offences with which we could charge all these people. There is no one yet who she thinks should not have been charged with an offence. Some of them, I am afraid, seem to get off on technicalities and through loopholes; I outlined a couple of examples. High Speed 2 in particular expressed frustration at the police's inability to get some charges to stick. We are trying to satisfy the hon. Lady's requirement for more specificity in charging decisions, as well as creating a sentencing regime that we hope will act as a deterrent. It is unacceptable that a handful of individuals repeatedly delay and add costs to important works that have been through the democratic process. They are vital to the levelling-up agenda, and the measures in the clause will support them.

Question put and agreed to.

Clause 3 accordingly ordered to stand part of the Bill.

Clause 4

INTERFERENCE WITH USE OR OPERATION OF KEY NATIONAL INFRASTRUCTURE

Sarah Jones: I beg to move amendment 49, in clause 4, page 4, line 30, leave out “interferes with” and insert “prevents”.

The Chair: With this it will be convenient to discuss the following:

Amendment 50, in clause 4, page 4, line 32, leave out “interfere with” and insert “prevent”.

Amendment 51, in clause 4, page 5, line 3, leave out subsection (4).

Sarah Jones: I have the wrong speech in front of me. I am so sorry.

The Chair: Does anyone else want to speak?

Kit Malthouse: I have a speech. The amendments are concerned with the scope of the new offence of interfering with the use of key national infrastructure. Amendments 49 and 50 replace the words “interferes with” with “prevents”. We assume that the intention is to raise the threshold of this offence to actions that completely stop a piece of key national infrastructure from being used for its intended purposes, although in fact subsection (4) already defines “interferes with” as preventing use or operation. Amendment 51 supports the change by removing that definition.

I understand what I presume are the hon. Lady's concerns about the scope of the offence, but I do not see a need for the amendments. Subsection (4) already defines interference with key infrastructure as an act that

“prevents the infrastructure from being used or operated to any extent for any of its intended purposes.”

Removing that subsection and replacing “interferes with” with “prevents” would leave the threshold of the offence undefined, leading to ambiguity over what sort of acts it would apply to.

Furthermore, I reiterate that it is vital that this offence applies to a range of disruptive actions against infrastructure, rather than ones that halt operations completely. As we have seen during protests by groups such as Insulate Britain and Just Stop Oil, even acts that delay the use of infrastructure—for example, acts that stop roads being used by the public—can cause severe disruption. Ambulances cannot get through, key deliveries are delayed, contracts cannot be fulfilled—the list goes on.

Fundamentally, the Government consider acts by a small number of determined, disruptive protesters who significantly delay the use of key infrastructure to be just as damaging as those that prevent its use entirely. I therefore encourage the hon. Member for Croydon Central to withdraw the amendment.

Sarah Jones: I think I might have handed my speaking notes to *Hansard* in my previous handover of information. We have tabled three simple amendments to clause 4, which is on interference with use or operation of key national infrastructure. It is similar in some ways to the previous clause, which looked at major transport works.

A person commits an offence if

“they do an act which interferes with the use or operation of any key national infrastructure in England and Wales”

and

“they intend that act to interfere with the use or operation of such infrastructure or are reckless as to whether it will do so.”

In amendments 49 and 50, we seek to replace “interferes with” with “prevents”. We believe that it is a stronger

word and has the clarity that the law requires. The term “interferes with” is broad and difficult to interpret; “prevents” is much stronger.

In amendment 51, we seek to remove a passage that says:

“For the purposes of subsection (1)”,
which is the offence itself,

“a person’s act interferes with the use or operation of key national infrastructure if it prevents the infrastructure from being used or operated to any extent for any of its intended purposes.”

Andrew Bridgen (North West Leicestershire) (Con): Will the hon. Lady concede that if the wording is changed from “interferes with” to “prevents”, it will leave a loophole for the protesters? They will say that they did not prevent; they merely delayed.

Sarah Jones: I think that the psyche of the protesters we are talking about, as we have said many times, means that they will not be deterred by legislation generally. The argument we keep making is that we do not want to over-criminalise people who are going about their business, making a protest that nobody would have a problem with. Our amendments are designed to tighten the clause and improve its scope.

Lee Anderson (Ashfield) (Con): Is there a timescale on preventing something? It strikes me that “prevents” could be more destructive than “interferes with”.

Sarah Jones: We are talking about key national infrastructure and whether the use or operation of any key national infrastructure is interfered with or prevented. If an oil refinery is being blocked—we would argue that there is already plenty of legislation in place to deal with those protesters—that would clearly prevent the operation of key national infrastructure. That is the point of our three amendments. On this occasion, I will not test the will of the Committee. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Sarah Jones: I beg to move amendment 52, in clause 4, page 5, line 18, after “newspaper printing infrastructure.” insert—

“(j) emergency services.”

The amendment adds emergency services to the list of key national infrastructure in clause 4(6), on page 5. This is really a probing amendment. As we have already discussed, we have issues with the entire clause. However, there is something interesting in how one defines national infrastructure.

Labour is the traditional party of work and workers, and over the last several years, we have spent much time clapping, thanking and cheering key workers in the emergency services, particularly through the covid pandemic. As shadow Minister for police and the fire service, I spend much time in and around the blue-light services, as I am sure the Minister does in his role. We see at first hand the incredibly important work that they do, night or day, come rain or shine. I therefore find it strange that the Government have not added emergency services to the list of key infrastructure. I actually think that the fire service, the ambulance service and police

forces are just as important, in terms of infrastructure, to the continued smooth running of our country as all the other things on the list. They keep people safe and secure and save lives in a multitude of ways.

Let me explain our amendment a little further. We do not think that protests should be able to stop the emergency services from doing their jobs. An ambulance should not be stopped when rushing a patient to hospital. A fire engine should not be halted when people are trapped in burning buildings, and the police must be able to reach the scene of a crime as quickly as possible. We know that time is often of the essence in those things. However, I should also make it clear that we do believe that there is scope for protest, in some instances, around such sites, for instance with protests against the closure of a GP surgery, a police station—the Minister may well remember several of those from his time at City Hall—or an accident and emergency facility.

In April of this year, for instance, protesters staged a protest in Shropshire, in a little town called St Martin’s, at the closure of a GP surgery. The surgery in St Martin’s, Shropshire, has been closed since March 2020 and made an application to the health board to close permanently. Hundreds of people have signed a petition calling for the practice to remain in the village. In recent years, there have also been protests in Lincolnshire at the closure of A&E services in Grantham.

Those are very legitimate protests; they are examples of local people taking a stand at closures that will really affect their local area and the health of their families and neighbours. The key point is that they were done in proportionate ways. It is important that we make that distinction; they did not and do not stop the emergency services. Our amendment to this clause provides protection for emergency services but does allow for legitimate protests around sites that may come under the aegis of the emergency services, such as a police station or an A&E site.

I think that we can all agree that the emergency services do an exceptionally important job, and the Minister might therefore like to comment on their inclusion on this list of key national infrastructure. Would he not agree that blocking a police car as it races towards a crime, such as domestic violence, ought to be considered interfering with key national infrastructure?

I hope that I have given Members on both sides some food for thought about what should come under the definition in the clause. Emergency services are an essential service, and if an oil refinery is going to have such offences applied to it, the logic stands that emergency services infrastructure should too.

Kit Malthouse: I must say that I have some sympathy with what the hon. Lady is trying to achieve. However, her Government, she will be please to know, got there before us by creating the Emergency Workers (Obstruction) Act 2006, which has already created an offence of intentionally obstructing an emergency worker from exercising their functions, punishable on summary conviction by an unlimited fine.

Sarah Jones: There are lots of other bits of legislation that can stop protests and stop people from interfering in all kinds of different ways. The key point that we

[Sarah Jones]

were trying to make is that if we define national infrastructure, it is peculiar not to include emergency services in that definition.

Kit Malthouse: I understand the hon. Lady's point, although it was only a breath ago that she was telling me that the clause was broad, and, now, she is attempting to broaden it. As I said, we already have significant legislation that will assist us. We should not forget that some of the offences that we have already considered will assist. The police use the roads and therefore our ability to deal with people glued on to the roads will be critical. The police need fuel and ambulances need fuel, so locking on to fuel depots will similarly be covered.

2.45 pm

We do not feel that there is a need to legislate for this particular offence. We think there are significant protections already and very stringent punishments for impeding emergency workers in their work. While I have sympathy with the hon. Lady's intentions, and she is quite right that emergency workers should seek and deserve all the protection we can give them, I urge her to withdraw the amendment.

Sarah Jones: I am glad the Minister accepts that this is an issue that deserves to be thought about. As this was a probing amendment, we will leave it at that. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause stand part of the Bill.

Sarah Jones: Clause 4, as we have been talking about in the debate on the amendments, introduces a new offence of interference with the use or operation of key national infrastructure. Subsection (1) makes it an offence for a person to

“do an act which interferes with the use or operation of any key national infrastructure”

where the person intends the act to have that effect or is “reckless as to whether it will do so.”

Subsection (2) provides a defence of “reasonable excuse” and a defence applying to industrial action, which the Minister referred to. The clause sets out the maximum penalty for the offence—namely,

“on summary conviction, to imprisonment for term not exceeding the general limit in a magistrates’ court”,

rising to 12 months, or an unlimited fine, or both—imprisonment, a fine or both.

Subsections (4) and (5) define interference as an act that “prevents” or “significantly delays” the infrastructure from being used or operated to any extent of its intended purpose. The clause then lists the key national infrastructure, which we have been debating, and that includes, apart from emergency workers, transport sectors including air transport and harbours; oil, gas and electricity infrastructure; and newspaper printing infrastructure, which we will talk about later.

We think clause 4 defines interference incredibly broadly, as any act that

“prevents the infrastructure from being used or operated to any extent for any of its intended purposes.”

Liberty has pointed out that the low threshold appears to contradict the Supreme Court's finding that deliberately obstructive protest can come under the protection of articles 10 and 11, and risks criminalising an extremely wide range of activities, including where the use or operation of infrastructure is “significantly delayed”. That term is not defined in the offence.

We have tried to remove clause 4. We hear the concerns that some protests can tip the balance of rights in the wrong direction. I repeat that protest is not an unqualified right—campaigners who block people from reaching relatives in hospital and oil protests that prevent people from crucial travel are breaking the law—but there are a raft of measures already in place. This is a fundamental point that the Minister has not acknowledged: a panoply of existing powers on public order is available to the police.

In the debates we have had over the past year on the Police, Crime, Sentencing and Courts Act, the way some Members have talked about the policing of protest has sometimes implied that the police are not doing anything and that there are currently no powers they can use. We are not starting from a position of nothing; we are starting from multiple pieces of legislation. There is wilfully obstructing the highway, the offence of criminal damage or conspiracy to cause criminal damage, the offence of aggravated trespass, the offence of public nuisance and the offence of breach of the peace, which we have not yet talked about much.

More than 20 people were arrested for criminal damage and aggravated trespass at Just Stop Oil protests in Surrey. Injunctions were granted at Kingsbury oil terminal following more than 100 arrests, and there were further arrests for breaching those injunctions, which are punishable by up to two years in prison: nine people were charged. When Extinction Rebellion dumped tons of fertiliser outside newspaper offices, five people were arrested. Earlier this year, six Extinction Rebellion activists were charged with criminal damage in Cambridge. In February this year, five Insulate Britain campaigners were jailed for breaching their injunctions, and in November, nine Insulate Britain activists were jailed for breaching injunctions to prevent road blockades. It is important to point out that for the kinds of protesters we are talking about, breaking the law and being arrested is often the aim.

During our evidence sessions, we heard from police officers about how well the police can use the existing laws. Chief Superintendent Phil Dolby from West Midlands police spoke to us about a large, disruptive protest in Birmingham, where he negotiated conditions using the Public Order Act 1986:

“I just gave a warning about the police's power to who I was evidentially satisfied was the organiser. I negotiated and said, ‘Look, I've got this power. It's ready, and here it is. Do you want to carry on, or can I encourage you to stop? You have had your opportunity, and you need to move on.’ There was a negotiated approach that I thought tried to keep the balance for everyone.

Similarly, Extinction Rebellion recently blocked a fairly minor road... They had a tactic whereby instead of staying in the middle of the road all the time, they would use the pelican crossing but let the traffic stop by the traffic furniture. They would then occupy the road for about five minutes and when the traffic built up, they would move away...

We have our protest liaison teams, and there is a five-step appeal that officers go through, which we document and fill, giving every opportunity for the protesters to reach the decision themselves. Eventually, I said, ‘Okay. There is a power here to

stop you. This is an unlawful assembly because it is now causing serious disruption. There's a children's hospital that is starting to be affected, so now that's enough.'

I brought forward the van that is a mobile prison cell—kind of a show of strength, really—and said, 'That is what I am prepared to use'. They said, 'Okay', and that was enough. Again, both the powers were available to us. They were being prepared to be used. We were not just tolerating it; there was a negotiated approach, and both of those are examples of where that has been successful. On the serious disruption element in the Bill, I would encourage as much precision for that definition as possible.—[*Official Report, Public Order Public Bill Committee*, 9 June 2022; c. 57-58, Q119.]

As Peter Fahy aptly said,

"In all the protests it is escalation, which looks in the early stages like the police are being weak, but in the background they are talking to people and they are escalating... You work up to it".—[*Official Report, Public Order Public Bill Committee*, 9 June 2022; c. 62, Q122.]

The concern about the definition of serious disruption is shared by many people across policing. In the written evidence submitted by the National Police Chiefs' Council, Chief Constable BJ Harrington—the national lead for public order—wrote that,

"the term 'serious disruption' has been subject to much discussion and debate. Within any new legislation we would welcome clarity or guidance about the threshold and interpretation of this to allow operational commanders to best apply their operational responses."

I urge the Minister to bear in mind the consequences of these provisions for the police officers trying to put them into practice.

Wendy Chamberlain (North East Fife) (LD): For me, that is the issue: one of the impacts of this legislation will be that we give the police nowhere to go, other than straight to arrest. In my policing experience and that of Lord Paddick, once the police start arresting people, they very quickly run out of cops before they run out of protesters. Does the hon. Lady agree?

Sarah Jones: I absolutely agree; the struggle within policing to have enough people to do the day job is already bad enough. I have been to Berwick, and very often in the summer months, when there are vast numbers of holidaymakers at the caravan parks, the police will only have one or two officers on. If there is a fight and they choose to arrest somebody, they then have to take that person into custody, which means there is no one left, so they have to make very difficult decisions. In the case of a protest, the police can have a negotiation and allow people to make their point, which is what protesters want to do and what we all want to facilitate. Then, the police can get to the stage where they say, "You are now causing serious disruption, so now we need to begin to use some of our powers." That is a much preferable way of policing.

The police did not ask for most of these powers, and there has not been a proper consultation process with them on this piece of legislation. The big piece of work that was done by Matt Parr took place before the then Police, Crime, Sentencing and Courts Bill and, as we heard in evidence, some aspects of this Bill were considered by him, but some were not, including the infrastructure and transport sections. There has been no proper consultation with the police on these clauses.

The police should not have to make decisions about definitions of vague terms in legislation. They will look like political decisions and put even more pressure on the police. During progress of the Police, Crime, Sentencing and Courts Bill, many Members from different sides of the Chamber made that point in the House.

The National Police Chiefs' Council wrote:

"It is essential that any powers or legislation are straightforward and capable of use by officers and staff at all levels. Experience has shown that unless legislation is clear and simple for use in complex and fast-moving public order situations that it can fail to have the positive impact intended and sometimes create an expectation that cannot be met or lead to unintended issues."

I also note the points in the NPCC's excellent evidence about police responsibilities on private land. It wrote:

"We want to ensure that any new legislation does not inadvertently transfer or encourage reliance on policing for security or reduce the ability or necessity of organisations to obtain injunctions. This would not only be a fundamental change in the role of policing but would create a significant capacity issue that would detract from force's wider duties to prevent and detect crime."

The NPCC argues that,

"police powers that are practical for use on the front line... Police responsibilities on private land—The funding and resourcing of Home Office police forces is applied primarily to ensure effective policing of public spaces."

There is an interesting section on this issue that I will not read out, but I am sure the Minister has seen it and will be thinking it through.

The NPCC goes on to say,

"we believe that the question of the responsibility for policing of private land is key. There is a question about the definition of 'key national infrastructure', and we would have concern about an explicit duty being placed on policing to deal with activity on private land."

We would be concerned about the impact to our operational response were the responsibility, risks, and costs for securing these sites to be moved from private sector organisations to the police. The impact on police resources, especially for the forces where much of this key infrastructure resides, could be substantial. We believe there is potential for other agencies and organisations to have the powers which would go some way to prevent this.

We believe that there needs to be a strong rationale behind what is considered key national infrastructure, taking into consideration the potential impact of any disruption taking place, so that there is no risk to confidence in policing in being seen to protect private business interests or placing an unreasonable burden on policing that will detract from our core mission."

We argue that it is not fair to keep piling on new offences. In his evidence, Sir Peter Fahy talked very well about expecting the police to make sense of the new offences, then interpret them and then do all the work.

The Government could do more to work with the police, those who run public and private infrastructure and local authorities to support the right to peaceful protest, to work together to safeguard essential infrastructure, to review the measures that they have just introduced before coming back for more, to work on training, guidance and the resources that public order teams need, and to work on streamlined plans for injunctions that could protect the smooth running of essential infrastructure, if needed.

I again make it clear that we do not support those hardline protesters who keep returning to make people's lives a misery. We do not believe that clause 4 will fix the problems that our evidence sessions highlighted. It will not speed up the removal of protesters who are causing

[Sarah Jones]

serious disruption or be a deterrent for those who want to break the law. It risks creating more flashpoints for the police.

Our national infrastructure needs protecting. We hear the anger, irritation and upset when critical appointments are missed, when children cannot get to school and when laws are broken. Of course, the police must act but, unamended, the legislation is too broad to be workable.

Kit Malthouse: As the hon. Lady said, clause 4 introduces a new criminal offence of interfering with the operation of “key national infrastructure”. As we heard in our evidence, recent actions by protestors, including activity blocking or obstructing our printing presses, roads and fuel supply, have inflicted misery on the hard-working public.

As my right hon. Friend the Home Secretary said on Second Reading, the Government cannot stand idly by and let small groups of disruptive individuals prevent people from getting to their places of work by blocking trains and roads, or stop vital supplies of fuel reaching the public by preventing oil tankers from leaving terminals across the country. Such actions cause enormous damage and have a serious economic cost. For example, policing Insulate Britain’s sit-down protests on our major highways cost £4 million, while the policing cost alone of responding to Just Stop Oil’s campaign against terminals and fuel stations is over £6 million in total so far. It is clear that we have to act.

Individuals commit this offence if they intentionally or recklessly engage in an act that prevents the use or operation of key national infrastructure to any extent, including through acts that significantly delay the operation or use of such infrastructure. The range of infrastructure covered by this offence will ensure that our major transport networks, and our energy and fuel supplies, are protected. I will say more on this issue when the Committee scrutinises clause 5.

3 pm

The hon. Member for Croydon Central pointed out that I have failed to accept certain principles that the police have put forward, but in turn I ask her to accept that we heard quite clearly from the operational police chief, our first witness, that the measures in the Bill would help. He said that he required more assistance in dealing with these protesters. I hope that she will also accept that over the last couple of years we have seen a change in the tactics employed by these protesters. It is something that we have not seen since the last major revision of public order legislation back in the 1980s.

Sarah Jones: We have seen some new tactics, but the tactics are mainly old. I understand that Swampy, who we will remember from decades ago, is in a tunnel somewhere under HS2 so these things do come around again.

As for the Minister’s point about the police, it is important to note that there has not been a proper consultation on the clauses on infrastructure and transport. I have spoken to lots of police officers about the Bill, and there is not as much knowledge about it as there

might be, because there has not been a proper consultation process, whereas there was with the previous piece of legislation. The police quite rightly do not take a political position, but there are plenty of people who have concerns about the breadth of this legislation, not necessarily because they do not want new powers—some of them are saying, “We need new powers”—but because they worry that interpretation of the Bill, which is so broad, will put them in a very difficult position.

Kit Malthouse: I am glad that the hon. Lady accepts that the police are asking for more powers; indeed they are.

Sarah Jones: Some.

Kit Malthouse: And they have specifically requested a number of the powers in the Bill. The person who, as I hope she will agree, was the most credible witness was the National Police Chiefs’ Council’s lead for public order and protest, who said positive things about the legislation.

The hon. Lady is perhaps struggling with the notion that while we can define offences and human behaviour in this place, there is an entire industry of lawyers out there who then go on to interpret what we say. There are common terms that might appear that have particular meaning in colloquial English that have developed meaning over time in the courts. “Serious disruption” is the one that the hon. Lady is speaking to, and I will give some thought as to whether we need to think more about that, but “serious disruption” to the life of the community has been an established part of public order policing and indeed general policing for some time—at least, I think, since 1986 and the Public Order Act of that year. That Act has been interpreted through the courts in a number of ways, which means that it is well understood by police, lawyers and indeed protesters.

Jackie Doyle-Price (Thurrock) (Con): As the Minister will be aware, in my constituency, we have significant amounts of fuel infrastructure. Indeed, in the recent Just Stop Oil protests, more than half of the arrests made nationally were made in my constituency. The proposals in this legislation absolutely reflect the conversations that I have had with the local police and with local authorities. I pay tribute, through the Minister, to the great efforts of the local police and local authorities to ensure that the disruption caused did not spill out into the wider community, because the role of Thurrock in the dispersal of fuel across the country is significant, so things could have been much worse. These proposals will make it much easier for the police to act and will make them more fleet of foot.

Kit Malthouse: I am grateful to my hon. Friend; she makes a very strong point and she is quite right; that is my experience of talking to the police officers dealing with those protests. She points to the importance of particular locations in our fuel supply network. A number of key, large, strategic fuel depots take the bulk of the load, and even a small interference with their ability to get fuel out could have a significant ripple effect that would be felt by the public.

The hon. Member for Croydon Central seems to be under the impression, or possibly trying to create the impression, that the police will change their practice and thousands of protesters will be locked up. I am confused; she seems to imply that those who are disrupting High Speed 2, for example, deserve to be arrested. She said that the cost was “horrifying”—I think that is the word she used. She accepts that HS2 has been approved by a democratically elected Parliament, and was voted for unanimously across the House. It was supported by all parties, and those protesters are seeking to frustrate that democratic decision.

All we are talking about is what offence those individuals should be charged with. We are seeking to give the police more of the options that they have asked for, and more tools to use. That reflects the fact that a number of individuals have avoided charges on technicalities, because of the complexity of the operations and the landownerships involved.

Sarah Jones: At the risk of more repetition, the point is if there is a new offence of locking on, the police might see people linking arms at a protest and think, understandably, “That is an offence! I need to arrest them.” I did not make the point earlier, but there is also an issue around resources. I wanted to ensure that I mentioned to the Minister the issue around resources for protests. For example, the number of police horses has been cut significantly in recent years. They are a very useful tool in managing protests. I am sure that the Minister understands that, and has seen how successfully police horses can manage a crowd. In this cost of living crisis, the cost of horses has gone up by £2,000 or £3,000, so the police are finding it difficult to replace horses. That is slightly niche, but it is a very important part of our ability to protest. I ask the Minister to support our police horses as much as he can.

Kit Malthouse: I am always keen to support all forms of non-human participants in crime fighting, from dogs to horses. I am not sure what relevance that has to the legislation. The hon. Member is right that in certain crowd-control situations, police horses can prove enormously calming to a crowd, which is important. However, that is a crowd situation. Horses are often used in the control of football crowds, as she will know. In a protest situation, particularly a violent protest situation, they are often used more as a dispersal tool. That is where I have seen them used. We have to be careful about straying into police tactics, rather than the legislation, which is our responsibility.

The hon. Lady seems conflicted: she is happy for protesters to be arrested and charged under current offences, or for them to go to prison under an injunction that may have been obtained by HS2, News International or any other site owner, but she seems strangely reluctant to achieve the same effect through the criminal charge that we are putting in place through this legislation. I find that asymmetry difficult to explain.

I explained earlier how seriously the Government take the offence in clause 4, and the maximum penalties available reflect that. Individuals can face a maximum penalty of 12 months’ imprisonment, an unlimited fine, or both. It is completely unacceptable that small numbers of protestors can attack the vital infrastructure that keeps this country running. This Government stand on

the side of the public, who want to go about their lives free from the disruption and misery that these protesters can cause.

Question put and agreed to.

Clause 4 accordingly ordered to stand part of the Bill.

Clause 5

KEY NATIONAL INFRASTRUCTURE

Question proposed, That the clause stand part of the Bill.

Sarah Jones: The clause defines the different types of key national infrastructure for the purposes of clause 4. I was critical of the breadth of clause 4 earlier. It defines “interference” incredibly broadly as any act that “prevents the infrastructure from being used or operated to any extent for any of its intended purposes.”

Given that low threshold, we should be wary of the risk to the protections afforded to protest under articles 10 and 11 of the Human Rights Act 1998.

As we heard from legal experts in the evidence sessions last week, the courts have a tendency to look more kindly on disruptive protests when they are directed towards the perceived social, environmental, political or ethical ill identified by the protesters and take place at the site of that perceived ill. It is worth exploring that in a little more detail, as it is important to keep that in mind when looking at the raft of infrastructure that the Government have deemed worthy of the title “key national”.

Let us start with the Greenham Common protests, which were motivated by a desire for nuclear disarmament and carried out in opposition to the Government’s placing of missiles on its Berkshire base, RAF Greenham Common. Crucially, the protests were carried out on that site. Hands were held, arms interlocked and songs sung around the base. There were shows of solidarity, kindness and compassion at Greenham Common, as well as criminal behaviour, which was dealt with. Whatever our views, those protests hold a special place in our national history and consciousness.

Kit Malthouse: Greenham is on the edge of my constituency, as I am sure the hon. Lady knows. I hope that she will accept that defence installations are not defined as key national infrastructure in this legislation.

Sarah Jones: Why not, when nuclear energy is? My point is broader: it is not about the definition but the way that courts define whether a protest is significant. The kind of punishment they give often depends on whether the protest is near the thing being protested about. I will explain what I mean. If we look at more recent protests, such as the Insulate Britain protests on motorways, there is no clear relation between the issue being protested about and the site of the protest. In other words, there is no direct link between insulation and the M25. The M25 has nothing to do with poorly insulated homes. It is not the Government Department responsible for insulating homes. I can see why Insulate Britain might choose to protest outside a Government Department.

[Sarah Jones]

I am sure that Insulate Britain would argue that there is a link between the M25 and insulation, but when the courts passed their judgment on Insulate Britain, they came down much more harshly because there was no connection between the place and the people whom the protesters were interfering with and the issue that they were arguing about. Members of Insulate Britain have gone to prison for the M25 protests because the courts take such a dim view of that lack of connection.

The point about clause 5 is that often these key national infrastructure sites are key to the point of the protest. As Liberty notes,

“one of the key ways that people seek to make their protests effective is to draw attention to sites of power”.

The manner and location of protests are key to their power. Had the suffragettes not protested in Downing Street or Parliament, but outside a building a few hundred metres away, their protest would not have had the same impact. Had the Greenham Common women not been allowed to protest around the site of the missiles, and had they instead protested in Basingstoke, they would not have had the same impact.

Kit Malthouse: I understand the parallel that the hon. Lady is trying to draw with the Greenham Common women. I do not think that they were necessarily responsible for winning the cold war, although I do believe a woman—the then leader of our country—was. Does the hon. Lady understand that although the Greenham Common protest has passed into lore, it did not actually interfere with the operation of the base? Missiles came and went, the Americans flew in and out, and the base was supplied; there was no interference. Strictly in terms of the offence that we are talking about, the protesters did not commit an offence.

Sarah Jones: I think there was interference, in that they broke through the perimeter on several occasions.

Kit Malthouse: But they did not interfere with the operation of the base.

Sarah Jones: That must have interfered with it to some degree.

Kit Malthouse: That would have been another offence, because—

The Chair: Order. Can we keep to the clause, please?

Sarah Jones: Subsection (2) concerns road transport infrastructure. As I have mentioned, we already have laws to protect roads. Wilful obstruction of a highway comes with a fine, and the Government’s recent Police, Crime, Sentencing and Courts Act 2022 increased the maximum penalty for that offence from £1,000 to an unlimited fine and/or six months’ imprisonment. Earlier, the Minister made a remark about the Labour party’s position. To clarify, we tried to limit the scope of that piece of legislation so that it applied only to motorways and A roads, and not to very small roads, and we would have supported the provisions had the Government accepted our amendment. Given the changes made by the 2022 Act, we do not understand why clause 5 on

transport infrastructure is necessary. As the Labour party has said all along, there are already laws to protect roads.

I turn to rail. Let us imagine that there is a Starbucks on a train station platform, and a group of children have chosen that platform on which to protest about the lack of corporation tax that Starbucks pays in the UK. It could be platform 4 in Taunton, which I imagine would be delightful today. It could be at London Marylebone—perhaps after the protest—or at platform 1 at Coventry; there are Starbucks franchises on all those platforms. Such protests would be legitimate, I believe. This speaks to the importance of the place and manner of protests.

It is busy at Taunton, and the protestors delay the driver in getting to his train by half an hour. Does that count as infrastructure being significantly delayed? They do not mean to block the driver; that was not their intention. Under the Bill, would the Minister consider those children, or the adult who is with them, to have committed a criminal offence? Such broad-brush legislation opens up all kinds of possibilities.

Kit Malthouse: I am sure that the hon. Lady will accept that protesting on a crowded railway platform, particularly if fast trains pass through it—she mentioned Tiverton Parkway—is quite dangerous, for other passengers and for the protesters. Does she not agree that there should be some way for us to control that kind of behaviour? Byelaws on the railway need to be obeyed.

Sarah Jones: There are byelaws, and there are others laws that could be used in that situation. My point is that two children protesting outside Starbucks might be considered to have committed an offence under clause 5.

On airports, we know from evidence that all the people who cut through the fencing surrounding Stansted airport and made their way to the Boeing jet were arrested. The police had the powers to deal with them and did. Once again, the right to protest is not absolute, but the Bill will prevent potentially peaceful protests.

There was an interesting debate about newspapers in one of the evidence sessions. The hon. Member for North West Leicestershire challenged David Dinsmore on whether his newspapers counted as national infrastructure. David Dinsmore argued that they did because of the importance of providing facts to a wide audience, especially during the pandemic. When challenged about the importance of social media—I get much of my news online, as I am sure many people do—David Dinsmore pointed to the elderly section of the population, who are less likely to get their news online or via Twitter. Their daily newspapers—whether tabloid or broadsheet, printed on pink or white paper, and ranging from the *Daily Mail* to *The Guardian*—are still important. That might well be the case, but let me quote from the clause:

“‘Newspaper printing infrastructure’ means infrastructure the primary purpose of which is the printing of one or more national or local newspapers.”

The definition of a “local newspaper”, however, is relatively broad: it must be

“published at least fortnightly and...in circulation in a part of England and Wales”.

A newspaper may include “a periodical or magazine”.

Let us explore that a little more. My purpose, again, is to test the limit cases of legislation. It is important to tease out the consequences and show up the broader

inferences. To take the newspaper with the widest circulation in the country, just under 1 million people read the *Daily Mail*, and it is sold across the country. It is a national newspaper—of that there is no doubt. David Dinsmore said:

“Between *The Sun* and *The Times*, we would normally expect to sell about 2 million papers” on a Saturday. He went on:

“We also print for *The Daily Telegraph*. We print some of the *Daily Mail* and some of the *Financial Times*, and we also deliver a direct-to-consumer service, although we do not print them, for *The Guardian* out of the Broxbourne site”.—[*Official Report, Public Order Public Bill Committee*, 9 June 2022; c. 46, Q96.]

He makes a fair argument for that printing press providing a national service of sorts.

What other publications are included, however? There are all manner of small newspapers, including the *Leicester Mercury*, the *Bristol Post*, the *Oldham Advertiser* and the *Rochdale Observer*. Does the Minister think that those fall under the definition of “key national infrastructure”?

What about slightly more esoteric publications? I have a staffer who reads the *London Review of Books*, which is published every two weeks; its printing is therefore protected under the clause. I do not believe that even my staffer would argue that its printing was of key national importance, however much they enjoy it. Does the printing of the *Angling Times*—circulation 25,878—come under the legislation, or the *Horse & Hound* or *Cycling Weekly*? The Minister is keen on shooting. Is he among the 21,303 subscribers to the *Shooting Times*, and would he defend its printing as being of key national importance? I produce those examples only to highlight what we see as the flaws in the clause.

The clause is an extension of clause 4, in that it provides the definitions of key infrastructure. As I said, we have issues with clause 4, and have already debated it. We believe that infrastructure needs protecting, and we hear the anger, irritation and upset when critical appointments are missed and delays felt, but we have problems with the scope of the clause, especially given that, as we have debated, it does not include other definitions, such as one for emergency workers. Much of the infrastructure listed in the clause is already protected in law under existing police powers, and there are loopholes and inconsistencies.

Kit Malthouse: The clause supports the new offence of interfering with the operation of key national infrastructure created by clause 4 by defining the categories of infrastructure in scope of the offence.

The offence will cover major roads, railways, airports, harbours, and downstream oil and gas infrastructure in England and Wales. It will also cover newspaper printing presses, onshore oil and gas exploration and production, and larger-scale onshore electricity infrastructure. Minor infrastructure such as undesignated roads and small-scale power stations will be out of scope, as will offshore infrastructure, because much of it lies outside our territorial waters.

We recognise, however, that protest tactics evolve, and that it is entirely possible that infrastructure currently out of scope will be targeted. We have therefore included a delegated power to allow the Home Secretary to amend the list of infrastructure in scope of the offence. That will ensure that the clause keeps pace with evolving protest tactics.

I do not know about you, Mr Dowd, but I am extremely pleased to know that, once the clause passes into law, the production and distribution of the *Andover Advertiser* in my constituency will be protected, because it is a weekly local newspaper. The hon. Member for Croydon Central is right that local newspapers have a valuable role to play. As she knows, that industry has evolved, such that lots of newspapers are printed in the same place—rare now is the newspaper that has its own presses—and protection of the promulgation of the views in printed matter is critical.

The Ottomans banned the printing press, because they felt that it would impact on their ability to rule their empire. Those who seek to smash the presses, or to delay them, or stop the views coming out of them, should be dealt with most severely. That is what we are attempting to ensure through clause 4, as added to by clause 5, which I commend to the Committee.

Question put and agreed to.

Clause 5 accordingly ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.—(*Scott Mann.*)

3.25 pm

Adjourned till Thursday 16 June at half-past Eleven o'clock.

**Written evidence to be reported
to the House**

POB08 Chief Constable Ben Julian Harrington QPM,
National Police Lead for Public Order and Public Safety,
National Police Chiefs' Council

POB09 Dr Charlotte Burck

POB10 Bond

POB11 A collection of clinical bodies, royal colleges
and abortion care providers

POB12 Mr George Whitehouse