Vol. 829
No. 158

Thursday
11 May 2023

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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

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House of Lords

Thursday 11 May 2023

11 am

Prayers—read by the Lord Bishop of St Albans.

Horizon Europe
Question

11.06 am

Asked by ***Viscount Stansgate***

To ask His Majesty's Government what plans they have for the United Kingdom to join the Horizon Europe scientific research programme.

Viscount Stansgate (Lab): My Lords, I beg leave to ask the Question standing in my name on the Order Paper—and, as it is the fourth time I have asked it, I am hoping for a more encouraging reply.

The Parliamentary Under-Secretary of State, Department for Science, Innovation and Technology (Viscount Camrose) (Con): I hope to oblige the noble Viscount. The Government are moving forward in discussions with the EU on the UK's involvement in Horizon Europe. We hope that negotiations will be successful, and that is our preference. But participation must be on the basis of a good deal for UK researchers, businesses and taxpayers, reflecting the lasting impact of two years of EU delays. If we are unable to secure association on fair and appropriate terms, we will implement Pioneer, our bold and ambitious alternative.

Viscount Stansgate (Lab): My Lords, that is a less encouraging reply than I had hoped for. The scientific community, notwithstanding any intransigence by the EU, feels that the tragedy of Brexit has been the damage done to British science. Does the Minister not accept that there are many aspects of Horizon Europe that are of key importance to the UK, and that we have benefited from it in the past? I had a letter the other day from Cancer Research UK, pointing out that Horizon Europe offers

"unparalleled opportunities for the promotion of cancer research in the UK and Europe".

Is this not sufficient to drive the Government to join, rather than to continue talking about the possibility of a plan B? We want plan A, and I wish that the Government would bring it about.

Viscount Camrose (Con): I thank the noble Viscount for his question, and let me take the opportunity to commend the work of Cancer Research UK. The Government's preference is to associate to Horizon, for the reasons he very ably sets out. However, it must be on fair and appropriate terms that reflect not just the past damage done by our missing two years, during which we were not associated with Horizon Europe, but ongoing and future uncertainties that not being associated have inevitably created for us. We have done the responsible thing by putting in place a suitable alternative, but I stress that it is not our preferred outcome of these very welcome talks with the EU.

Lord Bassam of Brighton (Lab): Following on from the question from my noble friend Lord Stansgate, the Government must explain exactly where they are here. We were led to believe that after the Windsor Agreement, the UK's transition to the Horizon research programme was to be straightforward. What has made the Government go through this rethink? How much has the country lost in net worth in investment in research and development by doing the hokey-cokey with the Horizon programme, given that we were massive net beneficiaries under the old EU scheme? We need clarity. We were promised this, and I do not understand why the Government are messing around with research and development in this country. We were promised that we would get better results by coming out of Europe, but we are not. We are going backwards.

Viscount Camrose (Con): I stress again that our preference is to go back into the Horizon programme. We are in negotiations with the EU to achieve that. We have understood our own requirements for doing that and are seeking them. The noble Lord would not expect me to comment on an ongoing negotiation, but our hope is that we can arrive at a deal which is fair and appropriate for UK taxpayers, businesses and, of course, universities. As to the results over the last brief period of negotiation since the signing of the Windsor Framework, I cannot put a figure on exactly how much research has not been conducted over the two months of the ongoing negotiations.

Lord Kamall (Con): Can my noble friend reassure us that the Government understand that there is a world beyond white Europe? At least 15 other countries have signed up to the Horizon programme. It is not just research in Europe, but research in the world—India, the United States and elsewhere. We should look well beyond white Europe and accept not just any deal on Horizon, but one that benefits British scientists too.

Viscount Camrose (Con): I thank my noble friend for the question. Regardless of which route we go down, multilateral global collaboration across the scientific and research community is crucial and highly valued by all participants. If we take the Horizon route, then, as my noble friend says, there are 15 countries outside the EU 27 that are associated with Horizon. If we go down the Pioneer route, which is not our preference, that will emphasise global collaboration, whether with the EU 27 or beyond. Additionally, we recently launched the International Science Partnerships Fund to support UK researchers and innovators to work with international partners on some of the most pressing themes of our time.

The Earl of Kinnoull (CB): My Lords, the Windsor Framework agreement came forward on 27 February, some two and half months ago, and there is mutual harm to both the UK and the EU—the damage is the same on either side, to both our science spaces. A

[The Earl of Kinnoull]
discussion about money should surely not take two and a half months. Can the Minister give us some reassurance that this is being treated as a matter of extreme urgency? There is damage to both sides and active discussions are going on to try to reach the middle ground.

Viscount Camrose (Con): I thank the noble Lord for the question—I am absolutely able to provide that assurance. It is being treated as a matter of great urgency and as I said, our preference is to reassociate to the Horizon programme on terms that are fair and appropriate to us. I cannot comment on the specific terms of the negotiation or our specific negotiating purpose and outcomes, but it is being treated very seriously and is in hand.

Baroness Smith of Newnham (LD): My Lords, do His Majesty's Government understand that rejoining Horizon is not about just the financial aspects? The Minister has talked several times about the benefits and cost to the taxpayer. This is about international networks, which are invaluable and without price. I refer to my declaration of interests.

Viscount Camrose (Con): I thank the noble Baroness for her question. The UK is on record as seeking to become a science and technology superpower by 2030. Our preferred outcome, Horizon, is absolutely a key component of that. If we are obliged to go down the Pioneer route because we are unable to establish a fair and appropriate agreement with Horizon, that will be a key component as well. As she said, this goes beyond simple financial considerations.

Baroness Foster of Oxton (Con): My Lords, some of us in this Chamber were still in the European Parliament for the three years following the referendum. Many of us noted the European Union's unfortunate intransigence on not only Horizon but other matters. This was not necessary, because it was not cut and dried that the UK would not be involved with the Horizon programme in the future. Does my noble friend agree that there is no justification for this procrastination? It is up to the EU side to get cracking and sort out this extremely important matter.

Viscount Camrose (Con): I thank my noble friend for her question. When the TCA was agreed in 2020, our association to Horizon was agreed as part of that. That no longer happened, but it remains the UK's wish to rejoin Horizon. With respect to the attitudes on both sides, I welcome the EU's current openness to engage constructively in these negotiations.

Lord Berkeley of Knighton (CB): My Lords, does the Minister agree that, as Sir Paul Nurse has pointed out, science and the arts depend on the exchange of ideas, and that one of the most vital things is social and intellectual intercourse with other countries? At the moment, musicians and scientists are finding it terribly hard to come here, and we are finding it hard to go there. Thus, a vital source of inspiration is being lost.

Viscount Camrose (Con): I thank the noble Lord for his question. I cannot comment specifically today on musicians and cultural exchange. Whether we go down the Horizon route or the less preferred Pioneer route, we will seek global collaboration with the EU 27 and beyond on all research and development matters.

NHS: Allocation of Financial Resources

Question

11.17 am

Asked by ***Lord Roberts of Llandudno***

To ask His Majesty's Government what financial resources are being allocated for (1) additional beds, (2) extra ambulances, and (3) the recruitment and training of extra NHS staff.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Markham) (Con): The delivery plan for recovering urgent and emergency care services sets out how we will provide 5,000 additional permanent beds, backed by £1 billion of dedicated funding to support capacity. We are also providing ambulance services with £200 million of additional funding in 2023-24 to grow capacity and improve response times, alongside delivering 800 new ambulances. We are committed to publishing a long-term workforce plan for the NHS, which will be published shortly.

Lord Roberts of Llandudno (LD): My Lords, over the years, we have had many promises for the NHS. I wonder how the 40 new hospitals are getting on. We were also promised £350 million a week if we came out of Europe. The present Prime Minister made promises earlier this year; are they any more sound? Are there 5,000 more hospital beds, 800 extra ambulances and thousands of staff? Given the conflict over nurses' pay and other NHS pay and conditions, we are suspicious. I ask the Minister for a full, detailed Statement on the funding and progress of all these pledges.

Lord Markham (Con): We have been giving a lot of Statements. Just this week, I was telling the House about the primary care plan; we announced the social care plan earlier in April; and we had the emergency recovery plan and the elective recovery plan. The plans are in place, and they are starting to show improvements, which will continue.

The Lord Speaker (Lord McFall of Alcluith): The noble Lord, Lord Campbell-Savours, is taking part remotely.

Lord Campbell-Savours (Lab) [V]: My Lords, is it not possible that the great British public just might be prepared to see a far greater proportion of their taxes diverted from ill-thought-out and often totally unnecessary tax concessions to the better off, which invariably fail any incentive testing anyhow, in favour of a properly funded National Health Service that slashes waiting

times, properly funds health professionals and meets the health requirements of the British people? That is what the public want. Just ask them and look at the polling data.

Lord Markham (Con): We are putting in record investment. Right now, we are spending about 12% of our GDP on health services; a few years ago, the figure was more like 7% or 8%, so there is record investment. I think the whole House would agree that how we use that investment is the most important thing. We have seen that certain hospitals have a 13% lower cost per patient treatment than others because of effective use of technology. That is where I want to see investment take place.

The Lord Bishop of St Albans: My Lords, I welcome what His Majesty's Government are doing to try to get on top of this very difficult problem. Will the Minister give us a little more information, particularly about ambulance services? In Hertfordshire, which is in my diocese, category 2 call-outs, for strokes and hearts attacks, should have an 18-minute response but the response is averaging two hours and six minutes at the moment. There is a great deal of anxiety among ordinary people when these things happen. When do we think that the money going to the ambulance service is going to bring response times down?

Lord Markham (Con): I am pleased to say that the figures announced today show that response times are coming down. For category 1, the most serious, we achieved the 15-minute target for 90% of calls. We are moving in the right direction, albeit there is a lot more that needs to happen in this space. That is what the investment in 800 new ambulances is about, as well as the £200 million of funding. Most importantly, it is about making sure we have the right services in place. Some 50% of ambulance calls do not result in a trip to the hospital. There are fall services, which are often best placed to help, which will pick people up in their home.

Baroness Blackwood of North Oxford (Con): My Lords, I declare my interest as chair of Genomics England. Some 3.5 million people live with rare diseases but only 5% of those conditions have a specific therapeutic. Condition management is essential, but patients struggle to find it because of poor awareness and a shortage of specialist clinicians and nurses. The *England Rare Disease Action Plan 2023* commits to a workforce strategy but it does not commit to anything on capacity. What are the Minister's plans to resource the rare disease workforce?

Lord Markham (Con): This will be another element covered in the long-term workforce plan, making sure that we have got every route covered. My noble friend mentioned signposting people to those services. We are shortly launching a new app service—some 30 million people already have it—to make sure we are signposting to the place where people can get the right treatment for everything, including rare diseases.

Lord Laming (CB): My Lords, does the Minister agree that one of the best ways to help the health service would be if the Government would allocate money dedicated to social care services? This would relieve the pressure on beds. Many beds would be relieved—thousands of beds—and it would prevent people having to go into hospital. Is that possible?

Lord Markham (Con): Yes, and we are doing it. We have committed to an up to £7.5 billion increase in funding over the next two years. We announced last month a social care plan which is addressing this and reforming the sector, and we are starting to see the changes.

Baroness Merron (Lab): My Lords, the Royal College of Emergency Medicine described as unambitious the Government's plan to see 76% of A&E waits meeting the four-hour standard by 2024. As this target has not been achieved in the past two years, how does the Minister see it working to drive down waiting times? How will the Minister ensure that hospitals are not prioritising patients with minor conditions at the expense of those in greater need of admission simply to allow them to meet the target?

Lord Markham (Con): Numbers out just this morning show that we are now at 75% of people being seen within four hours, so we are close to the 76% target. That is the best since September 2021. I am the first to admit that we want to go further, as the noble Baroness states. It is about making sure we have got the care in the right places. We are triaging to make sure that the most important cases are seen first and, as I mentioned in a previous answer, we have things such as fall services, which can avoid trips to A&E in the first place, and more primary care in place to avoid visits in the first place. That is what the primary care recovery plan is all about.

Baroness Jolly (LD): My Lords, sometimes the NHS is a bit like a greedy child, always needing more. In his Question, my noble friend mentioned additional beds, extra ambulances, and recruitment and training. Will the Minister tell us what budget each of these items comes from? Will the Minister enlighten the House about this issue?

Lord Markham (Con): The budgets are in the allocations for each ICB and each hospital, and within them there are specific allocations to make sure that these fundings are rooted in the place where they have the most effect. As for making sure that really does happen, it is the responsibility of each ICB to make sure it is doing that. Ministers hold them to account by each having seven ICBs to take care of and make sure that they are hitting those targets.

Baroness Manzoor (Con): My Lords—

Lord Stirrup (CB): My Lords—

Baroness Williams of Trafford (Con): My Lords, we will hear from the Conservative Benches and then the Cross Benches.

Baroness Manzoor (Con): My Lords, I very much welcome the significant sums of money that have been put into the NHS to date by the Government. It is not just increases in beds that we need in hospitals. We live in an age where we have made significant inroads and innovation in technology, diagnostics and so forth, including artificial intelligence. Will my noble friend the Minister say how new technologies are being used to ensure that patients are not needing the extra beds in hospitals and creating the old mistakes we know of?

Lord Markham (Con): I shall answer quickly. As I said, there is already a 13% lower cost in a hospital which is digitally mature. We have virtual wards going in to make sure that we can treat as many as 50,000 patients every month to improve the flow and improve services.

Lord Stirrup (CB): The Minister has mentioned the long-awaited workforce plan. While we have been waiting we have seen a number of interesting initiatives, such as the greater use of pharmacies and the proposal to put SAS doctors into GP surgeries. Will the workforce plan look holistically at the totality of healthcare professions and qualifications, so that in future the workforce can be used in the most efficient way possible?

Lord Markham (Con): Absolutely. The plan is looking at the use of Pharmacy First, as the noble and gallant Lord mentioned, and at the use of technology and the productivity improvements that will make. It is looking at the use of apprenticeships and at how we can bring people back into the nurse and doctor workforce. It is obviously looking at things such as pensions, which we are improving so we can retain more of our doctors. It is a holistic and very detailed study. I know it is taking a while to come out, but it will be worth the wait.

Army Foundation College: Welfare Inspection Regime

Question

11.28 am

Asked by ***Lord Browne of Ladyton***

To ask His Majesty's Government what assessment they have made of Ofsted's welfare inspection regime in respect of the Army Foundation College in Harrogate.

The Minister of State, Ministry of Defence (Baroness Goldie) (Con): My Lords, we welcome that Ofsted rated the Army Foundation College in Harrogate as outstanding in all areas and for overall effectiveness, reflecting the excellent standard of the provision of duty of care and welfare. Ofsted praised the strong ethos of emotional and psychological safety, inclusion and teamwork that it identified as firmly embedded. The college continues proactively to engage with Ofsted's recommendations to ensure that all recruits are prepared for and supported throughout their training.

Lord Browne of Ladyton (Lab): I thank the Minister for that Answer. In 2013, 2018 and 2021 Ofsted graded welfare and safeguarding at AFC Harrogate as outstanding. Answers to Parliamentary Questions and the MoD's own records reveal, among other examples, that between 2014 and 2023 the college itself recorded 72 complaints of violence by staff, at least 13 of those cases being proven; that in 2018 a prosecution of 16 accused members of staff collapsed for procedural reasons due to the flawed handling of the case by the RMP; and that in February this year Simon Bartram, an AFC instructor, was found guilty of disgraceful conduct and sexual assault over a nine-month period between 2020 and 2021. Ofsted, despite being invited so to do, says it cannot engage with the information relating to any of these events. How can the Ministry of Defence be comfortable with this? What steps, if any, is it taking to improve the inspection of welfare and safeguarding at the AFC?

Baroness Goldie (Con): The noble Lord refers to profoundly regrettable and utterly unacceptable incidents, but it is important to put the period of nine years to which he refers into a more specific context. First, the college, having learned from those earlier appalling incidents, has introduced important changes, reflected in the much-improved environment on which Ofsted commented so positively in its 2021 report. Secondly, the MoD has introduced new policies and changes to deal with sexual offences and unacceptable sexual behaviour below the criminal threshold. It has taken steps to improve the complaints system, has created the Defence Serious Crime Unit and has a zero-tolerance policy for sexual offences and sexual relationships between instructors and trainees. All of that now reflects a much-improved climate at the college.

I can confirm that the specific case to which the noble Lord referred was dealt with through the service justice system. The individual was found guilty of nine charges. He was sentenced to detention, reduced in rank and discharged from the Army. Sadly, we cannot ever eliminate the prospect of something unacceptable happening, but significant steps have been taken to try to reduce that possibility.

Lord Kirkhope of Harrogate (Con): My Lords, I must admit that we in Harrogate are very proud of the work of this foundation college in training thousands of young men and women to serve their country in the military and, in the process, educating them both in general terms and in specific skills. Does my noble friend therefore agree that we should pay tribute to the hard work of the trainers, instructors and those who run the college, as well as to the young people who come out ready to serve this country?

Baroness Goldie (Con): I thank my noble friend for that clearly very knowledgeable assessment of what happens at the foundation college. I will simply repeat an excerpt from the Ofsted report:

"Recruits are emphatic about the high standards of care and welfare at AFC. They report that there is no bullying at the college and that they are confident that permanent staff would deal firmly and promptly with any incidents that may arise".

My noble friend is right that the college enables people coming from a diverse variety of backgrounds, many of them disadvantaged, to learn skills and be provided with training and opportunities that will greatly assist them, not just in relation to a career in the Army but later on in life, because the Army is an engine for social mobility moulding young people like that to be the very best they can be.

Lord Reid of Cardowan (Lab): My Lords, I declare an interest as the Minister for the Armed Forces who oversaw the introduction of the foundation college, so some people may think I am biased, but I agree entirely with the noble Lord who has just spoken. Does the Minister agree that Ofsted is not generally renowned for overgenerosity—particularly in the light of recent events, it is the opposite that it is accused of—so when one of the institutions in our Armed Forces is regarded by it as outstanding, we should take a degree of pride in that? Will the Minister take some comfort from the fact that, whatever the past travails, there has been a marked change, and pass our congratulations on to the staff, the students and the young soldiers who will form the backbone of the future British Army?

Baroness Goldie (Con): I congratulate the noble Lord on his vision in creating the foundation college, which has been an extremely important development for the Army. What happens in this Chamber resonates well beyond it, and I know that the noble Lord's very welcome and apposite words in relation to the college, its governance, its staff and the young people themselves will be very positively received.

Baroness Stuart of Edgbaston (CB): My Lords, I accept that some things happened at the college that were unacceptable and I am grateful that the Minister acknowledged that, but I also want to put on record that the college is doing enormously valuable work and deserves our support. Can she assure us that all the safeguards that she has announced have been put in place to prevent a repetition of those events are not just an immediate knee-jerk reaction but are sustainable and will ensure that the college can continue to do the valuable work it does without incurring undue publicity?

Baroness Goldie (Con): Yes, I can provide that reassurance to the noble Baroness. That is a very pertinent question. A junior soldier can now report crime via a multitude of platforms. It need not be within the chain of command; it can be via the Service Police Crime Bureau, via a confidential crime line, directly to the service police or the Defence Serious Crime Unit, or indeed directly to the civilian police.

In relation to behaviours that may not constitute criminal activity but cause concern and give rise to a complaint, I can reassure the noble Baroness that junior soldiers are encouraged early and frequently to report any concerns that they have. The commanding officer speaks to them about zero tolerance on their first day of training, so that is done immediately. The commanding officer also holds a confidence-in-reporting discussion with all female junior soldiers in week one, committing to take all allegations seriously and encouraging them to speak up should they need to do so, and there are mechanisms for the junior soldiers to deploy to do that. That perhaps underpins the finding by Ofsted that I quoted earlier.

Baroness Smith of Newnham (LD): My Lords, I seem to recall that at some point in Grand Committee, probably in the midst of Covid, the Minister undertook to arrange a visit for the noble Lord, Lord Coaker, and me to visit the college. I was wondering whether that could be instituted, and perhaps we could take the noble Lord, Lord Browne, with us. My question is: does the Minister believe that she could say to parents of 15 and 16 year-olds, hand on heart, "Yes, your children can safely apply; they will be in good hands if they go to Harrogate now", after the changes that have been made?

Baroness Goldie (Con): Yes, I can comfortably give the noble Baroness that assurance. I have seen at first hand the variety of mechanisms now available to the young soldiers in order to voice any concerns. It has been recognised not just by Ofsted but by the independent advisory panel that there is a very open and transparent atmosphere, which is reflected in the comments from the young soldiers themselves.

I remember the undertaking that I gave and I am delighted to repeat it. In fact, I mentioned it just this morning to the commanding officer at Harrogate, and I can tell the noble Baroness that she, the noble Lords, Lord Coaker and Lord Browne, and any other noble Lords who care to tag along would be very welcome to visit Harrogate. I think they would all find it a stimulating and extremely positive experience.

Lord Coaker (Lab): My Lords, I am grateful for the opportunity to tag along, particularly as I had forgotten about that. The serious point that I want to make, following the contributions by all noble Lords and sparked by my noble friend Lord Browne's Question, is about the controversy that sometimes surrounds 16 and 17 year-olds being able to join the Armed Forces. I am a strong supporter of that, for the reasons that many people have outlined here. That is why, in supporting the principle of 16 and 17 year-olds being able to join our Armed Forces, the reassurances that the Minister has given us about what happens in Harrogate and elsewhere are so important.

Baroness Goldie (Con): I thank the noble Lord for his positive observation. I reiterate to the Chamber by way of reassurance that the recruitment of under-18s into the Armed Forces meets all legal policy requirements, both national and international. The Army also meets in full its obligations under the United Nations Convention on the Rights of the Child and the optional protocol on the involvement of children in armed conflict. I agree with the noble Lord: this offers an opportunity to many young people—who, frankly, would be denied

[Baroness Goldie]
that opportunity anywhere else—to have a chance to make something of their lives and acquire skills that will endure for all their lives.

Coronation: Policing
Question

11.39 am

Asked by ***Lord Harris of Haringey***

To ask His Majesty's Government what assessment they have made of the policing arrangements during the Coronation weekend.

Lord Harris of Haringey (Lab): My Lords, I refer to my policing interests in the register and beg leave to ask the Question standing in my name on the Order Paper—which of course was submitted before the decision on yesterday's UQ was made.

The Parliamentary Under-Secretary of State, Home Office (Lord Sharpe of Epsom) (Con): My Lords, the policing of the Coronation was a tremendous success. The event passed off without incident and tens of thousands of people were able to witness it, while hundreds who do not support a monarchy were able to express their views. I am grateful for the opportunity once again to pay tribute to the police, volunteers, staff, military and everybody else who was involved in delivering such a momentous day on behalf of the nation.

Lord Harris of Haringey (Lab): My Lords, I would want to be associated with precisely that tribute, as I think would all the Members who spoke yesterday in the UQ. I think the Minister said to us yesterday that some 600 people had been arrested under the Public Order Act.

Lord Sharpe of Epsom (Con): Sixty-four.

Lord Harris of Haringey (Lab): The Minister corrects the figure. I am sure I listened, but it does not really matter. My point remains this: one of those who was arrested was a 59 year-old woman volunteering for Night Stars, which is run by Westminster City Council, providing slippers, vomit bags and rape alarms for vulnerable women coming out of nightclubs. She was arrested in the early hours of Saturday morning and held for 14 hours. I suggest that this sort of incident—I am not privy to the sort of intelligence that the Metropolitan Police may have had—suggests that we need to look at how the powers, which were highly criticised in this House, are used in practice. Will the Minister ask the Home Office to ask His Majesty's Inspectorate of Constabulary to look at all the cases of people arrested and charged under the new Public Order Act—not just at the Coronation but over the next few months—so that this can be reported publicly, we can see whether the actions were proportionate and appropriate and whether new guidance needs to be issued or the law itself needs to be tweaked?

Lord Sharpe of Epsom (Con): There were a number of questions there and I will go into the detail. There were 64 arrests. Only six were under the new powers in the Public Order Act, all of which were under Section 2, which is about locking on. Regarding the specific case the noble Lord referred to, and in particular rape alarms, as I mentioned yesterday at the Dispatch Box, there was serious intelligence that was enough to disturb the military—it provoked a call between the Metropolitan Police Commissioner, the Home Secretary and the mayor quite late on Friday night—suggesting that rape alarms would be used in an effort to cause disruption to the procession. That may have included disturbing horses, which were on display in large numbers. I will not comment on the operational background to this particular arrest because I cannot, but obviously there are powers of redress and if a person thinks they were wrongfully arrested, they should absolutely use those. It will then be for the police to justify their reasonable suspicion and to prove that it was proportionate.

Lord Robathan (Con): Will my noble friend the Minister pass on the congratulations of the majority of people in this House and the overwhelming majority of people in the country on a very well policed and very important occasion? I do not think anybody can doubt that it was well done. Can he also pass on the feeling that, while we all allow peaceful demonstrations, the idea that such an important occasion should have been disrupted by self-indulgent young people—or indeed middle-aged people—is outrageous? I think the majority of people in this country support that.

Lord Sharpe of Epsom (Con): I agree with the thrust of my noble friend's remarks, but of course it is important that people are aware of the powers the police have. I should have said yesterday, in answer to a question from the right reverend Prelate, that the College of Policing did issue guidance on the day of Royal Assent. The police chiefs' lead on public safety also wrote to chief constables and the Police Powers Unit in the Met wrote to five particular organisations it felt might be affected by this. Also, as Sir Mark said, the police explained in advance that there would be low tolerance of disruption and zero tolerance of security and safety threats. No one can say they were not warned, but I agree with my noble friend that, overall, the whole event passed off magnificently.

Lord German (LD): My Lords, my question does not detract from the superb job the police did in managing what they had to do to make the Coronation work as it did. However, from the figures that the Minister has just given us and information we have received from the Metropolitan Police, there were some six of those arrests for which an apology was given. That is an apology rate—or an error rate—of between 10% and 12%. Does the Minister accept that that is an issue he would be concerned about? Does he also agree with the chief constable of Manchester that the powers in general given to the police force need to be re-examined because they are too broad?

Lord Sharpe of Epsom (Con): My Lords, I do not agree that an apology was given for these arrests. The Metropolitan Police expressed regret that six people who were arrested were unable to join the protest—not that they were arrested but that they were unable to join the protest. This is what I agree with: "Most people say police need powers to deal with Just Stop Oil and some of their tactics. They do need powers to deal with that. Legislation needs to bed down. We need to let it bed in. We need to look at how it operates in practice". That quote was from Sir Keir Starmer.

Baroness Boycott (CB): My Lords, I want to ask particularly about one arrest, because in the Public Order Act it was agreed that people covering protests—journalists, film-makers et cetera—were not going to be arrested. However, Rich Felgate, who was filming both the wonderful ceremony as well as the protest, was stopped by a policeman. He said:

"He stopped my filming, they handcuffed me behind my back".

He started to say,

"'the police are arresting a journalist' and they proceeded to rip off my press pass lanyard, I presume because they didn't want it to be visible that they were arresting a journalist".

He was taken into police custody, held for 18 hours, interviewed and released under investigation. Could I have the Minister's comment on this case and whether what was passed in the Public Order Act actually does stand?

Lord Sharpe of Epsom (Con): I failed to answer the question from the noble Baroness, Lady Chakrabarti, on when this part of the Act will commence. I can give her a better answer today. It is on 2 July this year. However, I can also say that this gentleman was not arrested under the Public Order Act. He was arrested for conspiracy to cause a public nuisance. I cannot go further in commenting on the specifics of the case.

Baroness Chakrabarti (Lab): My Lords, why did the Government not bring in the protection at the same time that they brought in the new powers?

Lord Sharpe of Epsom (Con): I cannot answer that, I am afraid. I do not know.

Lord Bellingham (Con): My Lords, obviously the ability to protest is one we take incredibly seriously in a constitutional democracy. Weighed against that are the rights of the hundreds of thousands of people who turned up, queued patiently and filed behind barriers. Many actually camped out. They have rights as well. Would the Minister reflect on this very simple point? Had there been a major incident of any kind during this remarkable day of the Coronation, the police would have attracted a huge amount of castigation from many people—the same people who are criticising them for what they did with the arrests.

Lord Sharpe of Epsom (Con): I entirely agree with my noble friend.

Lord Coaker (Lab): We all supported the actions of the police in enabling the Coronation to take place and praised them for it yesterday, but we also said that certain questions arose. I did not ask yesterday who decided that the Home Office was the appropriate authority to write letters to individual protesters warning them of the consequences of the Public Order Act and telling them what it was about. The Minister always makes a great play of the operational independence of the police, and that it is Parliament that makes the law. What happened with respect to the Home Office doing that? Who signed the letters to individual protesters? Is this a new tactic? Can we now expect the Home Office to write letters to protesters, rather than it being a matter for the police, which I thought it would have been?

Lord Sharpe of Epsom (Con): As I understand it, an operation called the Police Powers Unit wrote to five protest groups to inform them of the changes to public order legislation. It is obviously right that people who may fall foul of changes in legislation should be warned. As to who signed it and where that unit sits, I am afraid I do not know but I will find out.

Lord Hogan-Howe (CB): My Lords, in general, would the Minister agree—I think he has already said this—that the operation seemed to go really well? I think over 11,000 officers were deployed. Hundreds of thousands of members of the public were able to attend and people were able to protest. There was a collection of heads of Government from many countries across the world, including our own, which always invites security issues, as well as protest and all the other things that go with it. The fact that so few people were arrested is pretty remarkable. If individual cases need looking into, people should take the opportunity to make a complaint or take civil action. That should not detract from the overall operation, which seems to have gone so well, together with the great ceremony on the day.

Lord Sharpe of Epsom (Con): Well, I absolutely could not agree with the noble Lord more.

Lord Beith (LD): The success of the police's actions over the Coronation as a whole surely does not prevent us from considering the long-term dangers, which we started to learn about during the Covid regulation period, of creating situations in which police officers are felt by citizens to be interfering with legitimate rights, whether it is protest or just the ability to walk in the countryside during the Covid regulation period, or to take home a tube of glue to repair some domestic damage. Surely we have to consider those long-term issues, while rejoicing in the fact that a good job was done by so many police officers.

Lord Sharpe of Epsom (Con): I agree with the noble Lord: all of those matters should stay under active consideration, particularly as the nature of crime, disruption, protest and what have you evolves. But, overall, I also agree with the noble Lord that last weekend was a magnificent one in the life of the

[Lord Sharpe of Epsom]
nation, and all of those involved should be applauded, including the people who went and those who protested peacefully.

Post Office Executives: Bonuses

Commons Urgent Question

The following Answer to an Urgent Question was given in the House of Commons on Wednesday 10 May.

"The situation is extremely concerning and deeply regrettable and the Post Office is right to apologise. This is a very serious issue, particularly as it comes at a time when it is essential that the public have confidence that the culture and processes at the Post Office have been improved.

Since becoming aware of this incident, I have acted swiftly, calling for an immediate explanation from the Post Office as to how this mistake occurred and asking what steps the Post Office board is taking in response. I met officials in my department and UK Government Investments yesterday to discuss what further action is needed.

The Post Office has rightly apologised to the inquiry and issued a clarification on its website. The Post Office chief executive officer and chief finance officer have returned the remuneration associated with the sub-metric relating to the Post Office's support for the inquiry. The Post Office CEO has also apologised to Department for Business and Trade Ministers.

But more needs to be done. As a first step it is important that the facts are established. The Post Office has rightly announced that the incoming chair of its remuneration committee, Amanda Burton, will lead an immediate investigation into this incident. She was appointed non-executive director on the Post Office board at the end of last month and brings to the role experience and expertise from her time in the legal profession. The scope of the investigation is to ensure that the remuneration committee's approach and processes on rewarding its executives in this case were consistent with corporate governance best practice. I expect this investigation to report back to me within two weeks with its findings and recommendations.

I can also announce that my department is commissioning a wider independent review of the governance around Post Office decisions on remuneration. It should make recommendations about any further changes that are needed. This will run alongside the Post Office remuneration committee chair's investigation of this specific incident. Further details will follow.

Finally, let me finish by reiterating that the Government remain steadfast in their commitment to ensure swift and fair compensation to postmasters who suffered as a result of the Horizon scandal and are grateful for Sir Wyn's work leading the Horizon inquiry. We will keep the House updated on this issue."

11.50 am

Lord Leong (Lab): My Lords, I welcome the Minister to his new role and look forward to working constructively in the months ahead. I thank him for coming to this House to address these concerns.

The Post Office Horizon IT scandal is the most widespread miscarriage of justice in UK history. For more than a decade, this Government have allowed the scandal to drag on. Thousands of lives have been ruined and, tragically, more than 30 families have lost loved ones. Despite all this, continued delays mean that thousands of victims have yet to receive financial compensation.

It is appalling that, instead of these victims seeing anyone held to account for their lives and livelihoods being ruined, they are instead suffering the indignity of watching those who contributed to their suffering rewarded. CEOs who allow such behaviour disgrace the business community. Does the Minister agree with me that this is pure corporate greed? Does he really believe that paying nearly half a million pounds in bonuses to those involved in the scandal is justifiable in this case? Does he agree that the payment of these bonuses undermines the fight for justice and insults the hundreds of victims for whom Members on both sides of this House have campaigned so hard and for so long?

The Minister of State, Department for Business and Trade (The Earl of Minto) (Con): My Lords, no doubt this is a serious error in corporate judgment, coming on top of the Horizon scandal and the misery and false accusation that it caused. In this regrettable situation, the Post Office was right to apologise. This is an extremely serious issue, at a time when it is essential that the public have confidence that the culture and processes at the Post Office have been improved. Government has acted swiftly, calling for an immediate explanation from the Post Office of how this mistake occurred and what steps its board is taking in response.

Lord Fox (LD): My Lords, I also welcome the noble Earl, Lord Minto, to his seat. Your Lordships did not need reminding, but this demonstrates again that the executive and board of the Post Office regard themselves as, somehow, a law apart from the rest of us and do not understand the situation that they have created for so many innocent victims. Yesterday, the Parliamentary Under-Secretary of State for Business and Trade, Kevin Hollinrake MP, said in the Commons that

"more needs to be done".—[*Official Report*, Commons, 10/5/23; col. 341.]

So what is "more", and when will it be done?

The Earl of Minto (Con): Initially, Amanda Burton, the new chair of the Post Office remuneration committee and a non-executive director, will have two weeks to find out the precise facts about what has gone on here. At the same time, there is another review on the whole question of remuneration within the Post Office, because, clearly, something has gone very wrong. Within a couple of weeks, I hope that we will have a reasonable report with which we can come back to the House.

Lord Cormack (Con): My Lords, will my noble friend reflect on how often predecessors of his—we welcome him warmly today—have stood at the Dispatch Box, talked about the great scandal that has been highlighted so brilliantly by my noble friend Lord

Arbuthnot, and said that we are within sight of a solution? We are still not, and that is an utter disgrace, made even more disgraceful by the subject we are discussing today.

The Earl of Minto (Con): My Lords, I cannot disagree with the motive behind my noble friend's question. The Government set aside £1 billion to deal with the compensation for the scandal. Of that, over £100 million has been paid out. But due process has to follow its route, and it continues to do so.

Lord Berkeley (Lab): My Lords, the Post Office's previous management seems to have got away scot free on this. It has been going on for a good 10 years, and some of them even get promoted to other jobs. Should they not be implicated and called to account, along with the IT provider that caused all this?

The Earl of Minto (Con): My Lords, management clearly has a very serious responsibility, as the Post Office provides all of us, throughout the entire land, with some extremely valuable services. The specific management team in place has apologised and, while this is not the appropriate time to go into great detail about what might happen to it, it must be fully aware of the errors that it authorised.

Baroness Wheatcroft (CB): My Lords, every member of that board should have been aware of the bonuses paid and the reasons why they were. If they were not aware, they were failing to do their duty, but, if they were, they showed appalling judgment. Is the Minister content that they should stay in office for even two more weeks?

The Earl of Minto (Con): I entirely agree with the noble Baroness's sentiment. Certainly, in my experience, every member of the board is fully aware of exactly what the remuneration package is for each individual director and everyone within the organisation, whether it is fixed or bonus-related. Having said that, at this moment it is important that the two reviews under way take place. A decision can then be made at the appropriate time.

Lord Browne of Ladyton (Lab): My Lords, this is the worst miscarriage of justice in the history of this country: 555 convictions have been declared unsafe. These people have been campaigning for 20 years, and some of them have died. The best that I can work out is that fewer than 100 of those convictions have been overturned. The scandal will be worsened by the fact that so many people are likely to die before their convictions are overturned. Can we not do something to speed this process up? One Bill with two clauses in this House could pardon them all.

The Earl of Minto (Con): There can be absolutely no doubt about the seriousness of the Horizon disaster. I am sure that the noble Lord is absolutely right that things should be done quicker. I am not clear about what we can actually do about it, but I will certainly find out and get back to him.

Lord Dobbs (Con): My Lords, justice must be done and be seen to be done, of course, but it must be done in a timely fashion if it is to be justice. This has not happened in this terrible case at the Post Office or with Windrush. One of the reasons for the Illegal Migration Bill is that we need to make sure that justice is done at our ports and for those coming in. Is not the one common thread in all this that we have corporate lawyers, pressure group lawyers and special interest lawyers who are there not to deliver justice but to delay it, and therefore to deny it to those who deserve it?

The Earl of Minto (Con): My noble friend makes a very interesting point. Lawyers act for their clients. Their clients instruct them in so doing. The speed through the legal system in every country in the world is not as fast as one would like.

Baroness McIntosh of Pickering (Con): What due diligence are the Government doing with regard to Fujitsu being a preferred bidder for government contracts on an ongoing basis, given its history with the Horizon project?

The Earl of Minto (Con): My noble friend makes a very good point. I am not aware of the exact situation. I will find out and write to her.

Earl Cathcart (Con): My Lords, I live three miles from the market town of Fakenham. The post office has been virtually closed for nearly four years. Surely the executives should provide a service that Fakenham and other communities need. Any bonus should be linked to providing that service.

The Earl of Minto (Con): My noble friend is right. Bonuses should be awarded based on performance against specific measurable and recorded targets. As the noble Baroness, Lady Wheatcroft, said, everybody within the organisation should know this. Part of my noble friend's question was about the commitment of the Post Office to the network. At the moment, there are about 11,500 post offices. During the last 10 years, the Government have poured about £2.5 billion of funding into the network. It is obviously very important that towns such as Fakenham have a proper post office. I shall take this up.

Northern Ireland (Interim Arrangements) Bill

First Reading

12.02 pm

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

Northern Ireland Troubles (Legacy and Reconciliation) Bill

Committee (4th Day)

Relevant documents: 5th Report from the Constitution Committee, 6th Report from the Joint Committee on Human Rights

12.03 pm

Clause 34: No criminal investigations except through ICRIR reviews

Amendment 146

Moved by ***Lord Browne of Ladyton***

146: Clause 34, page 28, line 10, leave out "continued or"

Member's explanatory statement

This probing amendment deletes "continued or" from Clause 34(1).

Lord Browne of Ladyton (Lab): My Lords, I will also speak to Amendments 155 and 156, and to consequential amendments 152 and 157 to 161. These are supported variously by the noble Baroness, Lady O'Loan, and my noble friends Lord Murphy of Torfaen and Lady Ritchie of Downpatrick. My preference would be to see the removal of Clauses 39 and 40 from the Bill, as proposed by the noble Baroness, Lady O'Loan, and my noble friends Lord Murphy, Lady Ritchie and Lord Hain. However, I will restrict myself to the amendments in my name.

I take this opportunity to thank the Minister for his continued engagement on the Bill with me and others. I am sure we will have an opportunity in future to discuss some of the significant lengths he has gone to since the Committee last met to deal with some of the issues we have raised. In my view, some of these amendments make parts of the Bill—which I do not fundamentally support, but that is another matter—slightly more palatable. The Minister is very open and has done prodigious work in this regard, as have his officials, who are doing a very good job. They are admired by all noble Lords who have been engaged in this process.

Truth and justice are not merely two sides of the same coin; they exist in active relation to one another. They both are—and must be—indispensable elements of an alloy that can carry and sustain a lasting peace in Northern Ireland. Amendment 146 and its consequential amendments delete the time-limiting element of Clause 34, thus preventing criminal investigations being discontinued precipitately. I do not wish to stray into broader territory that is more customarily the stuff of Second Reading debates, but I wish to adduce an example that shows why this is important. In August 1974, John Pat Cunningham was shot and killed by a British serviceman. The soldier in question was finally put on trial in Belfast in 2021, 47 years later.

There are other families from all communities in Northern Ireland in that position—seeking justice for the deaths of loved ones. In earlier debates on this subject we heard of the case of Malvern Moffitt, murdered by IRA terrorists around 40 years ago. That is not an uncomfortable footnote in history but a tragedy whose concentric circles continue to lap at his family. His widow has expressed her profound upset at the prospect of the Bill in its current form receiving Royal Assent. His children gave a powerful and moving television interview in response to the Committee stage in the other place last year—something that should give us pause today.

Noble Lords will be familiar with the rule 9 submission by the Council of Europe Commissioner for Human Rights, dated 16 August 2022, which specifically focuses on this Bill. The submission is informed by a year's close monitoring of the Government's legacy proposals, engagement with the different stakeholders and, during a week-long visit, engagement with the Minister and his officials in the NIO.

I direct your Lordships' attention to paragraph 15 of that well-written and comprehensive submission, which reads:

"In her September 2021 letter, the Commissioner already highlighted the importance of the interaction of different mechanisms in ensuring justice, truth and reconciliation. With regard to justice, it was noted throughout the visit that other mechanisms than prosecutions, such as inquests, Police Ombudsman investigations and civil proceedings have often been instrumental in uncovering information that could subsequently be used to ensure accountability. Furthermore, the various mechanisms have been able, to some extent, to cater for the different needs of victims, since these will not be the same for all. At the end of her visit, the Commissioner noted in this respect that 'unilaterally shutting down options that many victims and families value greatly as part of their way of dealing with the past ignores their needs and wishes, and is causing many of them deep distress'".

This is a question not merely of fairness but of compliance under our Article 2 ECHR obligations. In raising the question of these obligations, I realise that I am failing to conform with recent innovations whereby breaching these obligations is advertised as a bold innovation rather than a prohibition. In the case of Armani Da Silva v the UK, the court ruled that:

"Having regard to its fundamental character, Article 2 of the Convention contains a procedural obligation … to carry out an effective investigation into alleged breaches of its substantive limb".

The question of effectiveness is crucial. I will quote further from that decision, as it speaks directly to what constitutes an effective investigation. If an investigation is to meet the preconditions of effectiveness, it must have the possibility of leading to punishment. The relevant passage runs:

"In order to be 'effective' as this expression is to be understood in the context of Article 2 of the Convention, an investigation must firstly be adequate … This means that it must be capable of leading to the establishment of the facts, a determination of whether the force used was or was not justified in the circumstances and of identifying and—if appropriate—punishing those responsible … This is not an obligation of result, but of means".

This seems both compelling and clear. It would be useful to know with what elements of that judgment the Government wish to disagree and upon what authority such a disagreement might rest. In this context, it may be worth recalling the words of the Minister for Veterans Affairs, who, in giving evidence to the Joint Committee on Human Rights in 2020, conceded that there had been

"a serious generational problem with the standards of investigations"

carried out into the conduct of British servicemen and that

"a lot of the investigations have not withstood rigour as regards ECHR compliance".

He concluded those remarks by stating boldly that that

"has been a major problem".

I regret to say that as it stands, this Bill will deepen and not mitigate that problem.

This same question of Article 2 compliance also underlies Amendments 155 and 156, together with their consequential amendments. Probing Amendment 155 would delete Clause 39(1) from the Bill. That subsection states:

"A relevant Troubles-related civil action that was brought on or after the day of the First Reading in the House of Commons of the Bill for this Act may not be continued on and after the day on which this section comes into force".

Again, this seems to breach not only the demands of natural justice but our Article 2 obligations. Amendment 156 in my name and that of the noble Baroness, Lady O'Loan, and my noble friend Lord Murphy seeks to defang this particular risk by deleting the words "on or after" from Clause 39(2) and substituting "three years after". The amendment would ensure that a Troubles-related civil action can be brought up to three years after the coming into force of Clause 38.

Amendments 155A, 161A, 161B and 178A are easy to explain. Clause 52(8)(c) refers to the

"actual date of the First Reading".

The actual date was 17 May 2022, so the formula proposed in Clause 52(8)(c) is unnecessary if the Bill is otherwise amended to refer to 17 May 2022, which is exactly what this group of amendments does.

Lastly, I turn to the role of the Secretary of State in curtailing criminal investigations. Under these provisions, as it stands, it threatens incompatibility with Section 48(5) of the Scotland Act 1998. Two committees of the Scottish Parliament examined the Bill, and the consequent legislative consent memorandum points out that the Bill makes "novel and unwelcome changes" to the functions of the Lord Advocate as the head of the systems of criminal prosecution in Scotland. In particular, the power of the ICRIR to refuse to refer appropriate cases to the Lord Advocate compromises their independence, a supposedly inviolable principle underpinning the whole architecture of the Scottish legal system. I would be grateful if the Minister made it clear why, and in what way, he believes that the role of the Lord Advocate is not compromised as I have outlined. Passing legislation aimed at bringing harmony to one constituent part of the United Kingdom by creating constitutional problems in another seems at the very least a somewhat quixotic way to proceed.

I would be grateful if the Minster could answer these questions of compatibility. If he is not disposed to accept these amendments, could he further explain how the Government will ensure that these provisions do not breach our obligations, both in the context of my earlier points on Article 2 of the ECHR and this Bill's compliance with the Scotland Act 1998? I beg to move.

Lord Faulks (Non-Afl): My Lords, I shall speak to Amendment 154A. I apologise for my late arrival to the debate on this important Bill, and for the lateness of this amendment, in my name and that of the noble Lord, Lord Godson.

At first sight, noble Lords may be a little bewildered as to where the amendment is directed. It arises out of a decision of the Supreme Court in a case concerning Gerry Adams. The decision was given on 13 May 2020.The only judgment of the court was given by Lord Kerr, who described the regime in Northern Ireland, commonly known as internment. As many noble lords will be aware, the way in which interment operated was initially by an interim custody order, or ICO, which was made when the Secretary of State considered that an individual was involved in terrorism. That person was taken into custody and had to be detained there, to be released within 28 days unless the chief constable referred the matter to a commissioner. Detention continued while the commissioner considered the matter. If satisfied that the person was involved in terrorism, the commissioner would make a detention order. If not so satisfied, the release of the person detained would be ordered.

12.15 pm

An ICO was made in respect of Gerry Adams on 21 July 1973. It was signed by a Minister of State in the Northern Ireland Office; it was then referred to a commissioner on 10 August, who decided that Adams should continue to be detained. He attempted to escape on more than one occasion and was sentenced to terms of imprisonment for each offence.

What was at the centre of the appeal before the Supreme Court was the validity of the ICO made on 21 July 1973. Although the order could be signed by a Secretary of State, a Minister of State or an Under-Secretary of State, the relevant legislation provided that the statutory power to make the ICO arose

"where it appears to the Secretary of State"

that a person was suspected of being involved in terrorism. In the view of the court, there being no evidence that the Secretary of State personally considered whether Adams was involved in terrorism, the question was whether the ICO was validly made.

The Supreme Court decided, in reversing decisions of the lower court, that it had not been validly made, notwithstanding the well-established Carltona principle which had been persuasive in the lower courts. This principle, which dates back at least to 1943, means that a decision entrusted by Parliament to the Secretary of State may generally be taken by a suitably qualified official, while the Secretary of State remains accountable to Parliament. I shall not go into the reasoning of the Supreme Court, but it is enough to say that it rejected the argument that the Carltona principle applied to the ICO and questioned whether a presumption existed as to its application in circumstances like this. The court appeared to be influenced by the momentousness of the decision to intern, and concluded that in all the circumstances it was Parliament's intention that the power under Article 4(1) of the 1972 order should be exercised by the Secretary of State personally.

The decision was greeted with considerable surprise in a number of quarters—not least, I suspect, in the Civil Service, and by Ministers who had awareness of these provisions. It had significant consequences for many other decisions made by ICOs and placed in doubt what had been well understood and embedded in government practice. Among the critics of the decision was the think tank Policy Exchange, which published a paper on the case three years ago. Its authors were Professor Richard Ekins KC and Sir Stephen Laws. A foreword was written by Sir Geoffrey Cox KC and an

[Lord Faulks]
introduction provided by the noble Lord, Lord Butler, who is in his place. All agreed that the decision was wrong and that the Detention of Terrorists (Northern Ireland) Order 1972 authorised a Secretary of State, a Minister of State or Under-Secretary of State to authorise temporary detention. Personal consideration by the Secretary of State for Northern Ireland was not required.

A significant concern was expressed that the consequence of the decision was that Adams and perhaps many others would seek compensation for what was essentially a technical matter on the basis that they had been deprived of their liberty unlawfully. As the noble Lord, Lord Butler, put it, the judgment

"could spur litigation that will hamstring effective government and create unnecessary doubt about who in government may lawfully act".

The noble Baroness, Lady Hoey, who is in her place, asked the Minister in a Written PQ in November 2021 whether there had been any claims resulting from the decision. The Answer, given commendably promptly, was that Adams had not made a claim but there were a number of other claims at an early stage based on the allegation that

"they were unlawfully detained on a similar basis to Mr Adams".

The Minister may well be able to update the Committee. Newspaper sources suggest that there may be as many as 400 claims and that the sums involved may be substantial.

This amendment seeks to overturn the decision of the Supreme Court. It does not revive any criminal conviction quashed, as with Adams's attempted escape from prison, but it does prevent any damages being recovered where the only basis for claims is the Adams technicality, if I may call it that. I understand that the Minister and his officials have had only limited time available to them to respond to this amendment. However, I hope it will be welcomed by the Government. It represents an opportunity to put right an erroneous decision and prevent unmeritorious claims being pursued. Just as importantly, it would restore the well-understood and important Carltona principle to its proper place.

Lord Butler of Brockwell (CB): My Lords, I support the amendment in the names of the noble Lords, Lord Godson and Lord Faulks. The principal point I want to make is that this amendment is not about the justice of internment as a general principle or the justice of the internment of a particular individual. It is purely about whether an individual should receive compensation because there was found to be a glitch in the procedure in ordering the internment because the Secretary of State did not personally consider it.

As has been said, such orders were signed by Ministers acting under the authority of the Secretary of State in accordance with the very well-established Carltona principle. That was certainly something that has always been understood by the Civil Service, and the reversal of it would have quite serious consequences for government. But whether or not there was a procedural glitch, the issue in my mind is whether compensation should be paid, not for an injustice but for such an error in procedure. I submit that the Government are entitled to protect themselves from having to pay compensation from the public purse for what is not an injustice but a procedural glitch. On those grounds, I support Amendment 154A.

Lord Macdonald of River Glaven (CB): My Lords, I want to briefly offer some words of support for that amendment. In their paper, Professor Ekins and Sir Stephen Laws, the former First Parliamentary Counsel, make a compelling argument that the United Kingdom Supreme Court judgment was wrong. I will not address that, because it is not important for the purposes of the amendment. What is important is that they also make a compelling argument for the deleterious practical consequences that are likely to flow from Adams because of the importance of the Carltona principle to the good and smooth running of government. That is beyond argument, and the risk here is that that principle has been in some way undermined.

Let me give an analogy. As your Lordships will be aware, a number of the most serious and sensitive criminal cases require the consent of the DPP before they may proceed. But the system has always been that the Director of Public Prosecutions designates a small number of his or her most senior prosecutors to exercise this consent function on the DPP's behalf. Of course, if the DPP wishes to call in a particular case to consider himself or herself, that will and does happen. But if it were ever to be the case that every file requiring DPP consent had to be placed before the DPP in person, the system would swiftly grind to a halt; or, the DPP would exercise that consent allegedly personally but really and practically on the basis of advice that he or she had received elsewhere. So the present system is the more honest. The individual giving the consent, exercising the consent function, is the individual who has actually read and considered the papers. To the extent that this amendment will protect and fortify the Carltona principle, it has my full support.

Lord Howell of Guildford (Con): My Lords, I strenuously support this amendment spoken to by my noble friend Lord Faulks, supported by my noble friend Lord Godson, and for two specific and extremely important reasons.

The first is simply this. If your Lordships go back to the 1972 detention of terrorists order passed through the House of Commons and this House, they will find specific provision in the text of that order for 28-day and night ICOs to be signed by Ministers of State, junior Ministers or other officials. We were doing that—I had the privilege of being involved in taking it through the House of Commons at the time—not just to reinforce the eminently sensible Carltona principle but for the most practical, hard-headed considerations of the circumstances in which these matters would have to be handled.

What we were dealing with seems to have fallen out of the memory of many people. Although we said that it was not a war, the Provisional IRA said it was, and indeed there was talk from Dublin of the same thing. We were having to deal with war conditions, whether or not we accepted that a war was being waged against the United Kingdom. The practicality of that was that the Secretary of State—Mr William Whitelaw at the

time, under whom I served—was having to move very quickly between Belfast and the Cabinet, handling the situation in the Houses of Parliament and a variety of other commitments as well. It was perfectly obvious that, for the smooth working of the procedures and the empowerment of the detention of terrorists order and many other pieces of legislation, he would need support of all kinds in handling these matters—in particular, in accordance with the detention of terrorists order and Carltona.

Much of the discussion since has been detached from the context and intense pressures in which we were working after the fall of Stormont and the arrival of the Whitelaw mission in Northern Ireland. Incidentally, this had the support of the whole House. The House of Commons supported it unanimously; there were maybe one or two queries but no amendments at all.

The second reason for my support for this amendment is that, while I do not wish to criticise the courts in anyway—I would not dare do so—I am absolutely baffled that legal and court procedures in a complex matter of this kind, going back in history, did not involve calling any witness of any kind to corroborate what actually happened and what went on in Stormont and in the procedures we are discussing. Ministers should have been called in those proceedings. It happens that I am the only Minister left from the Whitelaw team who is still alive, and I should have expected to be asked exactly how these things went on. What happened when one was asked on a Sunday night to sign an ICO? Who was consulted? To what extent did one talk to the Secretary of State beforehand, or to other Ministers of State or important witnesses from the police and other authorities? This was extensive but none of it was ever discussed.

It is utterly bizarre that somehow the court procedures should ignore what was specifically provided for in the original order. This seems to be almost incomprehensible. I therefore ask strongly that the Government reconsider what my noble friend Lord Faulks has put so eloquently and the point that the noble Lord, Lord Butler, has rightly argued about the procedure. Was there really a procedural glitch? No one knows; it was never discussed, and yet here we are with the prospect of millions of pounds being claimed on the basis of a judgment that appears to be based on sand—on nothing.

This is a very serious matter; it is a dangerous and costly matter. It may encourage many more difficult feelings at a time when—heaven knows—the whole balance and fragility of Northern Ireland is once again in question. It would be a great mistake not to accept the validity behind this clause, even if it needs amending in certain ways, and to pass it by or cast it aside on the grounds of matters settled. This is not settled; it is unsettled and most unsatisfactory. It needs very serious determination and consideration now.

Baroness O'Loan (CB): My Lords, the discussion on Amendment 154A shows the importance of getting legislation right in the first instance. I speak in support of Amendment 146 to Clause 34, to which I have put my name. This amendment and Amendment 152 will remove the provision that all existing investigations must transfer from the existing investigation body to the ICRIR. Chief officers of police have to notify the Secretary of State of all criminal investigations of Troubles-related matters. The only exception to this under the Bill arises when a prosecution is under way and the investigation is pursuant to the prosecution.

12.30 pm

In February, the Government announced the establishment of a public inquiry under the Inquiries Act into the Omagh bombing. That announcement followed a High Court decision that a plausible argument could be made that the state had failed to comply with its obligations under Article 2 of the European Convention on Human Rights to take reasonable steps to prevent the bombing. There are many other cases in which there are plausible grounds to believe that the state, through its agents, failed to prevent planned murders of which they had knowledge. There is a pattern that shows that there were many circumstances in which the state, through its agents, prioritised keeping those agents in place over their duty to prevent murder and did not take disruptive action to save life. That happened in cases involving both loyalist and republican agents. I have investigated some of those cases myself; I do not speak of rumour and innuendo but of fact.

It is good that the state has acknowledged its obligations in the Omagh murders, though we have yet to see any progress on the establishment of the inquiry. This Bill, however, will create a review and investigation process that would not have the powers given to the Omagh bombing inquiry or any normal police investigation powers, which are essential for the discharge of the state's obligations under Article 2. Those necessary unqualified powers to compel the production of documentation—especially documentation held by the security and intelligence services and police intelligence units—will not be available. The proposed powers to identify and gather information will be subject to veto by the Secretary of State under the extensive provisions of Clauses 29 and 30 of the Bill. Access to information could be severely curtailed through the exercise of powers conferred on the Secretary of State in this Bill.

The acknowledgement by the Government of their obligations to those who died as a consequence of the bombing of August 1998 is right. Their actions in promoting this Bill, with its non-Article 2-compliant processes, are a denial of those same rights to others in the UK whose loved ones died before the Good Friday agreement. There is nothing in that agreement that provides that legal rights should be curtailed before 10 April 1988. Indeed, the reverse is true. That is why, of course, this Bill has been so roundly rejected, not just in Northern Ireland, not just here in England, but internationally—including, most recently, by the UN High Commissioner for Human Rights.

Some weeks ago, the Council of Europe's Committee of Ministers met to make decisions on the supervision of the European Court of Human Right's judgments in a series of Northern Ireland cases relating to the actions of the security forces in the 1980s and 1990s in Northern Ireland. The Committee of Ministers had, in September and December 2022, expressed serious concerns about this Bill and has now said that the amendments proposed by the Government do not sufficiently allay those concerns. It has again emphasised

[Baroness O'Loan]
that it is crucial that the legislation that is progressed and ultimately adopted is in full compliance with the convention. It has called on the Government to ensure that the Secretary of State's role in the establishment and oversight of the independent commission is more clearly circumscribed in law in a manner that ensures that the ICRIR is independent and is seen to be independent. It is my understanding that the chief commissioner has now been appointed, despite the fact that this Bill is still in Committee.

The Committee of Ministers also called on the Government to ensure that disclosure provisions unambiguously require full disclosure to be given to the ICRIR and to ensure that the Bill adequately provides for the participation of victims and families, transparency and public scrutiny. It strongly reiterated its calls upon the authorities to reconsider the conditional immunity scheme in the light of concerns expressed around its compatibility with the convention. It also reiterated its serious concerns about the proposal to terminate pending inquests that have not reached substantive hearings and its call on the authorities to reconsider this proposal. It stressed the importance of the success of any new investigative body of gaining the confidence of victims, families of victims and potential witnesses. It is going to re-examine the McKerr group of cases at its next meeting and, in the absence of tangible process on this Bill, will take further action.

There is no evidence that the Government intend to do anything other than force the Bill through, despite its incompatibility with our international legal obligations. I am aware of an article that the *Evening Standard* ran last night—there have been various rumours about the Government introducing further amendments, which they have chosen not to introduce in Committee. I am not sighted on those amendments, but the amendments produced thus far do not cause me to get excited about them.

Clause 34 allows no new criminal investigations after 17 May 2022. Can the Minister assure the House that cases that have come to the top of the investigation queue are currently being investigated by the PSNI, and that the police have not paused such investigations since May 2022? Can he provide to the House details of how many investigations of Troubles-related offences have been initiated by the PSNI since this Bill was introduced, so as to reassure the House that the PSNI is continuing to fulfil its legal obligations?

Apart from renewed or new investigations, the key factor in determining whether a case has to be transferred to the ICRIR is whether a prosecution has been directed by the PPS. If a prosecution has been directed, the case can remain with those who investigated it. If not, it must go to the ICRIR, which must then come to terms with what are often very complex cases, consider to what extent it wishes to reinvestigate and then, having done that, produce the prosecution files to the Public Prosecution Service. This provision will apply to many cases currently under investigation and ready for prosecutorial decision, including murder cases currently under investigation by the PSNI from the period from 1996 to 1998 and the Operation Kenova investigations, which have been much cited in your Lordships' House—I refer again to my membership of the Kenova steering group.

The focus of Kenova is to ascertain whether there is evidence of the commission of criminal offences by an alleged agent known as "Stakeknife", who was at the head of the IRA's internal security unit. It was responsible for identifying suspected informers, and many of them were kidnapped, tortured and executed. Kenova's investigations include, but are not limited to, murders, attempted murders and unlawful imprisonments attributed to the IRA, and whether there is evidence of criminal offences having been committed by members of the Army, the security services or other government personnel. Some of the cases are the murders of alleged IRA informers, such as Joe Mulhern in 1993 and Joe Fenton in 1989. The Kenova team is also investigating the murder of three officers who died on the Kinnego embankment, near Lurgan, in October 1982. That case was formerly investigated by Greater Manchester Police Deputy Chief Constable John Stalker and then by Sir Colin Sampson.

Currently, 36 cases investigated by Mr Boutcher and his team are currently with the DPP for Northern Ireland for decision—I have referred to them before. If there is no decision before the Bill is passed, those cases will all pass to the ICRIR. No decisions have been made. I am fully in support of Amendment 154, in the names of the noble Lord, Lord Dodds, and others. It would at least ensure that cases in which a file has been submitted to the PPS would not fall to be transferred to the ICRIR but would continue to be dealt with by the PPS.

It is in the interests of all the victims and all those affected in these cases that they should continue to be investigated by the existing investigation team. The delay in progressing the Kenova files is not attributable to the investigation team: we know that the PPS has said it does not have the resources and that decisions will be made before files are impacted by the Bill. However, similar assurances were made early last year. If decisions are not made in these cases, they will all have to transfer, with huge additional resource implications.

Similar considerations apply to Operation Denton, which is reviewing the activities of the Glenanne gang, which comprised loyalist paramilitaries, police officers and members of the military and which is said to have been responsible for at least 127 murders. Amendment 147, in the name of the noble Lord, Lord Hain, the former Secretary of State for Northern Ireland—who cannot be in his place today and asks that his apologies be given—in the names of the noble Lord, Lord Hogan-Howe, who is in his place today, and the noble Lord, Lord Blair, and in my name, which we have already debated, provides sensible and effective protection against this: the Denton review. The Bill deprives many victims and survivors of the Troubles of their fundamental legal rights to an official investigation. As stated in the Supreme Court just 16 months ago, the state's domestic and international legal obligations are being set aside in the Bill.

Moving from criminal to civil actions relating to Troubles-related cases, with the noble Lords, Lord Murphy and Lord Hain, and the noble Baroness, Lady Ritchie,

I have indicated my intention to oppose the inclusion of Clause 39. There should be no restriction on the bringing of civil actions in Troubles-related cases, yet Clause 39 removes any right of action in relation to such cases. There will be an ongoing right of action for non-Troubles-related cases, including those which occurred before, during and after the period of the Troubles, and those which do not involve offences causing

"serious physical or mental harm"

as defined in Clause 1(6). If concrete blocks were dropped on a person's leg, causing him to lose the limb, he would not be able to sue because of Clause 39. However, if those same concrete blocks resulted in injuries that did not require amputation but left him in constant, serious pain, with serious disability and any associated trauma, he would be able to sue. If a person died after the Good Friday agreement in April 1988, he would be able to sue because his is not a Troubles-related death, according to the definition. This is manifestly and grossly unfair.

No alternative provision is made to enable people to bring civil actions and recover compensation in cases in which evidence emerges as to who was liable for an atrocity such as the Enniskillen bomb, for example. The provision of Clause 39(11) in relation to the application of the 2008 mediation directive, which applies to cross-border mediation, does not address or resolve the lacuna left by the deliberate denial by government of the process of civil actions to those who have suffered what is often ongoing serious harm as a consequence of the Troubles. Very often, these people might have been able otherwise to live a fulfilling life and to care for their families, and that is no longer the case. In order to mitigate some small part of the effects of Clause 39, I have also put my name to Amendments 155 to 161 in the name of the noble Lord, Lord Browne.

The noble Lords, Lord Hain and Lord Murphy, and the noble Baroness, Lady Ritchie, have also indicated our opposition to Clause 40 standing part of the Bill. Clause 40 as drafted would mean that, after 1 May 2023, or the date on which the Bill is enacted, whichever is earlier, no coroner can start an inquest into a death that occurred between 1966 and 1988. As I said previously, the Council of Europe's Committee of Ministers said recently that normal inquest procedures should be allowed to continue for Troubles-related deaths if the UK is to be compliant with its international legal obligations. Under the Bill, any inquest that has started must stop

"unless the inquest is at an advanced stage",

whatever that means. Does it mean that an inquest that has started and had a day's, or a few days', hearing and then been listed for next year will be terminated by the Bill?

The duty to inquire into the circumstances of sudden death by force has existed for centuries. It will continue to exist, if the Bill is passed, for the families of those who die in the United Kingdom, with the exception only of those deaths that fall within the definition of a Troubles-related death. Inquests into deaths by terrorism occurring in the United Kingdom during the years of the Troubles but caused by groups other than, for example, the IRA, the UDA and the UVF, will also continue to occur. It is discriminatory and unjustifiable to deprive the relatives of those who died Troubles-related deaths of inquests while enabling all others in the UK who have suffered the death of a loved one in similar circumstances which require an inquest to have one.

12.45 pm

Victims of these killings are still awaiting inquests because of underresourcing. Recent inquests have resulted in the disclosure of information that had previously been withheld by the state and, on occasion, the coroner has had to take lengthy legal action to get that information. Inquests should continue for this relatively small group of people, as for all others who have suffered the loss of a loved one in similar circumstances and who can secure an inquest. The clause should not remain part of the Bill.

The government amendments in the group are intended, it appears, to sweep up and dispose of any residual powers that the Police Ombudsman—I remind the Committee that I was the first Police Ombudsman—and the English and Scottish police complaints handling officers currently have to investigate any conduct that occurred during the Troubles. This will mean that where there is evidence that, for example, a police officer fabricated evidence, perjured himself in a court hearing, misconducted himself or herself in public office or committed any other crime in the context of the planning or aftermath of a murder which does not fall into the category of offences provided for in the Bill, will not face investigation. Again, this is a total denial of the obligations the state has to those who have suffered in this way.

In total, this group of amendments, with the exception of the government amendments, are attempts to make better a Bill that is fundamentally flawed, in breach of our international legal obligations and inconsistent with the rule of law. It is my hope that, when we are finally informed about the content of the Government's further proposed amendments, they will address these very serious issues.

Lord Dodds of Duncairn (DUP): My Lords, as we return to the Bill in Committee, it is right, given the inevitable focus, often, on the actions of the security forces, to pay tribute to the Army, the UDR, the RUC—part-time and full-time members—the security services and all who worked to safeguard the people of Northern Ireland through some of the worst days in the decades of Troubles and to remember the innocent victims who were cut down by terrorism, whether it came from loyalists or republicans. It is worth putting on record, every time we debate these matters, that the overwhelming number of deaths and murders were carried out by terrorists.

In the context of the fight against terrorism, I think it is appropriate to add a personal tribute to Lord Robert Carswell, who recently passed away. He was a Member of your Lordships' House and from 1984 to 2004 was a senior judge and Lord Chief Justice in Northern Ireland who valiantly upheld the principles of legal justice in Northern Ireland through some of the darkest days. People like Lord Carswell and others are often bypassed. Many who engaged in violence over the years have been elevated into personalities

[Lord Dodds of Duncairn]
and lauded by world leaders, but it is people like Lord Carswell who deserve the thanks and gratitude of so many in Northern Ireland for the work they did during the Troubles.

Like the noble Baroness, Lady O'Loan, I heard the Secretary of State, I think it was yesterday in Northern Ireland Questions in the other place, refer to amendments to the Bill that will be coming forth as "game-changers". He was very adamant that these would be very significant amendments indeed, and it seems a shame that we should be kept waiting, having gone through the entire Committee, now into our fourth day, and be told that there will be game-changing amendments.

I hope the Minister can tell the Committee what these game-changing amendments may prefigure and are likely to do, because it seems wrong that we should be left to debate them on Report. I certainly look forward to examining them in detail, although I share the reservations of others about their likely content.

This is the fourth day of Committee. We have seen other Bills dropped; the protocol Bill has been dropped, there has been massive change to the retained EU law Bill and there is speculation that other major planks of government legislation will be dropped. Still, this Bill, which is unwanted and has no support in Northern Ireland—neither among the political parties nor in the Assembly—persists. It grinds on, unwanted and unloved. The only people who seem to be driving it forward are the Government. For the life of me, I fail to understand why they cling to this obnoxious piece of legislation.

While that is our view of the Bill overall, it is our duty to examine these matters in detail and try to mitigate it if it is going to proceed on to the statute book. I fully support Amendment 154A tabled by the noble Lords, Lord Faulks and Lord Godson, which is very timely; the decision taken by the Supreme Court mystified and astounded many commentators and those who follow these things closely. The Carltona principle has been embedded in British political life for many decades, and the prospect that tens of millions of pounds could be spent in compensation for some technicality, at a time when we are struggling to fund vital services in Northern Ireland, will cause outrage on all sides there. Nobody will support this. The Government should take on board this very considered amendment and I hope they will adopt it quickly.

Amendment 154, which has already been referred to, is in my name and those of my noble friends. Its purpose is to treat a public prosecution as having begun when the file is passed to the Public Prosecution Service for Northern Ireland. It is entirely wrong for the Government to cast aside the significant work that has gone into a number of high-profile investigations, such as Operation Kenova, which deals with the actions of the leading informer and head of the IRA's so-called internal security unit, Freddie Scappaticci. This investigation must be able to conclude irrespective of whether a decision to prosecute has been made by the time the Bill's provisions come into force. However, it is not just about that investigation or others. The principle is worth defending. The prohibition of criminal enforcement action under this Bill's provisions is immoral and contrary to the principles of natural justice. This amendment attempts to mitigate that damage.

Baroness Suttie (LD): My Lords, I apologise to the Minister and the Committee that, due to an earlier engagement, I will unfortunately have to leave before the end of this group. If noble Lords will indulge me, I will speak briefly now. I agree with an awful lot of what the noble Lord, Lord Dodds, has said about the general approach to the Bill. This is the fourth day and we continue to have tremendous dissatisfaction with it, notwithstanding the generally positive approach of the Minister, who has been exemplary in his ability to listen to us and respond at every stage.

I thank the noble Lords, Lord Faulks and Lord Butler, and others for their explanation of newly tabled Amendment 154A, but it is potentially quite a detailed change. We should discuss it in much more detail, perhaps on Report. It could have significant consequences, so I hope we can look at it in more detail before then. I look forward to at least reading the Minister's response in *Hansard*.

These Benches strongly agree with the powerful and detailed speeches from the noble Baroness, Lady O'Loan, and the noble Lord, Lord Browne. These primarily probing amendments correctly ask the Government to explain their position on the continuation of investigations. The amendments from the noble Baroness seeking to remove Clauses 39 and 40 raise some extremely important points. I look forward to reading the Minister's response to many of the issues she raised, because they are still unresolved and we have not yet had satisfactory answers to them. As a general point, can he reassure the many victims and their families that their hopes of justice will not be undermined by those two clauses as drafted? Can he clarify the situation for those who had been given additional hope through an investigation, inquiry or inquest having started, and give us more details on the process and timescale proposed in this Bill?

The Minister knows that we are all very grateful for his active engagement on this Bill. He has shown repeatedly that he is prepared to listen and respond. However, I suggest that discussions with noble Lords such as the noble Baroness, Lady O'Loan, who has so much experience to share, about some of the realities and consequences of Clauses 39 and 40 would be very welcome—indeed, necessary—between now and Report.

Baroness Ritchie of Downpatrick (Lab): My Lords, I support the amendments in the names of my noble friend Lord Browne and the noble Baroness, Lady O'Loan, to which I was a signatory along with my noble friend Lord Murphy on the Front Bench, because we are firmly opposed to the removal of access to inquests for victims. The standard bearer in all this should be adherence to the rights, needs and requirements of the many victims and survivors, as the noble Lord, Lord Dodds, is clearly also saying in his amendment. Victims and survivors should have primacy.

In all the debates on this Bill, noble Lords from Northern Ireland and across the House, political parties in Northern Ireland, the Commission for Victims and Survivors and all those organisations that represent the needs of victims and survivors have clearly enunciated their opposition to it as drafted because it does not provide for the needs of victims and survivors.

Like the noble Lord, Lord Dodds, and the noble Baroness, Lady O'Loan, I heard the Secretary of State refer yesterday to "game-changing amendments", to which reference has been made today on the BBC Northern Ireland website. Can the Minister tell us what those game-changing amendments are that will be brought forward on Report? The only amendments should be those that reject this Bill; like all the other Bills that have been withdrawn or substantially changed, it should be withdrawn.

1 pm

I support the amendments in my name and those whose principal signatories are the noble Baroness, Lady O'Loan and my noble friends Lord Browne and Lord Murphy, because the Bill foresees the closure, prohibition or restriction of existing avenues for seeking truth and justice. Criminal prosecutions would, in theory, remain possible but they will be significantly dependent on the ICRIR, which would act as a gatekeeper, and, given problems around independence, there could well be perceptions that the ICRIR was acting politically, if recommendations for prosecution focused on one part of the community only.

Inquests, unless at an advanced stage, ongoing police and police ombudsman's investigations and civil claims would all be discontinued. To me, that is totally immoral, anti-democratic and anti-justice. The proposed government amendments to Clause 41 would restrict the Police Ombudsman for Northern Ireland from formally investigating Troubles-related incidents. They would further restrict routes to justice and consequently exacerbate, rather than allay, concerns.

The noble Baroness, Lady O'Loan, has quite rightly said that she was the first police ombudsman in Northern Ireland, and I know full well what she did in that role on behalf of my former constituents in South Down, in terms of the Loughinisland inquiry, where six men were brutally murdered by loyalist paramilitaries—six people who were utterly innocent. That report eventually came out in various iterations, but it found that there was collusion and things happened that should not have happened—their deaths, the destruction of evidence material, et cetera.

My Lords, in supporting Amendments 146 and 152, and the consequent amendments, I say that the Human Rights Commission believes that the Government's amendments do not address its grave concerns raised in the initial advice regarding the immediate cessation of criminal investigations, other than those referred by the ICRIR to the prosecutor, police complaints, civil proceedings inquests and inquiries linked to Troubles-related offences. The CAJ, with which I believe the Minister is acquainted, believes that the Bill provisions and the Government's amendments entrench the extent to which impunity will be facilitated. In this regard, it refers to the provisions to prevent the police ombudsman from any inquiry that touches on police actions during the conflict, beyond the existing prohibition in the Bill on dealing with future and current complaints from victims. In this regard, our amendment scores out the removal of inquests and civil actions. To remove civil actions, inquests and the role of the police ombudsman in cases prior to 1988 is totally undemocratic and leads to a lack of transparency and accountability. I therefore ask the Minister if he could indicate the extent of the exercise of police powers by the ICRIR against a person who has immunity.

Some of the amendments dealing with the question of investigations consider many of those issues. In the past the Minister has confirmed that the ICRIR can use police powers in some circumstances. However, can he confirm that such powers would not be exercisable against a person who has immunity for the offence under investigation? He has stated that police powers can be used by the ICRIR. In introducing the Bill a year ago in the other place, the former Secretary of State for Northern Ireland stated that the Bill would mean military veterans would no longer face a knock at the door or be taken in for questioning—that is, police powers would not be used against veterans. Is that still the Government's position, given the contradictions?

The noble Baroness, Lady O'Loan, has already referred to the Council of Ministers decision, issued after the March meeting, setting the UK Government the deadline of 3 May to make tangible progress on an alternative ECHR-compatible approach. I note that the NIO issued a two-page response letter on 4 May, not committing to any changes to the Bill and urging the Council of Ministers to defer consideration until September, by which time the Bill will have commenced on current timing, and damage will have been done. I ask the Minister to consider the views of many people throughout Northern Ireland—victims' groups, survivors' groups, political parties—and ensure that accessibility to inquests and all forms of civil action and criminal prosecutions is continued, because it is only through those mechanisms that justice can prevail. At the end of the day, the people who have been so deeply grieved want peace of mind, justice and truth.

I support the amendments in my name and those additional amendments in the names of my noble friends Lord Murphy and Lord Browne, and the noble Baroness, Lady O'Loan, and the amendment in the name of the noble Lord, Lord Dodds, because we do not want to see the Bill as it is currently drafted, but we want those game-changing amendments referred to by the Secretary of the State in the other place.

Lord Sandhurst (Con): My Lords, I speak in support of Amendment 154A tabled by my noble friends Lord Godson and Lord Faulks. I apologise for not speaking at Second Reading.

As others have explained, the Supreme Court reached a decision which surprised many legal observers. In this respect, I commend to the Minister and his officials the Policy Exchange paper of May 2020, which explains the well-established Carltona principle, how the Supreme Court reached its decision, what it did not refer to and, in particular, what was said in the debates leading up to this Order in Council being passed—it is necessary to look at that. I am not going to go into that now; I shall be short.

For a long time, the principle has meant that officials and junior Ministers routinely act in the name of the Secretary of State, whose personal involvement in each and every decision is not required. Noble Lords who have much experience in this field—I refer in particular to the noble Lords, Lord Butler, Lord Howell and

[LORD SANDHURST]
Lord Macdonald, all of whom have great experience with or as Ministers, or as the Director of Public Prosecutions—have explained the significance of the Carltona principle to our system, and agreed that the Supreme Court's interpretation was, if I may put it this way, somewhat implausible.

It is plain that the Minister, in this case, acted in good faith and, I suggest, without negligence and in accordance with the well-established principles. Quite simply, this amendment does not overturn the acquittal, which was founded on a Supreme Court decision, but it will ensure that damages should not flow. It will also have the benefit of restoring the Carltona principle to its necessary place in jurisprudence. I commend this amendment to the House.

Lord Eames (CB): My Lords, I make no apology for the fact that my contributions to the debates on this Bill and legislation stem from my personal experience over the years with victims and survivors, and their families. If noble Lords had a similar experience, they would live with it and continue to live with it until the end of their lives.

At this juncture in our debates, we are addressing for technical reasons—which I accept—and for reasons of jurisprudence and legality, what is, I believe, the greatest failure of this proposed legislation. It is proposed that victims and survivors will be denied the last jurisprudential opportunity to gain some answer to their doubts, worries and concerns, and above all their search for justice.

I am very glad that the noble Lord, Lord Dodds, recently referred to the death of my long-term colleague and friend, who began, as I did, to study law at Queen's, all those years ago, and who ended up as Lord Chief Justice of Northern Ireland. For reasons that must be obvious, I personally know something of the strain that he encountered during the Troubles, and the honesty, integrity and decency of Bob Carswell needs no defence from me. I pay tribute today to a man who often sat beside me on these Benches of latter years.

I cannot speak too strongly of the feeling of so many people who have encountered grief, loss and sorrow during the Troubles when they view the proposals of this Bill, and in particular the amendments and the area that surrounds them that we are looking at currently. They are to be denied the possibility of answers to their questions, and denied the justice that they feel is not just a legal necessity but a legal obligation. They are to be denied the possibility of having their questions answered and doubts removed. Now we see what is proposed in our legislation. To say that it is adding salt to the wounds is too little; it will be devastating in its effect. We must put on record that this Committee recognises, beyond the technicalities that our legal friends are now explaining to us, the human side of what is happening and what is proposed.

Many tributes have been paid to the Minister, and I add my name to them, for I do not know how he has had the patience to listen to so many approaches. But I say to him that, on this occasion, he must recognise above all else that, in guiding us through this legislation, he is defending something that we who live and work there, and who have had our being in Northern Ireland, find extremely hard to accept. That must be said plainly. Above all else, if this Committee does not hear those voices and those claims, we are failing to do the duty that we are obliged to fulfil.

The last thing I will say at this stage is simply this. Whatever the future of this proposed legislation, whatever the future of the peace process in Northern Ireland, and whatever the future for the new generation coming up who will read in the history books what so many of us have lived through—whatever the answers to those questions are—what remains fundamental is justice in its widest human sense. For that reason, I add my support to these amendments.

Baroness Hoey (Non-Afl): My Lords, I give my support to Amendment 154A, in the names of the noble Lords, Lord Faulks and Lord Godson. We are now on the fourth day of Committee, but it has been six months since this Bill was first introduced to the Lords. I kept hoping that, as time went on and on, somebody in the Government would think that this was one of the Bills that they should be retreating on and getting rid of, as they seem to be doing with so many other Bills. But here we are, and so we want to ensure that we end up with the best Bill possible.

1.15 pm

I am delighted that such senior noble Lords as the noble Lords, Lord Howell, Lord Butler and Lord Macdonald, are all here today supporting Amendment 154A. It is a common-sense amendment. When I asked a question some time ago on this issue and the failure to comply with the Carltona principle, I was assured that something would be done to sort it. This is a real opportunity, which I am sure the Minister realises, to change the legalisation. This compensation could run to millions of pounds. Nobody should underestimate that, although the whole issue around Gerry Adams has not got a huge amount of publicity, everyone who thinks they have got a chance of getting compensation will apply, and it will be a huge amount of money. This amendment is crucial to ensuring that people in Northern Ireland feel confident that the injustice of people getting compensation for an administrative error is going to be dealt with.

I add my support for what the noble Lord, Lord Dodds, said about the RUC, the UDR and our Armed Forces. I am afraid that we are seeing the rewriting of history. It is very important that we in this Committee remember the sacrifice of so many people who defended people in Northern Ireland—particularly those members of the Armed Forces working in border areas. It is very sad that so many terrorists absconded over the border, having bombed or killed, and the Irish Government did very little—in fact, they refused—to send back many of those people. We must always look at this in the context of where the real problem was, and that was with terrorists, not with the Armed Forces.

Sadly, we are seeing more and more lawfare, where lawyers are able to continue probing incidents where individual soldiers and individual members of the UDR and the RUC killed someone and perhaps a mistake was made. The balance has got to be that we treat people and victims fairly. Sadly, victims and the families of victims killed by terrorists in some of the

big atrocities are not getting that justice; they are not getting ombudsmen or inquiries into what happened. That is why people from all sides have different ideas of why this legacy Bill is not going to help stop that kind of lawfare.

I hope that the Minister will come back at the end and say that he does not think, as the noble Baroness, who is no longer in her place, said, that Amendment 154A needs much detailed scrutiny. It is very simple and it addresses something that should not have happened, and will make sure that compensation cannot happen.

I also ask the Minister this. Who decided the salary that the new head of the ICRIR will be getting? It was reported in the media that they will be getting £150,000. I would be interested to know who made the decision about the salary, or whether that is just media speculation.

Lord Murphy of Torfaen (Lab): My Lords, I support the various amendments brought forward by my noble friend Lord Browne, which aim to give room for ongoing criminal investigations to conclude and to allow space for civil action to be brought for an additional three years. I very much understand the concerns that the noble Baroness, Lady O'Loan, put forward regarding the closing off of other routes to justice under Clauses 39 and 40.

I often agree with the noble Lord, Lord Dodds. I sometimes disagree with him, but today I agreed with absolutely every word he said, particularly when he opened his remarks by making reference and paying tribute to those in the security services who lost their lives, and indeed the tens of thousands of other people who lost their lives over 30 years in Northern Ireland. I also agreed with his tribute and that of the noble and right reverend Lord, Lord Eames, to Lord Carswell, who I knew very well too. Our interest was not simply legal or political; we were both great lovers of classical music. He was a great expert—much more than I was—and I think that we in this House will all miss his wise words.

My noble friend Lord Browne referred to the fact that the First Reading of the Bill took place in the other place one year ago, and we are nowhere near finished. This is the fourth day in Committee—it seems a bit longer to me—over the last number of months in which we have been dealing with this, and there seems no end to it. I honestly think—and this is where the noble Lord, Lord Dodds, and I think most Members in the Committee would agree—that it is time to dump the Bill. There is no support for it. All my experience in Northern Ireland has been based on the fact that if there is not support across the community for something, it is doomed. I think it premature to advertise for the office of commissioner. I believe it is wrong that something as controversial as this can go ahead unless there is community support, political support and legal support, both here and, in particular, in Northern Ireland. There is still time. The noble Lord, Lord Dodds, referred to the fact that a number of Bills have been dumped. The Schools Bill was the other one that he did not mention, I think, but there are others. Now is the time to do that.

To refer particularly to the new amendment that has been introduced, Amendment 154A, I am glad that I am not the Minister answering this. I am sure that the Minister will have an answer, at least a temporary one, to this very interesting amendment. I do not want to comment on an individual case, obviously, but I do want to comment on the implications of what happened as a result of that case. I had never heard of the Carltona principle before, so I have learned something today, but I obviously operated under it when I was Secretary of State for Northern Ireland and, more significantly, when I was Minister of State for Northern Ireland, because as Minister of State I undoubtedly signed warrants on behalf of the Secretary of State at the time, understanding that everything I did was perfectly legal and right. Obviously, that has now been brought into doubt.

Very often, a Secretary of State's name is used in tens of thousands of communications and letters for technical reasons, but this is not a technicality in Northern Ireland. This is about actually locking people up, tapping their phones or whatever it might be, so it really has to be got right—not least the issue of compensation, which could be absolutely horrendous. The Minister is not going to give us a complete answer to this today, but I hope that he will be able to assure us that by the time we get to Report, which I guess is not that long away, the Government will be taking action on this important measure.

I hope that the Minister, who has been extremely patient over the last seven or eight months with the Bill and with us, will look not just at that amendment but at the other amendments. They go to the heart of the criticism of the Bill: that the Government are wiping out any legal routes to ensure that there is some redress for the terrible things that have happened to people in Northern Ireland over the last 40 years.

The Parliamentary Under-Secretary of State, Northern Ireland Office (Lord Caine) (Con): The noble Lord, Lord Murphy of Torfaen, referred to the past seven or eight months—I assure him that, from this side of the Committee, it seems much longer. He, my noble friend Lord Dodds of Duncairn and the noble and right reverend Lord, Lord Eames, somewhat pre-empted my opening comments on this group of amendments by referring to the sad passing of Lord Carswell. As this is my first opportunity to address your Lordships since his death, I join those who pass on their condolences to his friends and family. Lord Carswell spent many years as a very dedicated public servant, including as Lord Chief Justice of Northern Ireland, as a Law Lord and as a distinguished Member of this House. We will miss his very wise and profound contributions.

I am also grateful to my noble friend Lord Dodds of Duncairn, the noble Baroness, Lady Hoey, and the noble Lord, Lord Murphy, for their references to the security forces. I intend to touch on that at slightly greater length in replying to the next group of amendments, but I concur with every word that was said.

As has become customary on the Bill, this has been a thorough debate. Before I respond directly, I would like to take a couple of moments to make an announcement in the Chamber. Last month, on 20 April, I laid in the Library of the House a paper setting out the selection process for the chief commissioner of the ICRIR. I am pleased to announce today that, following

[Lord Caine]
recommendations from the three Chief Justices across the United Kingdom, the Secretary of State has identified the right honourable Sir Declan Morgan KC to be appointed to the role of chief commissioner of the commission upon Royal Assent. The Secretary of State is today laying a Written Ministerial Statement providing more detail.

It is important that a chief commissioner be identified now in order to help victims, survivors and their families receive the answers they need with minimal delay, should this legislation receive Royal Assent. Sir Declan brings a wealth of experience from his previous role as former Lord Chief Justice of Northern Ireland from 2009 to 2021. A hallmark of his distinguished career has been his commitment to addressing the legacy of Northern Ireland's past. I am confident that he will bring the highest level of experience, expertise and integrity to this post, and that this will help build public confidence in the work of the commission.

Sir Declan will begin work early next month to identify other commissioners and design how the new commission will carry out its role. Formal appointment as chief commissioner will take place only following Royal Assent and the establishment of the commission, taking account of any further considerations and final requirements of the Act. In particular, the chief commissioner will lead the process to recruit the commissioner for investigations and provide a recommendation to the Secretary of State. The role is currently advertised and subject to a fair and open competition, with appointment on merit. I trust that noble Lords across the House will warmly welcome this appointment.

Baroness O'Loan (CB): Does it not seem slightly precipitate to be engaging the services of the chief commissioner and other commissioners when the powers and duties of the commission have yet to be decided by your Lordships' House? It seems to me that, notwithstanding the amount of time needed to establish the new offices, the Bill is not yet in a state in which the chief commissioner can approach commissioners and say to them, "This is what we're going to do, and this is how we're going to do it", because the House has not decided those issues.

Lord Caine (Con): As I just made clear in my remarks, the appointment is as chief commissioner-designate, and the formal appointment will not take place until after Royal Assent. That will take into account any further considerations that the House will have upon this legislation. It is important to enable the work of the commissioner to start now in order that, once Royal Assent is—I hope—received, the commission's work can begin without delay.

Baroness Ritchie of Downpatrick (Lab): Further to the question from the noble Baroness, Lady O'Loan, could the Minister indicate in more detail the functions that Sir Declan Morgan will undertake in this interim period before Royal Assent is given?

Lord Caine (Con): As I just said, the Secretary of State is laying a Written Ministerial Statement today which should be available very shortly, and I refer the noble Baroness to it for further detail on that.

Baroness Hoey (Non-Afl): Very briefly, could the noble Lord answer my question about who decided the salary and whether the person will be paid before Royal Assent?

1.30 pm

Lord Caine (Con): The salary is based on judicial pay scales, as set out by the Ministry of Justice. I cannot off the top of my head tell the noble Baroness precisely what day his remuneration will begin, but I will get back to her on that. However, it is consistent with the MoJ's judicial pay scales.

I turn to the amendments on criminal investigations, and first to Amendments 146 and 152 in the name of the noble Lord, Lord Browne of Ladyton. Under the Bill, the only existing criminal investigations that will be allowed to continue will be those where a decision to prosecute has been reached by the time of the Act's commencement, currently two months after Royal Assent.

As the noble Lord knows, it has long been the Government's view that to allow too many existing processes to continue alongside the ICRIR's establishment would dilute the commission's credibility as the sole investigator of Troubles-related deaths and serious injuries, and the wider objectives of the legislation to encourage information recovery and—an issue on which many noble Lords have touched today—the truth of what happened. In the Government's view, the legislation as drafted strikes the right balance between allowing existing criminal cases that have made significant progress in the prosecutorial process to continue while giving the ICRIR the space it needs to become established as the sole responsible body for these types of investigations.

The legislation does not prevent the new commission, once it is operational and subject to a request being made, resuming criminal standard investigations into deaths or serious injury which the police have been prevented from pursuing under Clause 34(1). As we have discussed many times in the past, the commissioner for investigations will have the full powers of a police constable.

Baroness O'Loan (CB): It has to be said that the powers of investigation conferred on the commissioner for investigations in the statute are not the same powers as the powers—for example, to access information, and other powers—which are held by an ordinary chief constable and his officers. The powers of investigation in the Bill are circumscribed by the role of the Secretary of State and the interventions which he can make.

Lord Caine (Con): I disagree with the noble Baroness. The commissioner for investigations will have the powers of a police constable and will have access to far greater information and records than is currently the case. We have been over this many times before. It is written into legislation that the commission will have access to far more archive and intelligence material than has ever been made available before.

The noble Lord, Lord Browne of Ladyton, quoted the decision of Armani Da Silva v the UK in regard to what constitutes an effective investigation. Again, we have debated this at length on previous days in Committee. To reiterate a point I made during those debates, the

commission, working together with public prosecutors and making full use of the police powers to which I have just referred, will be able to institute criminal proceedings against suspected offenders in cases where conditional immunity has not been granted.

In the Government's view, the absence of a prosecution or punishment outcome in individual cases where immunity is granted can be justified on the basis that the conferral of such immunity in a limited and conditional way is necessary to ensure the recovery of information about Troubles-related deaths and serious incidents that is extremely unlikely to come to light in any other circumstances. It is therefore consistent with the Government's stated objective to provide more information to victims and survivors of the Troubles in a timely and efficient manner.

In response to his question about the compatibility of the Bill with the Scotland Act 1998, it has always been our expectation that the power of referral will be exercised in consultation with the relevant prosecuting authorities, including the Lord Advocate, and I commit to consider this matter further in advance of Report.

In response to Amendment 154 in the name of my noble friend Lord Dodds of Duncairn, where a decision to prosecute has already been made, the case will be allowed to continue to trial and the individual involved will not be able to apply for immunity until its conclusion. If they are convicted of an offence, they will not of course be able to apply for immunity from that offence, as we have discussed previously.

Clause 6 designates the commissioner for investigations as a person having the powers and privileges of a constable, as I referred to a few moments ago, and they have access to the functions they need to carry out robust investigations.

On the very important Amendment 154A, in the name of my noble friends Lord Faulks and Lord Godson, I am very aware of the issues being raised following the Supreme Court ruling in 2019—indeed, I was a special adviser in the Northern Ireland Office at the time that that ruling was made by Lord Kerr. It has been brought back into focus following a court judgment in the past few days and I am aware of its importance. I hope my noble friend will understand, as he alluded to in his comments, that, given the lateness with which the amendment appeared and important legal considerations on which it touches, I am not in a position to give him or other noble Lords a full response today. But I do take on board the very powerful points made by a number of noble Lords: the noble Lords, Lord Butler of Brockwell, Lord Macdonald and Lord Murphy of Torfaen, my noble friend, Lord Howell, who reminded the House that he was indeed a Minister in the Northern Ireland Office in 1972 with some responsibility for these matters, and my noble friend Lord Sandhurst. All upheld the importance of the Carltona principle. As I say, I cannot give a definitive response today, but I do commit to discussing it further before Report and possibly returning to this when the Bill comes back on Report.

I turn to the group of amendments put forward by the noble Lord, Lord Browne of Ladyton, supported by the noble Baroness, Lady O'Loan, and other noble Lords, to address some of the concerns raised over the inclusion of a number of clauses. I begin by reminding the House that, as regards civil cases, over 700 writs were issued against the state in legacy civil claims before the First Reading of the Bill a year ago on 17 May 2022.

As has been stated many times, the Government's policy intent regarding civil claims is to reduce the burden on the Northern Ireland civil courts—which currently have a huge case load backlog to work through—while enabling the commission to establish itself as the sole investigative body looking at Troubles-related deaths and serious injuries. It is the Government's intent that families should no longer have to go through the strained civil court system in order to receive the answers they seek.

In the Government's view, there is a danger that these amendments in the name of the noble Lord and others would significantly dilute both of those aims, taking potential casework away from the ICRIR and putting it back into an already clogged system that on current estimates will take decades to work through. In our view, this is much less likely to provide answers for families in an efficient manner, which again sits in opposition to our stated aims.

On Amendment 156 specifically, filing claims can be done relatively quickly. This means that if a three-year grace period were to be given, it is possible that a huge number of claims would be filed, as a clear deadline would be in sight, and would remain in existence for a number of years. That would mean that the system would be hugely clogged up and have to deal with an even higher case burden than is currently the case.

Our current position will allow existing claims that were filed before the Bill's introduction to continue to conclusion while bringing to an end new processes, to ensure that not too many concurrent cases are running once the ICRIR is established. Clause 39(7) simply allows any civil cases where a final judgment has been reached before commencement to continue to conclusion, where they would otherwise be caught by the prohibition in Clause 39(1). We believe that this is a reasonable approach to ensuring that the prohibition on civil claims does not interfere with cases where the court has handed down a final judgment when the prohibition would otherwise apply.

I appreciate that coronial inquests are a matter of huge concern to a number of noble Lords. I gave a commitment that this Government would not rush the legacy Bill through this House, and that we would prioritise steady passage and provide ample time for continued engagement. That is what we have done, in good faith. As noble Lords will be aware, the original working assumption was that the ICRIR would be fully operational by 1 May 2023 at the latest, on the assumption that Royal Assent would have been received some time before then. At that point, the intention was that those inquests which had reached an advanced stage would continue, while those which had not would move into the new commission. It will not have escaped the attention of noble Lords that 1 May 2023 has come and gone without Royal Assent, and that the establishment of the new commission has not yet happened, largely due to the extra time that we have given for thorough consideration of this legislation. However, this raises important issues that we must address. I will discuss this further with noble Lords between now and Report.

[Lord Caine]

As the Bill has not yet become law, all current criminal justice processes may, for now, continue as normal. In that context, the noble Baroness, Lady O'Loan, asked me how many PSNI investigations have been initiated since the introduction of the Bill. That information rests with the PSNI, which, as the noble Baroness knows, is operationally independent from the Government, but I will seek an answer.

As Lord Chief Justice of Northern Ireland, Sir Declan Morgan demonstrated his leadership and his determination to provide answers for families of victims, through the work of coroners' courts in legacy inquests. Sir Declan's commitment to providing effective, efficient and independent coronial investigations won the respect and trust of countless families and the wider community in Northern Ireland. I am confident that he will take forward the work of the ICRIR with the same determination and commitment. The Government believe that once the commission is established there should be one process for investigating the past that is available equally to all those—I repeat, all those—who have lost loved ones, providing parity to all families, victims and survivors, while allowing other organisations to focus on contemporary issues.

While the coronial process has proved more effective than other mechanisms in providing information, accountability and acknowledgement to some families, including in some very high-profile cases, it is undeniably a resource-intensive process that can tackle only a small number of Troubles-related cases when compared with the many families who still wait for similar outcomes. The commission seeks to provide this, and it is worth reminding noble Lords that the commission will have easier access. The noble Baroness and I disagree here, but it will have easier access to more information than coronial inquests, through the obligation of full disclosure from relevant authorities, as outlined in Clause 5. This is particularly relevant to information that is national security sensitive. The commission will also have comparable powers to compel witnesses, and only on the basis of evidence will be able to make findings public via a final report, in a manner similar to an inquest.

The Government are confident that the legislation provides the chief commissioner with all the requisite tools to fulfil the commission's functions fully and effectively. Indeed, it is fair to say that any chief commissioner, given their senior status within the judiciary, will be very cognisant of the legal obligations on all public authorities, including the commission, to meet the requirements of the ECHR.

1.45 pm

Moving on, I brought forward Amendment 163, as the noble Baroness referred to, to clarify that the activity of the ombudsman which constitutes a criminal investigation can continue where a prosecution of a person has begun. Amendments 162 and 164 clarify that the ombudsman will be prevented from undertaking formal investigations in relation to referrals made, for example, by the Department of Justice, the Secretary of State or the ombudsman herself which relate to conduct forming part of the Troubles, in addition to preventing complaints made by members of the public. We want the ICRIR to be responsible for investigating Troubles-related incidents, so that police forces can get on with their day-to-day policing obligations and the Police Ombudsman for Northern Ireland can focus her resources on current policing issues.

On a similar note, Clause 41 as drafted makes provision that legislation in Northern Ireland dealing with police complaints and disciplinary proceedings will cease to apply to complaints relating to Troubles-related conduct made before the day the law comes into force, as well as complaints made on or after that date. Amendment 165 will ensure that the prohibition on police complaints relating to Troubles-related conduct applies consistently across the UK.

The noble Baroness pressed me on who investigates complaints concerning Troubles-related police misconduct. It is the function of the commission to review deaths and serious physical or mental harm, and it would be possible for this to relate to an incident that was the subject of a police complaint or otherwise relates to the conduct of the police.

Finally, a number of noble Lords referred to the possibility of amendments and to the comments made by my right honourable friend during Northern Ireland Questions yesterday. As I have made very clear throughout the passage of the Bill, I have never viewed the amendments I have brought forward and that have been debated in Committee as the end of the story. It would be unusual for me to trail amendments on Report before we had actually finished Committee, but, as a number of noble Lords have been kind enough to point out, the one thing I do not think I can be criticised for is a lack of openness and engagement.

As the noble and right reverend Lord, Lord Eames, knows, I made clear at Second Reading that this is challenging legislation—it has been challenging for me from the outset—but my commitment has always been to try to bring forward amendments that will improve it, putting it in a better state to go back to the House of Commons. That commitment will continue through to Report. On that note, I request that the noble Lord, Lord Browne, withdraw his amendment.

Baroness O'Loan (CB): Before the Minister sits down, will there be any process by which complainant compensation or damages can be awarded after Clause 39 comes into effect, or will anybody who was injured or whose loved one was killed have no right of action at all and no route to compensation? Is this the end of the road for any right to compensation in Northern Ireland?

Lord Caine (Con): As the noble Baroness is aware, claims that were filed before the introduction of the Bill last year will be allowed to continue, but there will be a cut-off thereafter. As she is also aware, other avenues are available for compensation which Parliament has introduced in recent years, such as payments for those who were injured and so on in the Troubles.

Lord Browne of Ladyton (Lab): My Lords, I will be brief. I thank the Minister for his characteristic way of responding to debates such as this. Subject to a few interventions on parts of the argument that noble Lords thought he had not dealt with, he covered the

debate, as he always does, very comprehensively. He is probably the most open Minister I have ever been involved with in debates in your Lordships' House. He did it at speed, though, so this issue probably bears some consideration between now and Report. In any event, he is inviting us to do that and will be doing it himself.

I thank all noble Lords who have contributed to the debate. My amendments were probing in nature, but once grouped with the amendments from the noble Baroness, Lady O'Loan, and the noble Lord, Lord Dodds of Duncairn, this became a comprehensive debate on issues that the noble and right reverend Lord, Lord Eames, correctly described as, in the view of many, the greatest failure of this legislation. This debate is about the scale of that failure. I admire the Minister's ability always to defend the Government's policy intent, but we have an argument with that intent. The fundamental challenge of this debate is that others, almost universally, think that the policy intent is wrong and that the sacrifices having to be made in other areas, such as the needs of survivors and victims, should not be made. In any event, I do not propose to say anything further on this.

Before I sit down, however, I must make some reference to Amendment 154A, and I do this in a personal context. Between 2001 and 2003, I was a Parliamentary Under-Secretary of State in the Northern Ireland Office. I signed a number of warrants—thankfully, none authorising an interim custody order—some of which were on behalf of my noble friend Lord Murphy of Torfaen when he was Secretary of State. So, if the implications of the current state of the law are sufficiently far-reaching, they may reach me as well. I am not sure that they are: I got notice of this amendment very late and have had insufficient time to look at it and its implications.

The noble Lord, Lord Faulks, will appreciate that, while, on the face of it, I was persuaded of the importance of this amendment—or at least part of it—by his introduction and the other contributions, I will keep my powder dry until Report, when I am sure it will come back. In the meantime, I beg leave to withdraw the amendment.

Amendment 146 withdrawn.

Amendment 147 not moved.

Clause 34 agreed.

Clause 35: Grant of immunity: prohibition of criminal enforcement action

Amendments 148 and 149 not moved.

Clause 35 agreed.

Clause 36: No grant of immunity: restrictions on criminal enforcement action

Amendments 150 and 151 not moved.

Clause 36 agreed.

Clause 37 agreed.

Clause 38: General provision and saving for ongoing pre-commencement action

Amendments 152 to 154 not moved.

Clause 38 agreed.

Amendment 154A
Tabled by ***Lord Faulks***

154A: After Clause 38, insert the following new Clause—

"Authorisation of interim custody orders under the Detention of Terrorists (Northern Ireland) Order 1972

(1) Article 4 of the Detention of Terrorists (Northern Ireland) Order 1972 is to be treated as always having had effect as authorising an interim custody order under that article in relation to a Troubles-related offence to be made by and with the authority of any Minister of the Crown whose signature was required for the making of such an order (and not just by and with the authority of the Secretary of State personally).

(2) Subsection (1) does not revive any criminal conviction quashed before the coming into force of this section.

(3) But a person whose conviction for any Troubles-related offence (whether or not quashed) or whose detention (whether or not as a consequence of such a conviction) depended, directly or indirectly, on the validity of such an interim custody order is not entitled, by or under any enactment or otherwise, to receive any damages or compensation in respect of that conviction or detention if the only reason for impugning its validity relates to whether the order was made by and with the authority of the Secretary of State, personally.

(4) Subsection (3) applies irrespective of whether the claim for damages or compensation was made before or after the coming into force of this section."

Lord Faulks (Non-Afl): I thank all those who took part in the debate for the support that has been given—wholeheartedly in some instances and with some reservations in others. I am grateful for the debate that it generated. I am also grateful to the Minister for his helpful response. I wholly understand why he was not able to give a fuller response at this stage, and I welcome his reassurance that we will visit the matter between now and Report. This is an important amendment, as I endeavoured to make clear during the course of the debate. It is important in terms of the large number of claims which may result from the decision and in establishing once more the primacy of the Carltona principle in the way the Government work.

Amendment 154A not moved.

Clause 39: Tort, delict and fatal accident actions

Amendments 155 to 161 not moved.

Clause 39 agreed.

Schedule 8 agreed.

Schedule 9: Civil actions to which the 2008 Mediation Directive applies

Amendments 161A and 161B not moved.

Schedule 9 agreed.

Clause 40 agreed.

Schedule 10 agreed.

Clause 41: Police complaints

Amendments 162 to 165 not moved.

Clause 41 agreed.

Clause 42 agreed.

Amendment 166

Moved by ***Lord Hogan-Howe***

166: After Clause 42, insert the following new Clause—

"Amendment of the Code for Prosecutors for Troubles-related offences

In section 37 of the Justice (Northern Ireland) Act 2002 (Code for Prosecutors), after subsection (3) insert—

"(3A) The code must ensure that the views, interests and well-being of victims, and of the families of deceased victims, are considered when determining whether criminal proceedings should be instituted for a Troubles-related offence.

(3B) In relation to a Troubles-related offence the code must take account of—

(a) the likelihood of the accused re-offending,

(b) the time elapsed since the offence,

(c) the volume and seriousness of the crime, and

(d) the character and behaviour of the accused since offending.""

Lord Hogan-Howe (CB): My Lords, I must make an apology because the noble Lord, Lord Hain, is unable to be in his place and I did not leap up quickly enough to speak to Amendment 147. I shall infuse into my comments on Amendment 166 some of what I would have said on Amendment 147.

My approach here is going to be brief. I am no expert on Northern Ireland. There are many people who live there and are experts. I spent two years as HMIC for the Police Service of Northern Ireland and I was head of the Met, which leads on counterterrorism investigations for the United Kingdom. That is the extent of my experience.

My interest in this Bill stems from a couple of things. First, my instinct is always that murderers and others who commit serious crime should not get away with it. However, I would subsume that interest if the people involved believe that no further action should be taken. The more this Bill has been heard in its various stages, the more I have been persuaded that no one from Northern Ireland supports this Bill and nor do many other people, which makes it rather difficult to support it in principle. My comments are really about how to mitigate some of the damages, should the Bill became law rather than whether it should become law, because it seems that it does not have the support of the people of Northern Ireland or, most importantly, the families and people who were most affected by the Troubles.

2 pm

In Amendment 166, we are trying to improve the DPP code relating to prosecutors. Account must be taken of the views of the families and those most affected before a prosecution decision is made not to prosecute. The amendment also looks at whether they consider the number of offences that might have been committed, the amount of time since they were committed and what involvement some of the people have. We think that would improve the way that these judgments are made.

I was not able to speak to Amendment 147, but what really concerns me is that under Operation Kenova, which has been talked about an awful lot in various discussions in this House, 127 incidents are already being investigated by that team, and there are presently over 30 files with the DPP, as there have been since February 2020. That means there is a series of families who are waiting for an answer. It also means that an awful lot of witnesses have come forward and put themselves at risk already. For them to have taken that risk but then to find that there is no further action—neither a charge nor a court hearing where that would be appropriate—seems to be a significant failure of duty on behalf of the Government to the people who have put themselves forward to take those risks on our behalf.

Any investigation has various stages. The first is engagement—talking with the families and building a level of trust. The team seems to have done that in some very difficult circumstances, particularly where the state is alleged to have been involved with some of the attacks. That has taken an awful lot of work, and to destroy it at this stage in these cases would be rather terrible because that trust, hard-won, is easily lost, and I argue that this is not the time to do that.

Of course, the investigation itself takes some time. A file has to be prepared. We have heard already that there are many files with the DPP, and surely what has to happen is that those files are considered and eventually all the investigations are completed. I realise that this is difficult for the Government because it would mean shifting the line by which they will allow the commission to start its work, but in the case of Kenova it is vital that these cases are considered and allowed to continue into the future.

Lord Caine (Con): My Lords, I am grateful to the noble Lord, Lord Hogan-Howe, for his intervention on this amendment. We have debated these issues at length so I do not propose to detain the House for long at this stage, but I commit to speaking further with him and the noble Lord, Lord Hain, in whose name the amendment stands.

The noble Lord has referred to Kenova. I am on record as saying that we are deeply appreciative of the work of Jon Boutcher and the way that he has gone about his business over the past number of years. As I say, I do not intend to detain the House, but I will engage with both noble Lords between now and Report.

Lord Hogan-Howe (CB): I thank the Minister for his assurance and beg leave to withdraw the amendment.

Amendment 166 withdrawn.

Amendment 167 not moved.

Schedule 11: Prisoner release

Amendments 168 to 170 not moved.

Schedule 11 agreed.

Clause 43: Oral history

Amendment 171 not moved.

Clause 43 agreed.

Clause 44: The memorialisation strategy

Amendment 172

Moved by ***Lord Dodds of Duncairn***

172: Clause 44, page 35, line 25, at end insert—

"(2A) The designated persons have an overarching duty to ensure that no memorialisation activities glorify the commission or preparation of Troubles-related offences."

Member's explanatory statement

This amendment is intended to ensure that designated persons responsible for making recommendations about the initiation and carrying out of relevant memorialisation activities are under a duty to prevent the glorification of Troubles-related offences.

Lord Dodds of Duncairn (DUP): My Lords, in this group we have come to memorialisation. I want to say a few words on the amendments in my name and those of my noble friends. Amendment 172 is

"intended to ensure that designated persons responsible for making recommendations about the initiation and carrying out of relevant memorialisation activities are under a duty to prevent the glorification of Troubles-related offences".

Clause 48 says that "designated persons" carrying out the Troubles-related work programmes

"must have regard to the need to ensure that—(a) there is support from different communities in Northern Ireland for the way in which that programme is carried out, and (b) a variety of views of the Troubles is taken into account in carrying out that programme".

This focus on "a variety of views" is problematic given that, sadly, a significant number of people in our community repeatedly not only refuse to disavow violence and terrorism but go further and eulogise and glorify acts of terrorism.

They want to put on a pedestal those who carried out acts of violence. They do this through parades, vigils, rallies and the installation of memorials and so on at sports grounds, on housing executive property and on roadsides. This is to continue what has been referred to throughout these debates as the revision of history—the rewriting of the history of the Troubles, so that those in the security forces who stood fast in the way of terrorism are denigrated to a large extent in the eyes of some. The terrorists are elevated by some to have been engaged in noble acts of warfare.

The noble and right reverend Lord, Lord Eames, referred to his experience. The sad reality is that we know the sordid, grubby, filthy acts of terrorism and violence that were carried out against innocent men, women and children daily in Northern Ireland, at times on the mainland as well and even on the continent of Europe in pursuit of the aims of violent men and women of terrorism.

Look at some of these daily events. Children witnessed the murder of their father or mother. Wives ran down lanes having heard the gunshots that cut down their farmer husband at the end of the lane. Consider the case of a young wife who had just given birth in hospital and who had been visited by her husband. As he left and went down into the car park, he was murdered. Then, at the funeral, they gloated over his murder. I know a young boy—now a man—who had lost his mother. His father was made to kneel down and was shot through the head in front of him; he ran down the lane to try to get help.

This is the reality of terrorism and what these people carried out, yet we have a situation where these people are eulogised and young people in Northern Ireland are shouting "Up the Ra". We have a designate First Minister of Northern Ireland who says she wants to reach out to people but who continually goes to the eulogies of terrorists, continually defends the actions of terrorists and men of violence and puts these murderers on a pedestal. Until Sinn Féin disavows that, it will never reach out successfully to the unionist community or indeed to families on all sides of the community.

There will never truly be a peace process and a political process in Northern Ireland that is stable and enduring unless people move forward and stop eulogising violence. It is one of the main causes of community dislocation and the continued problems that we have in Northern Ireland. We are told continuously to move ahead, but these people continue to point backwards and eulogise the actions of terror. Today, in 2023, they are still doing it.

My Amendment 172 is intended to ensure that the designated persons will not have as part of their duties allowing terrorist activities to become the subject of glorification or justification—they should be under a duty to prevent this. They cannot be held to ransom by those who would rewrite history.

My Amendment 173 is intended to ensure that only innocent victims are included as victims in the memorialisation strategy under the Bill. It is critical that any Troubles-related work programme does not give credence to terrorists injured or killed by their own hand. They should not be considered victims in the same way as those whom they went out to maim and murder. The need to avoid drawing a moral equivalence between the victim and the perpetrator has been accepted as part of the Troubles permanent disablement payment scheme. We on these Benches and in the other place fought hard and long to ensure that that distinction was made, and Regulation 6 of the 2020 regulations made that part of the law. It is time that we saw this reflected in primary legislation. There should be a UK-wide definition of a victim that does not include the perpetrators of violence.

Baroness Hoey (Non-Afl): My Lords, I support everything that the noble Lord, Lord Dodds, said and his Amendments 172 and—in particular—173; it has been a long time coming, and we need to make that definition of victim the same across the United Kingdom.

I will speak to my Amendments 174ZA and 174A. Amendment 174ZA addresses a problem with the Government's funding body, UK Research and Innovation—UKRI—councils. Many of us who are interested in legacy are concerned about what seems the one-sided nature of much of the academic research into our past and the way that UKRI funding has

[Baroness Hoey]
been monopolised by what seems to be a single legal view. That view is radical and investigates faults only with the United Kingdom state and its security responses during the Troubles.

I cite here Queen's University's transitional justice department, which produced the model legacy bill referred to by the noble Lord, Lord Murphy, and others. Almost alone, that department has received some £4 million in UKRI funding. It works in conjunction with the Committee on the Administration of Justice, a largely nationalist body in Belfast that encourages legacy litigation. I note with concern that the speakers' list at the transitional justice institute's seminars during the events at Queen's University on the recent 25th anniversary of the Belfast agreement was drawn from one outlook only.

The wording of my Amendment 174ZA stems from an Answer that I received on 8 November last year from the noble Lord, Lord Callanan. He said that UKRI funding on legacy

"is allocated according to research excellence as assessed by independent peer review".

I am aware—I am sure that many noble Lords will also be—that peer reviews can often become what you could call "chum reviews", especially when few other academics work in the same field. One academic, Dr Cillian McGrattan, wrote that

"the UKRI record does not bode well for the government's plan to create a multi-disciplinary history that encourages the acceptance of 'different narratives' that transcend and challenge ethnic taboos; that is plural rather than single-identity; that is based upon the actual historical record rather than after the event collective and communal memories; and that fosters reconciliation rather than continued division".

This lack of balance of legacy and justice at Queen's University makes it essential that the Bill has more safeguards about academic diversity and fair funding—hence this amendment, which dovetails with others in the group that the noble Lords, Lord Godson and Lord Bew, have endorsed.

2.15 pm

I turn to Amendment 174A, also to Clause 46, which speaks about the production of an analysis of patterns and themes in events during the Troubles, addressing in particular the experience of women and girls. This rightfully mentions what constitutes a majority of the population. My addition refers to researching the experience of the gay and lesbian community. This is a small minority—2.1% of our people, according to the recent census figure—but it figured centrally in disputes and debates throughout the decades of the Troubles, perhaps more so than any other group outside the two main communities.

The process from decriminalisation to now gay equality was effected in a long series of legislative steps, always at Westminster. My good friend Jeff Dudgeon, of the Northern Ireland Gay Rights Association, was a successful plaintiff in Strasbourg against the UK Government in a case which ran from 1975 to 1981. He initiated what was to become a tortuous reform process, after decriminalisation by the Government in 1982. Some eight further pieces of legislation were involved over the decades.

I played my small part back in 1994. The issue then was the gay age of consent which, for England and Scotland, was brought down from 21 to 18 by the Criminal Justice and Public Order Act. John Major's Conservative Government had, once again, left Northern Ireland out of the proposed gay law reform. I said then:

"I am sure that the House would not want homosexual people in Northern Ireland to suffer inequality under the law".—[*Official Report,* Commons, 12/4/1994; col.171.]

Tony Blair, who was then Shadow Home Secretary, helped me whip sufficient support from MPs across the parties, enabling my amendment to win by 254 votes to 141.

The particular reason why the gay community's experience needs addressing is that it suffered—as we all did—from death and injury through killings, bombings and shootings by illegal organisations. It then had, separately, to face those organisations when they brought further death and destruction just to the gay community. That even occurred after the 1995 ceasefires, in the case of a police officer, Darren Bradshaw, who was murdered by the INLA in the Parliament bar in 1997. The BBC is currently broadcasting a series about it entitled "Blood on the Dance Floor". The Reverend David Templeton was murdered by the UVF in the same year. Their killings followed a series of bombings of gay venues over 30 years by the IRA and loyalist paramilitaries, and of murders of gay men—often off the street—especially in the darkest days of the 1970s.

Academic research can provide not just a record of those events but a valuable analysis of how life amidst death occurred in the gay community. I sincerely hope that the Minister will see the justice in this amendment and make it one of the NIO's promised additions on Report.

Baroness O'Loan (CB): My Lords, this part of the Bill provides for history and memorialisation. It is about creating as true and honest an account as possible—one which has integrity—of what happened during our tortured, troubled past.

This is hugely sensitive. I hear what the noble Baroness, Lady Hoey, has said. All I will add is that, given the fact that the eyes of the whole community will be on those who are attempting to deal with these matters, it is vital that there is equity and fairness for all.

I fully support Amendment 172 from the noble Lord, Lord Dodds, in particular. It is right that no memorialisation activities glorify the commission or preparation of Troubles-related offences. We see at regular intervals events from different sections of the community, not just the republican community, which glorify individuals who contributed to atrocities and occasions that caused immense pain to so many of us, but particularly to those whose loved ones died or were permanently maimed in the attack being celebrated. Such events cause great pain; they can reignite the terrors and agony of the post-traumatic stress disorder suffered by so many as a consequence of these events. There is no justification whatever for the glorification of terrorism.

Lord Weir of Ballyholme (DUP): I rise to support the amendments tabled in my name and the names of the noble Lord, Lord Dodds, and others, but also to

give a broad welcome to this group in its entirety—notwithstanding some of the major concerns that have been expressed by ourselves and others from across the Chamber about the overall contents of the Bill. From that point of view, no amendments can make the Bill itself acceptable. Nevertheless, actions that we can take to deal with the issue of memorialisation have a level of importance.

Memorialisation can be a force potentially for good, but we also need to be aware that it can also be a major force for further problems and further evil. If done correctly, memorialisation can be beneficial in helping to remember innocent victims and, one hopes, helping towards a level of reconciliation. If we get the conditions right, that can be something of benefit to society and, potentially, to some families. But there is a real danger that memorialisation can be got wrong, which is the thrust of the amendments that we have proposed. It is about trying to provide a level of consistency.

As in previous groups of amendments, we are talking about the real danger of a glorification of terrorism, which must be prevented—certainly from anybody who seeks to benefit from this legislation. It is also the case that, if memorialisation is used as a back door to glorify or justify terrorism, it would be deeply damaging to society. It is not simply a question of rubbing salt in the wounds of the innocent victims and their families—although, if there were no other consideration, that would be a reason why Amendment 172 needed to be proposed and supported completely. But, as the noble Lord, Lord Dodds, indicated, it goes beyond simply dealing with the legacy of the past; it is about the implications for the future and the present day.

We have a generation growing up who did not experience the Troubles but who are clearly susceptible to the message that there was no alternative to violence in the past and that terrorism could be justified today and into the future. That is not simply an academic concern or one that might be moot. We have seen dissident organisations sucking in those young people to be directly involved in terrorism. That is the real danger for the future. Let us send out by this legislation, or at least through these amendments that we are putting forward, a very clear and unambiguous statement: there was always an alternative to violence. That is why, throughout the entire history of the Troubles, there was never a majority in either community for violence; it was opposed by the ordinary people throughout, and it was a minority on both the loyalist and republican sides who engaged in that terrorism and the wickedness and pain that it caused. It is critical that we send out the clear message that there was no justification for terrorism and that there was always a democratic alternative.

Allied to that, we cannot be ambiguous about those who went out to perpetrate the evil of terrorism, from whatever side they came, and those who were the innocent victims. Therefore, it is right that we draw this distinction, which is in line with some changes that the Government have made in other spheres. That is why Amendment 173 is also critical.

It is also the case—and why I welcome the amendments of the noble Lords, Lord Godson and Lord Bew, and the noble Baroness, Lady Hoey—that, overall, it is critical that memorialisation is approached with academic rigour and diversity, and a balanced approach that provides a fair and accurate summary of what happened. Again, if this is a one-sided process or one that in some way gives some level of light to those who would argue for violence in the past, it will do irreparable harm. Therefore, the academic approach that needs to be taken is critical.

I have a good deal of sympathy for the amendment of the noble Lord, Lord Godson, on an overall tone in regard to the Troubles. One thing that has struck me as a former Education Minister is that, unfortunately, at times, we see the ignorance of history. We see young people who simply do not know what happened. It is therefore important that we educate people in a neutral and fair way. There is no doubt that there are contested opinions and views as regards Northern Ireland but there cannot be contested facts. That is why we need to approach this with a level of academic rigour, and that is why I welcome the amendments.

Finally, there is an iterative process to be done, particularly with victims' families, regarding memorialisation. It may well be that, as part of that process, there is the gathering of an oral history of the stories of the Troubles. It is important that people are able to do that through organisations with a good track record of fairness and balance, and organisations which we can trust. I declare an interest as a member of the Linen Hall Library, which for many years has taken a wide range of views and worked with all parties on reflecting the troubles in a fair and historic manner. It is a role that the library and others can play. We need to make sure that that is not one-sided or biased in any way, and in particular that we draw a clear-cut distinction between, on the one side, the vast majority of people in Northern Ireland who simply wanted to get on with their lives and the victims, and, on the other side, the perpetrators.

Baroness Foster of Aghadrumsee (Non-Afl): My Lords, I support all the amendments in this group, in particular those in the names of my friend the noble Lord, Lord Dodds, the noble Lord, Lord Godson, and the noble Baroness, Lady Hoey. This is an important issue. The last time we were in Committee on the Bill, the noble Lord, Lord Eames, was speaking about reconciliation, and we spent some time on that. Reconciliation will come only if there is an understanding that the things that happened in the past in Northern Ireland were wrong. To do that we need a factual history, because there has been a lot of rewriting of what has happened in Northern Ireland over the past 35 or 40 years.

Just this week, Gerry Adams was reported to have spoken in a podcast to Rory Stewart about the attempted murder of Baroness Margaret Thatcher back in 1984. When he was challenged by Rory Stewart about the violence, Gerry Adams said, "We never went to war, you came to me". That is a skewed view of what happened in Northern Ireland in the 70s and 80s but a predictable source of rewriting of what went on at that time. But sometimes we have unpredictable sources of rewriting. It was distressing, not just for victims of terrorism but for many of us living in Northern Ireland, to hear the current Secretary of State, in an address to Queen's University at the 25th anniversary event that the noble Baroness, Lady Hoey, mentioned, refer to

[Baroness Foster of Aghadrumsee]
Martin McGuinness, a self-confessed IRA commander, as a man of courage and leadership. That was astonishing, and many victims voiced their opinion and distress at those comments. Ann Travers, a victims' advocate whose sister was murdered by the IRA on her way home from mass, said that those comments insulted innocent victims of republican terrorists. And so it continues, this rewriting of what actually happened in Northern Ireland.

Last year, we had the putative First Minister of Northern Ireland, Michelle O'Neill, telling us that there was no alternative to the violence that happened in Northern Ireland—no alternative to terrorism: that there was no alternative to the bomb in Enniskillen in 1987, when people went to remember the dead of the World Wars; that there was no alternative to the attempted murder of my friend the noble Lord, Lord Dodds, when he visited his son in hospital; that there was no alternative to placing a bomb on the bus that I was going to school on because the man driving the bus was a part-time member of the Ulster Defence Regiment. What about the alternative to lying in a hedge and waiting for police officers coming home from their day's work, only to murder them as they stepped out of their cars?

2.30 pm

The reality is that of course there was an alternative—there was always an alternative. That is why we need a factual history of what happened in Northern Ireland. I strongly support the amendment of the noble Lord, Lord Godson. It is so important that we do not have a one-sided, warped agenda as to what happened in Northern Ireland. It is important for three reasons. First, for historical reasons and context, it is important to have the facts. Secondly, as we have already heard today in the context of memorialisation, it is important that the young people of today are not encouraged by what happened in the past or by glorifying those acts of terrorism. I was deeply disturbed when, after the attempted murder of Chief Inspector John Caldwell, there appeared posters in Omagh encouraging young people to become involved with dissidents. That is the consequence of glorifying past terrorism. Thirdly, it is important because we cannot have equivalence between those people who stood between the community and terrorism and those people who committed these dreadful acts and heinous crimes against the wider community in Northern Ireland.

I strongly support the amendments in this group. I hope that my friend the Minister will listen carefully to the very clear need to have memorialisation in an appropriate way and to have a historical, fact-based history of what happened in Northern Ireland.

Lord West of Spithead (Lab): My Lords, I support Amendments 174B in the name of the noble Lord, Lord Godson. I apologise to the Committee for not having been here at the beginning of the debate, but I was buried in a Secret Squirrel Intelligence and Security Committee meeting for four hours, which I have just managed to break out of.

Almost on a daily basis, for many years through the Troubles, members of the IRA and its splinter groups went out to cause death and mayhem on the streets of Northern Ireland. On a daily basis, the police and the Army went out with the aim of looking after the security and safety of the people in Northern Ireland. There is no moral equivalence whatever, yet there seems to be a surge of information that paints a different picture of what actually happened. We need a clear, objective view of the things that happened there.

It was a dreadful period, as has been said by a number of speakers. People did not need to be involved in terrorism; they could have achieved things in other ways. This needs to be highlighted and shown, but we obviously need an objective and proper history of what happened, which people can read and have easy access to. For example, towards the end of the Troubles, the Army and police had learned lots of lessons and were doing things better, and the terrorist groups had been penetrated and all sorts of things were happening to them. These things need to be reflected in the history, so that we know what went on. It is very important that we have accurate, precise, unbiased history, so that future generations can understand this. Apart from anything else, they will understand that terrorist violence does not really achieve your aims; that needs to be laid out starkly.

Lord Godson (Con): I shall speak to Amendments 174 and 174B to 176. I thank noble Lords across the Committee for their support for these amendments, including the noble Lords, Lord West, Lord Robertson of Port Ellen and Lord Carlile of Berriew, in particular. I spoke at Second Reading about the memorialisation of the Troubles and expressed my concerns that the oral history project commissioned by the Bill will be politicised and will become another weapon in the battle to recast the Troubles from an anti-state perspective that seeks to justify the actions of terrorists and to denigrate the security forces, as noble Lords have pointed out. Any attempt at equivalence between those who upheld our civic values and law and order for those three decades and those who waged Europe's worst terrorist campaign must be robustly guarded against.

One defence against this blatant revisionism designed to retell the Troubles as a conflict which republicans had no choice but to fight is the production of an official history based on proper and considered documentary evidence. The Government have confirmed that they are now committed to such a history, but there is still no mention of it in the Bill. No doubt, there are reasons for this: after all, legislation is not needed for an official history and there is still an official history programme for which, in theory, this could be produced. However, it needs to be said now that there are major problems in excluding an official history from the scope of the Bill. The official history programme budget remains small and is not designed for a project of this scale, nor to deliver it in time for it to realise the purposes which the Government have in mind.

The subject matter of the Troubles, as has been rightly pointed out, is vast, with official documents from many government departments in London and Belfast, as well as from the agencies—the RUC previously and the PSNI, perhaps, now—and the Army. It is a task for a team of historians, supported by researchers, requiring a level of funding well beyond the parameters and experience of the current official history programme. It would hardly dent the £250 million already set aside

by the Northern Ireland Office for the legacy projects set out in the Bill, as stated in the UK government response to a question from the Committee of Ministers in Strasbourg in June of last year.

An official history also needs to be published at a price that is in reach of ordinary readers and marketed to them, not least those in Northern Ireland, who deserve to be able to read it for themselves. This does not fit into the current official history programme's publishing model, with limited print runs and prices, in some cases, of £40 for a paperback and £130 for a hardback—prices that self-evidently exclude the vast majority of the public. All this cannot be right; it would be a serious mistake and it should be rectified.

Producing an official history of the Troubles that can play its role in addressing legacy and reconciliation is possible only by placing the requirement for production of an official history within the Bill and giving the Secretary of State responsibility for ensuring that it is completed in time to be a support to the broader memorialisation strategy. Established on this basis, it will provide a major additional—and credible—strand of that memorialisation and will add much value across the whole programme. I believe that that would also be its chief legacy.

With that in mind, I am proposing, in Amendment 174B, a new section to follow Clause 46, to ensure that a public history—this being the term recommended by Sir Joe Pilling, the former Permanent Secretary at the Northern Ireland Office, in his 2009 review of the official history programme—is produced. The expression "official history" suggests that it is the Government's view that is being put forward. Historically, that has never been the case: official histories are authored by leading historians granted access to official papers. A public history, recast as such, far better reflects what it is, and all this deserves to be in the Bill.

There are other matters of concern about the proposals for academic research set out in the Bill. A substantial role will be accorded to the UK Research and Innovation councils, which will determine the projects to be funded under it. Over the last 15 years they have financially supported the work of a small group of "transitional" academics at Queen's University Belfast, referred to by several noble Lords. This is associated with the Committee on the Administration of Justice, a lobby group focused largely on state-perpetrated violence and abuse. This has created what Dr Cillian McGrattan of the University of Ulster, whose work has been referred to, has called

"a monopolistic capture of legacy ideas, ideology and policy within Northern Ireland".

Not only are non-violent unionist and nationalist voices and their collective memory unwelcome, but the voices of those who were oppressed and manipulated by terrorist gangs in their own neighbourhoods on whatever side of the divide are unlikely to be sought, even though they are among the most affected communities. Were such a monopoly to be replicated in the academic research into the Troubles, as the Bill presently proposes, it would be contrary to two of the six Stormont House agreement principles: that it promote reconciliation and that it be

"balanced, proportionate, transparent, fair and equitable".

To address these matters, I tabled Amendments 174, 175 and 176 to Part 4 of the Bill, requiring that memorialisation activity promotes a culture of anti-sectarianism, that the advisory forum is not dominated by any particular ideology or outlook and that in carrying out their duties the designated persons should have due regard to the historical records of deaths as required under Clause 24 of the Bill.

Lord Swire (Con): My Lords, I crave your Lordships' indulgence as a relatively new Member of the House—in fact, you can still smell the leather on my satchel. I came into the House only towards the tail end of last year, so I was not even here when this Bill came from the other place. As those who know me will be aware, I was a Minister of State for Northern Ireland between 2010 and 2012 and continue to have a passionate interest in not only what goes on there currently but what has happened in the past.

I am acutely aware of the divisions that a very one-sided approach can cause. As my noble friend the Minister will know—he was our esteemed special adviser at the time and was far more involved than I—I was a Minister of State during the publication of the Bloody Sunday report, on which David Cameron did extremely well, and the Finucane report we commissioned from Sir Desmond de Silva that followed in 2012. I gently point out that the Saville inquiry cost about £191 million by its end; we do not want to replicate that in this instance.

I support my noble friend's eminently sensible amendments. I remember discussing all kinds of issues surrounding truth and reconciliation, such as whether to have a South African model—we went round and round in ever-decreasing circles. Critical for any public history of what went on is the co-operation of the bodies that were involved in some way, ranging from the DFA in Dublin and, critically, the Irish Government to the Security Service, Libya, the Church, Sinn Féin, former loyalist paramilitaries, perhaps the Royal Archives and Washington. We would want all these organisations to come up with any evidence that would contribute towards what we are all trying to get: an official version of the truth which everyone can subscribe to. Of course, not everybody will—there will be those who maintain their own versions of the truth, as we have heard today, but if we can get cross-party consent for such a history, we will move the dial on this.

I reiterate my support for the amendments. It was the 18th-century philosopher Jean-Jacques Rousseau who said:

"Falsehood has an infinity of combinations, but truth has only one mode of being".

This public history could be just such a mode.

2.45 pm

Lord Bew (CB): My Lords, I rise to support the amendments in my name and the name of the noble Lord, Lord Godson, and to comment on Amendment 174B in particular; he has given a full exposition of the thinking that lies behind it. I would like to add one thing, and one thing only, to his exposition: the reference to the way in which the Saville inquiry created a kind of patent for this type of investigation. We definitely

[LORD BEW]
need a public history. I have long been an advocate of it; it is now a point in time when it is a job for a younger cadre of historian to carry out the work.

Let us stop and think what happens if we do not do that. I was a historical adviser to the Bloody Sunday inquiry, which led to the very eloquent apology given by David Cameron, to which the noble Lord, Lord Swire, referred. As a professional historian, you are often scrubbing around for documents, pleading with the Government and the Public Record Office for them. The amazing thing about the inquiry was that they were delivered to my door by trucks, and the material is still in my garage, now published by the Saville inquiry. It lays out a lot of really sensitive stuff: Cabinet minutes and discussions about Northern Ireland which were not then in the public domain—they mostly are now, but they certainly were not at the time of the inquiry—and intelligence documents about the debriefing of IRA informers and discussing the role of Martin McGuinness. These are really sensitive things which were released to me to work on. I produced an analysis which played into the statement to the inquiry by Christopher Clarke KC. In a Leverhulme lecture on contemporary British history, I was subsequently allowed to give my own take on what those documents meant.

That is why I strongly support Amendment 174B: that type of openness should be the patent for any subsequent work or research carried out. The world did not fall in; I have tried to indicate that this material was sensitive—it included discussions between the most senior military officers in the days and weeks before Bloody Sunday. This was not low-grade stuff. We did it, we published it, we took an honest decision about what it all meant—there was other evidence that Lord Saville had to consider—and we had the final conclusion, reached by David Cameron. However, if we say, "That's it", we will be saying that the only real public history the UK Government are interested in is—let us be clear—one of the very embarrassing moments of British history and the British state's role in Northern Ireland, and that we are not interested in the rest of it. We will reveal stuff, and spend money and resources for that purpose, but we are not going to discuss in the round what really happened, which will inevitably lead to other occasions which are less than glorious.

None the less, it seems to me a simple proposition: if you do not support this proposal for a public history, you are saying that we need to deal only with that one particular inquiry—that is all; the rest is closed. For some reason not clear to me, it is the only time we are going to open to scholars the sensitive material which will allow—as it did—a full evaluation of the political, military and other dimensions to Bloody Sunday. It is in the interest of totality and a broader approach to history that I strongly support Amendment 174B.

Lord Bilimoria (CB): My Lords, I support the noble Lord, Lord Godson, and Amendment 174B, to enshrine in law the duty of the Secretary of State to ensure the production of an independent public history of the Troubles. I came as a boy, accompanying my late father, General Bilimoria, when he was a lieutenant colonel attached to the British Army at the School of Infantry in Warminster. Even as a young boy, I can remember the high security, the fear under which everyone lived, and the sad stories of people we knew and heard about on a regular basis. Fast forward to when I came to London as a student in the late 1980s, and then when I started my business: we lived under this fear, on a constant basis, and we witnessed the atrocities and tragedies that took place right until 1998 and the Good Friday agreement.

Successive Governments—of all political parties, to be fair—have sought to maintain peace during the Troubles, and at what a price. It is important that we record and acknowledge the history of those awful and terrible years, and the Government correctly regard a public history as playing an important role in addressing the legacy of Northern Ireland's past. However, I hope the Minister will acknowledge that there is no mention of it in the Bill. It could in theory be managed through the Cabinet Office's official history programme, but to my understanding that programme has been in a state of limbo in recent years. It is also insufficiently resourced to produce an official history on the Troubles—a topic that is going to be vast and require a huge amount of work from leading historians with substantial research support.

If the Government intend that the public history should support other academic research support programmes proposed by the Bill, we should note that these are to be concluded within seven years. Unless this public history is properly resourced through the Bill's memorialisation programme, it is unlikely to be able to add meaningful value to other memorialisation activities within this timeframe.

We require an authoritative history to be produced in good time and to act as an absolute gold standard, and that this thoroughly informed history be communicated to the public, being both affordable and available to everyone who wants to read it. Additionally, it is a matter of equal concern to Ireland as well.

It is crucial that we support the proposal of the noble Lord, Lord Godson, for an additional clause in Part 4 after Clause 46, and I encourage the Government to accept this change.

Lord Bruce of Bennachie (LD): My Lords, this has been an interesting debate; there is clearly a desire to have an objective record of a dark and troubled time, but it is a hugely sensitive issue that is going to present major challenges.

I absolutely agree that any history that glorifies terrorism or violence has no validity and can have no place. As the noble Lord, Lord Swire, said, people have looked at different examples such as in South Africa, and the genocide memorial in Rwanda is shocking and stunning and creates an impact. We also have to recognise that we have talked about the Troubles as a defined period, as if they just ended and the Good Friday agreement started, but we know that the divisions have not gone away. You even see in the Republic of Ireland newly elected representatives shouting, "Up the Ra", so we are still in very difficult times.

I hear the call for an objective history, but I wonder how easy it would be to produce one and to ensure that it reflects the balance. I am not suggesting that it should not be tried, but we should not underestimate

the challenges involved. At the end of the day, what would be the purpose of this history? The only fundamental purpose seems to be to ensure that, right across all sections of the community, it leads to a cry of "Never again".

Lord Murphy of Torfaen (Lab): My Lords, this has been a very interesting and thoughtful debate. For 17 years before I entered the House of Commons I taught history, and I thought that it had prepared me for the various jobs that I eventually had to do. When I became Minister of State in Northern Ireland, helping to negotiate the Good Friday agreement, I realised that it had not prepared me at all for what was up against me. Month after month, virtually every day, was occupied by a history lesson, which I was not teaching but which came from the different participants in the talks—of course, there were very different versions of what had happened over the last 30 or 40 years before then.

Teaching history had also not prepared me for the extent to which—as has been touched on a number of times in this debate—almost every single family in Northern Ireland was affected by violence in some form or another, either by people or their relatives being killed or by physical or mental injury. It struck me when I went back to Belfast a couple of weeks ago for the commemoration proceedings that, within 24 hours of getting there, I talked to two middle-aged men about their own history. In both cases, coincidentally, their fathers had been murdered. One had been murdered by the IRA, and the other had been murdered by loyalist paramilitaries. That was a coincidence; I did not seek it out. It just happened. It is the background of that communal history among people from all communities in Northern Ireland which makes this task immensely difficult. I am not saying that it should not be attempted, because I think it should be, but it will not be an easy task. It should be done by ensuring that there is as much impartiality and diversity as possible, which is a difficult combination to get together, so that it is written. The sensitivity behind this is enormous.

I make a very brief reference to the noble Baroness, Lady Hoey, and what I thought was a very good speech in terms of her reference to the gay community in Northern Ireland and how it suffered in a different way. There is particular resonance in my own constituency's history because my immediate predecessor as Member of Parliament for Pontypool was Leo Abse, who in 1967 was responsible for the legislation which decriminalised homosexuality in Great Britain. Many people never realised that it was not replicated in Northern Ireland; it took many years before that was to happen. So, I think that this should be part of the history project as well.

When the Minister winds up, I am sure he will give us some good thoughts on what we should do about an official history. He might suggest the odd historian or two—there are one or two in here who might be very good at it—but at the same time he must understand that these matters, important as they are, have to be dealt with using the utmost sensitivity.

Lord Caine (Con): Once again, my Lords, I am very grateful to all who have contributed to the debate on these amendments. We have heard a number of very moving contributions over the last 53 minutes or so. I was going to say that a number of noble Lords were, in my case, preaching to the converted—I do not need to be converted at all, and I agree with many of the sentiments that have been expressed throughout the past number of minutes.

Part 4 of the Bill builds in large part on the commitments made in the Stormont House agreement of 2014, such as the oral history initiative and new academic research, to help promote reconciliation and a better understanding of the past. A number of noble Lords will be aware that I was involved in all 11 weeks of negotiating that agreement in 2014. It underlines the importance of this work being carried out free of political influence, which has been one of our guiding principles—in fact, it has been our overriding guiding principle throughout.

To reiterate, in approaching these issues over many years, both this Government and I have been very clear from the outset that we will never accept any attempt to rewrite history in ways that seek to denigrate the contribution of the Royal Ulster Constabulary and our Armed Forces—the overwhelming majority of whom served with distinction and honour, and to whose dedication and courage we owe an enormous debt of gratitude. As I have said many times in this House and outside it, without their service and sacrifice there would have been no peace process, as was acknowledged by my right honourable friend the Prime Minister during his recent speech at the Whitla Hall in Belfast to mark the 25th anniversary of the 1998 agreement.

Politically motivated violence in Northern Ireland, whether it was carried out by republicans or loyalists, was never justified, and as the noble Lord, Lord West, and my noble friends Lady Foster and Lord Weir made clear, there was always an alternative to violence in Northern Ireland. We will never accept any suggestion of moral equivalence between the terrorists who sought to destroy democracy and those who in many cases paid the ultimate sacrifice to ensure that the future of Northern Ireland would only ever be determined by democracy and consent.

3 pm

My noble friend Lord Dodds of Duncairn and the noble Baroness, Lady O'Loan, spoke about glorification, as did other noble Lords. We debated amendments on glorification on the third day of Committee, when I undertook to continue discussions with noble Lords. Of course I will do that and see whether we come to some agreement on changes to the Bill in that respect.

As I have acknowledged in this House before, we might never agree on a common narrative, as my noble friend Lord Swire pointed out—I look back fondly to my time with him in the Northern Ireland Office when he was Minister of State and I was a very lowly special adviser. Although we might not agree on a common narrative, what we can do, what we tried to do at Stormont House and what we are trying to do through the Bill is to put in place some structures that will help Northern Ireland move forward and which can encourage and promote a greater degree of understanding and reconciliation.

In that respect, I am aware of recent polling that suggests that only around a quarter of the population in Northern Ireland consider existing Troubles-related

[Lord Caine]
memorialisation strategies and memorials themselves to be a positive influence. The strategy in Part 4 seeks to address this by remembering those who were lost and ensuring that the lessons of the past are not forgotten.

As is highlighted in Amendment 173 in the name of my noble friend Lord Dodds of Duncairn, it is vital that victims and survivors have an opportunity to contribute fully to this process and a memorialisation strategy. That is why Clause 44(6) and (7) already require the organisations taking forward the strategy to provide opportunities for all interested persons—including victims and survivors, or those groups representing them—to contribute by sharing their views on existing initiatives or by suggesting new ones.

Clause 44(4)(a) further requires those expert organisations responsible for delivering the strategy to consider how initiatives promote or will promote reconciliation in Northern Ireland. This is intended to exclude initiatives that glorify terrorism or which are sectarian in nature from being promoted as part of this strategy. I hope that that offers some reassurance to noble Lords who have spoken.

For that reason, while I fully agree with the principles behind Amendments 172 and 173 in the name of my noble friend Lord Dodds of Duncairn, and Amendment 174 in the name of my noble friend Lord Godson, I do not think the additions are strictly necessary. However, I can assure noble Lords that my department will work with the relevant organisations to ensure that the initiatives in Part 4 are established in ways that are consistent with the overarching aim of promoting reconciliation, and that these important points are reflected in any terms of reference or guidance material. I am also happy to continue engaging with noble Lords and other relevant parties on their specific concerns and on possible instances where we can strengthen these key objectives.

On a similar note, while I support the sentiment behind Amendments 174A and 174ZA in the name of the noble Baroness, Lady Hoey, I respectfully suggest that they are not required. The provisions of the Bill as drafted would not preclude relevant research into LGBT experiences during the Troubles—I join her in paying huge tribute to our mutual friend Jeff Dudgeon for the work he has done on this over many years—or indeed those of other parts of the community, should the academic community feel there is a particular need. Clause 48 also requires that the measures in Part 4, including academic research, take into account a variety of views of the Troubles. However, I am aware of the concerns that have prompted Amendment 174ZA and am open to discussing the issue further with the noble Baroness. We are committed to ensuring that this work is implemented in a way that is rigorous and fair and not biased in any way towards those with a particular political motivation to rewrite history.

I turn to issues raised by my noble friends Lord Godson and Lord Bew. Amendment 176 would require the relevant organisations in Part 4 to have regard to the historical record produced by the ICRIR. Again, while I fully sympathise with the aim of this amendment, the historical record cannot be produced until at least the fifth year of the commission's operation, when the investigative case load will be finalised. Our intent is to establish the measures in Part 4 well in advance of that. Similarly, Clause 49(2)(b) already states that, in establishing an advisory forum, due regard must be given to the need for it to have a balance in terms of cross-community membership. Therefore, Amendments 175 and 176, tabled by my noble friend Lord Godson, are not necessary. However, I would be more than happy to discuss this issue further, as I share his concern to ensure that the work in Part 4 is not hijacked by any particular political narrative. I am entirely in sympathy with his objectives around this issue.

I am particularly grateful for the debate generated by my noble friend Lord Godson's Amendment 174B, which was supported by a number of noble Lords across the House, about including a public history of the Troubles in the Bill. I am fully aware of my noble friend's long-standing interest in this issue. I well remember a lunch at Hillsborough Castle back in 2010 or 2011, which my noble friend attended with the then Secretary of State. I am not sure whether my other noble friend was present on that occasion, but it included a number of academics, and my noble friend raised the very idea at the time some 11 or 12 years ago that he is pursuing through this amendment. So I pay tribute to his work around this issue and his enthusiasm for taking it forward.

As he and other noble Lords will be aware, alongside the introduction of the Bill in May 2022, the Government announced their intention to commission such a history as a separate and complementary project. The intention has always been for this public history to be established through the Government's long-running and established official history programme, which dates back to 1908. In response to the noble Lord, Lord Bilimoria, and my noble friend Lord Godson, the funding would be expected to come from the £250 million set aside for legacy mechanisms, rather than the Cabinet Office's official history programme. Noble Lords will be aware that the programme grants historians special privileges to access all relevant information in government records and will provide an independent, authoritative examination of the Government's policy towards Northern Ireland throughout the period of the Troubles.

I am happy to restate the Government's firm commitment to taking this public history forward. Work on this is ongoing and I hope to provide further important detail in the coming weeks. On this basis, the amendment to the Bill is not strictly necessary, although I will reflect further and discuss this with my noble friend Lord Godson before Report.

I also assure noble Lords that this project will be steered by expert advice, including the important recommendations made in the Pilling report. On that note, I thank my noble friend Lord Bew for his ongoing assistance and advice. He gave us a fascinating insight into elements of the Saville inquiry, to which he was the historical adviser. My noble friend Lord Swire referred to David Cameron's speech on Saville, which I had a small part in drafting. Overall, I think we did a pretty good job on that day.

Finally, there are technical Amendments 186 and 190 in my name. All that they seek to do is define the expressions of First Minister and Deputy First Minister for the purposes of the Bill. I hope that there is no issue with that.

In conclusion, we can all agree on the value of the measures in Part 4 of the Bill in principle and about the importance of promoting and encouraging reconciliation both for individuals and across society as a whole. On that basis, while committing to further engagement with all interested noble Lords between now and Report, I politely invite them not to press their amendments at this stage.

Lord Dodds of Duncairn (DUP): My Lords, on behalf of noble Lords who have taken part in this debate, I thank my noble friend the Minister for his response. In light of the fact that he has, as usual, promised to go away and reflect on the amendments, including those in my name and those of my noble friends, and to have further discussions, I am very content to withdraw Amendment 172.

Amendment 172 withdrawn.

Amendments 173 and 174 not moved.

Clause 44 agreed.

Clause 45 agreed.

Clause 46: Academic research

Amendments 174ZA and 174A not moved.

Clause 46 agreed.

Amendment 174B not moved.

Clauses 47 and 48 agreed.

Clause 49: The advisory forum

Amendments 175 and 176 not moved.

Clause 49 agreed.

Clauses 50 and 51 agreed.

Amendment 177 not moved.

Clause 52: Consequential provision

Amendments 178 and 178A not moved.

Clause 52 agreed.

Schedule 12: Amendments

Amendments 179 to 184 not moved.

Schedule 12 agreed.

Clause 53 agreed.

Clause 54: Interpretation

Amendments 185 to 197 not moved.

Clause 54 agreed.

Clauses 55 and 56 agreed.

Clause 57: Commencement

Amendment 198 not moved.

Clause 57 agreed.

Clause 58 agreed.

House resumed.

Bill reported without amendment.

Royal Assent

3.16 pm

The following Act was given Royal Assent:
Higher Education (Freedom of Speech) Act.

Online Safety Bill
Committee (6th Day)

3.17 pm

Relevant document: 28th Report from the Delegated Powers Committee

Clause 14: Duties to protect news publisher content

Amendment 50B

Moved by ***Lord Parkinson of Whitley Bay***

50B: Clause 14, page 15, line 30, leave out "subsection (2)(a)" and insert "this section"

Member's explanatory statement

This is a technical amendment to make it clear that clause 14(9), which sets out circumstances which do not count as a provider "taking action" in relation to news publisher content, applies for the purposes of the whole clause.

The Parliamentary Under-Secretary of State, Department for Culture, Media and Sport (Lord Parkinson of Whitley Bay) (Con): My Lords, His Majesty's Government are committed to defending the invaluable role of our free media. We are clear that our online safety legislation must protect the vital role of the press in providing people with reliable and accurate information. That is why this Bill includes strong protections for recognised news publishers. The Bill does not impose new duties on news publishers' content, which is exempt from the Bill's safety duties. In addition, the Bill includes strong safeguards for news publisher content, set out in Clause 14. In order to benefit from these protections, publishers will have to meet a set of stringent criteria, set out in Clause 50.

[Lord Parkinson of Whitley Bay]

I am aware of concerns in your Lordships' House and another place that the definition of news publishers is too broad and that these protections could therefore create a loophole to be exploited. That is why the Government are bringing forward amendments to the definition of "recognised news publisher" to ensure that sanctioned entities cannot benefit from these protections. I will shortly explain these protections in detail but I would like to be clear that narrowing the definition any further would pose a critical risk to our commitment to self-regulation of the press. We do not want to create requirements which would in effect put Ofcom in the position of a press regulator. We believe that the criteria set out in Clause 50 are already strong, and we have taken significant care to ensure that established news publishers are captured, while limiting the opportunity for bad actors to benefit.

Government Amendments 126A and 127A propose changes to the criteria for recognised news publishers. These criteria already exclude any entity that is a proscribed organisation under the Terrorism Act 2000 or the purpose of which is to support a proscribed organisation under that Act. We are clear that sanctioned news outlets such as RT, formerly Russia Today, must not benefit from these protections either. The amendments we are tabling today will therefore tighten the recognised news publisher criteria further by excluding entities that have been designated for sanctions imposed by both His Majesty's Government and the United Nations Security Council. I hope noble Lords will accept these amendments, in order to ensure that content from publishers which pose a security threat to this country cannot benefit from protections designed to defend a free press.

In addition, the Government have also tabled amendments 50B, 50C, 50D, 127B, 127C and 283A, which are aimed at ensuring that the protections for news publishers in Clause 14 are workable and do not have unforeseen consequences for the operation of category 1 services. Clause 14 gives category 1 platforms a duty to notify recognised news publishers and offer a right of appeal before taking action against any of their content or accounts.

Clause 14 sets out the circumstances in which companies must offer news publishers an appeal. As drafted, it states that platforms must offer this before they take down news publisher content, before they restrict users' access to such content or where they propose to "take any other action" in relation to publisher content. Platforms must also offer an appeal if they propose to take action against a registered news publisher's account by giving them a warning, suspending or banning them from using a service or in any way restricting their ability to use a service.

These amendments provide greater clarity about what constitutes "taking action" in relation to news publisher content, and therefore when category 1 services must offer an appeal. They make it clear that a platform must offer this before they take down such content, add a warning label or take any other action against content in line with any terms of service that allow or prohibit content. This will ensure that platforms are not required to offer publishers a right of appeal every time they propose to carry out routine content curation and similar routine actions. That would be unworkable for platforms and would be likely to inhibit the effectiveness of the appeal process.

As noble Lords know, the Bill has a strong focus on user empowerment and enabling users to take control of their online experience. The Government have therefore tabled amendments to Clause 52 to ensure that providers are required only to offer publishers a right of appeal in relation to their own moderation decisions, not where a user has voluntarily chosen not to view certain types of content. For example, if a user has epilepsy and has opted not to view photo-sensitive content, platforms will not be required to offer publishers a right of appeal before restricting that content for the user in question.

In addition, to ensure that the Bill maintains strong protections for children, the amendments make it clear that platforms are not required to offer news publishers an appeal before applying warning labels to content viewed by children. The amendments also make it clear that platforms would be in breach of the legislation if they applied warning labels to content encountered by adults without first offering news publishers an appeal, but in order to ensure that the Bill maintains strong protections for children, that does not apply to warning labels on content encountered by children. I beg to move.

Baroness Stowell of Beeston (Con): My Lords, I welcome the amendments the Government have tabled, but I ask the Minister to clarify the effect of Amendment 50E. I declare an interest as chair of the Communications and Digital Select Committee, which has discussed Amendment 50E and the labelling of content for children with the news media organisations. This is a very technical issue, but from what my noble friend was just saying, it seems that content that would qualify for labelling for child protection purposes, and which therefore does not qualify for a right of appeal before the content is so labelled, is not content that would normally be encountered by adults but might happen to appeal to children. I would like to be clear that we are not giving the platforms scope for adding labels to content that they ought not to be adding labels to. That aside, as I say, I am grateful to my noble friend for these amendments.

Lord Clement-Jones (LD): My Lords, like the noble Baroness, Lady Stowell, I have no major objection and support the Government's amendments. In a sense the Minister got his retaliation in first, because we will have a much more substantial debate on the scope of Clause 14. At this point I welcome any restriction on Clause 14 in the way that the Minister has stated.

Yet to come we have the whole issue of whether an unregulated recognised news publisher, effectively unregulated by the PRP's arrangements, should be entitled to complete freedom in terms of below-the-line content, where there is no moderation and it does not have what qualifies as independent regulation. Some debates are coming down the track and—just kicking the tyres on the Minister's amendments—I think the noble Baroness, Lady Stowell, made a fair point, which I hope the Minister will answer.

Lord Stevenson of Balmacara (Lab): My Lords, I thank the Minister for his very clear and precise introduction of these amendments. As the noble Lord, Lord Clement-Jones, said, we will return to some of the underlying issues in future debates. It may be that this is just an aperitif to give us a chance to get our minds around these things, as the noble Baroness, Lady Stowell, said.

It is sometimes a bit difficult to understand exactly what issue is being addressed by some of these amendments. Even trying to say them got us into a bit of trouble. I think I follow the logic of where we are in the amendments that deal with the difference between adult material and children's material, but it would benefit us all if the Minister could repeat it, perhaps a little slower this time, and we will see if we can agree that that is the way forward.

Broadly speaking, we accept the arrangements. They clarify the issues under which the takedown and appeal mechanisms will work. They are interfacing with the question of how the Bill deals with legal but harmful material, particularly for those persons who might wish not to see material and will not be warned about it under any process currently in the Bill but will have a toggle to turn to. It safeguards children who would not otherwise be covered by that. That is a fair balance to be struck.

Having said that, we will be returning to this. The noble Lord, Lord Clement-Jones, made the good point that we have a rather ironic situation where a press regulation structure set up and agreed by Parliament is not in operation across the whole of the press, but we do not seem to make any accommodation for that. This is perhaps something we should return to at a later date.

Baroness Fox of Buckley (Non-Afl): My Lords, I want very briefly to probe something. I may have got the wrong end of the stick, but I want to just ask about the recognised news publishers. The Minister's explanation about what these amendments are trying to do was very clear, but I have some concerns.

I want to know how this will affect how we understand what a recognised news publisher is in a world in which we have many citizen journalists, blogs and online publications. One of the democratising effects of the internet has been in opening up spaces for marginalised voices, campaign journalism and so on. I am worried that we may inadvertently put them into a category of being not recognised; maybe the Minister can just explain that.

I am also concerned that, because this is an area of some contention, this could be a recipe for all sorts of litigious disputes with platforms about content removal, what constitutes those carve-outs and what is a recognised news, journalism or publishing outlet.

I know we will come on to this, but for now I am opposed to Amendment 127 in this group—or certainly concerned that it is an attempt to coerce publishers into a post-Leveson regulatory structure by denying them the protections that the Bill will give news publishers, unless they sign up in certain ways. I see that as blackmail and bullying, which I am concerned about. Much of the national press and many publishers have refused to join that kind of regulatory regime post Leveson, as is their right; I support them in the name of press freedom. Any comments or clarifications would be helpful.

3.30 pm

Lord Parkinson of Whitley Bay (Con): My Lords, I am sorry; in my enthusiasm to get this day of Committee off to a swift start, I perhaps rattled through that rather quickly. On Amendment 50E, which my noble friend Lady Stowell asked about, I make clear that platforms will be in breach of their duties if, without applying the protection, they add warning labels to news publishers' content that they know will be seen by adult users, regardless of whether that content particularly appeals to children.

As the noble Lord, Lord Clement-Jones, and others noted, we will return to some of the underlying principles later on, but the Government have laid these amendments to clarify category 1 platforms' duties to protect recognised news publishers' content. They take some publishers out of scope of the protections and make it clearer that category 1 platforms will have only to offer news publishers an appeal before taking punitive actions against their content.

The noble Baroness, Lady Fox, asked about how we define "recognised news publisher". I am conscious that we will debate this more in later groups, but Clause 50 sets out a range of criteria that an organisation must meet to qualify as a recognised news publisher. These include the organisation's "principal purpose" being the publication of news, it being subject to a "standards code" and its content being "created by different persons". The protections for organisations are focused on publishers whose primary purpose is reporting on news and current affairs, recognising the importance of that in a democratic society. I am grateful to noble Lords for their support.

Baroness Stowell of Beeston (Con): What my noble friend said is absolutely fine with me, and I thank him very much for it. It might be worth letting the noble Baroness, Lady Fox, know that Amendment 127 has now been moved to the group that the noble Lord, Lord Clement-Jones, referred to. I thought it was worth offering that comfort to the noble Baroness.

Lord Parkinson of Whitley Bay (Con): To be continued.

Amendment 50B agreed.

Amendments 50C to 50E

Moved by ***Lord Parkinson of Whitley Bay***

50C: Clause 14, page 15, line 44, leave out subsection (11)

Member's explanatory statement

This amendment omits a provision about OFCOM's guidance under clause 171, as that provision is now to be made in clause 171 itself.

50D: Clause 14, page 16, line 3, leave out paragraph (b)

Member's explanatory statement

This amendment omits the definition of "taking action" in relation to content, as that is now dealt with by the amendment in the Minister's name below.

50E: Clause 14, page 16, line 10, at end insert—

"(13A) In this section references to "taking action" in relation to content are to—

(a) taking down content,

(b) restricting users' access to content, or

(c) adding warning labels to content, except warning labels normally encountered only by child users,

and also include references to taking any other action in relation to content on the grounds that it is content of a kind which is the subject of a relevant term of service (but not otherwise).

(13B) A "relevant term of service" means a term of service which indicates to users (in whatever words) that the presence of a particular kind of content, from the time it is generated, uploaded or shared on the service, is not tolerated on the service or is tolerated but liable to result in the provider treating it in a way that makes it less likely that other users will encounter it."

Member's explanatory statement

This amendment provides a revised definition of what it means to "take action" in relation to news publisher content, to ensure that the clause only applies to actions other than those set out in subsection (13A)(a), (b) or (c) in the circumstances set out in subsection (13B).

Amendments 50C to 50E agreed.

Clause 14, as amended, agreed.

Clause 15: Duties to protect journalistic content

Amendment 50F

Moved by ***Lord Parkinson of Whitley Bay***

50F: Clause 15, page 17, line 14, at end insert—

"(8A) In determining what is proportionate for the purposes of subsection (2), the size and capacity of the provider of a service, in particular, is relevant."

Member's explanatory statement

This amendment indicates that the size and capacity of a provider is important in construing the reference to "proportionate systems and processes" in clause 15 (duties to protect journalistic content).

Amendment 50F agreed.

Amendment 51 not moved.

Clause 15, as amended, agreed.

Amendment 52

Moved by ***Baroness Merron***

52: After Clause 15, after Clause 15, insert the following new Clause—

"Health disinformation and misinformation

(1) This section sets out the duties about harmful health disinformation and misinformation which apply in relation to Category 1 services.

The duties

(2) A duty to carry out and keep up to date a risk assessment of the risks presented by harmful health disinformation and misinformation that is present on the service.

(3) A duty to develop and maintain a policy setting out the service's approach to the treatment of harmful health disinformation and misinformation on the service.

(4) A duty to explain in the policy how the service's approach to the treatment of harmful disinformation and misinformation is designed to mitigate or manage any risks identified in the latest risk assessment.

(5) A duty to summarise the policy in the terms of service, and to include provisions in the terms of service about how that content is to be treated on the service.

(6) A duty to ensure that the policy, and any related terms of service, are—

(a) clear and accessible, and

(b) applied consistently.

(7) In this section, "harmful health disinformation and misinformation" means content which contains information which—

(a) is false or misleading in a material respect; and

(b) presents a material risk of significant harm to the health of an appreciable number of persons in the United Kingdom."

Member's explanatory statement

This new Clause would introduce a variety of duties on Category 1 platforms, in relation to their treatment of content which represents harmful health misinformation and disinformation.

Baroness Merron (Lab): My Lords, I shall speak to this group which includes Amendments 52, 99 and 222 in my name. These are complemented by Amendments 223 and 224 in the name of my noble friend Lord Knight. I am grateful to the noble Lords, Lord Clement-Jones and Lord Bethell, and to the noble Baroness, Lady Bennett, for putting their names to the amendments in this group. I am also grateful to the noble Lord, Lord Moylan, for tabling Amendments 59, 107 and 264. I appreciate also the work done by the APPG on Digital Regulation and Responsibility and by Full Fact on this group, as well as on many others in our deliberations.

These amendments would ensure that platforms were required to undertake a health misinformation and disinformation risk assessment. They would also require that they have a clear policy in their terms of service on dealing with harmful, false and misleading health information, and that there are mechanisms to support and monitor this, including through the effective operation of an advisory committee which Ofcom would be required to consult. I appreciate that the Minister may wish to refer to the false communication offence in Clause 160 as a reason why these amendments are not required. In order to pre-empt this suggestion, I put it to him that the provision does not do the job, as it covers only a user sending a knowingly false communication with the intention of causing harm, which does not cover most of the online health misinformation and disinformation about which these amendments are concerned.

Why does all this matter? The stakes are high. False claims about miracle cures, unproven treatments and dangerous remedies can and do spread rapidly, leading people to make the poorest of health decisions, with dire consequences. We do not have to go far back in time to draw on the lessons of our experience. It is therefore disappointing that the Government have not demonstrated, through this Bill, that they have learned the lessons of the Covid-19 pandemic. This is of concern to many health practitioners and representatives, as well as to Members of your Lordships' House. We all remember the absolute horror of seeing false theories

being spread quickly online, threatening to undermine the life-saving vaccine rollout. In recent years, the rising anti-vaccine sentiment has certainly contributed to outbreaks of preventable diseases that had previously been eradicated. This is a step backwards.

In 2020, an estimated 5,800 people globally were admitted to hospital because of false information online relating to Covid-19, with at least 800 people believed to have died because they followed this misinformation or disinformation. In 2021, the Royal College of Obstetricians and Gynaecologists found that only 40% of women offered the vaccine against Covid-19 had accepted it, with many waiting for more evidence that it would be safe. It is shocking to recall that, in October 2021, one in five of the most critically ill Covid patients was an unvaccinated, pregnant woman.

If we look beyond Covid-19, we see misinformation and disinformation affecting many other aspects of health. I will give a few examples. There are false claims about cancer treatment—for example, lemons treat cancer better than chemotherapy; tumours are there to save your life; cannabis oil cures cancer; rubbing hydrogen peroxide on your skin will treat cancer. Just last year, the lack of publicly available information about Mpox fuelled misinformation online. There is an issue about the Government's responsibility for ensuring that there is publicly available information about health risks. In this respect, the lack of it—the void—led to a varied interpretation and acceptance of the public health information that was available, limited though it was. UNAIDS also expressed concern that public messaging on Mpox used language and imagery that reinforced homophobic and racist stereotypes.

For children, harmful misinformation has linked the nasal flu vaccine to an increase in Strep A infections. In late 2022, nearly half of all parents falsely believed these claims, such that the uptake of the flu vaccine among two and three year-olds dropped by around 11%. It is not just that misinformation and disinformation may bombard us online and affect us; there are also opportunities for large, language-model AIs such as ChatGPT to spread misinformation.

The Government had originally promised to include protections from harmful false health content in their indicative list of harmful content that companies would have been required to address under the now removed adult safety duties, yet we find that the Bill maintains the status quo, whereby platforms are left to their own devices as to how they tackle health misinformation and disinformation, without the appropriate regulatory oversight. It is currently up to them, so they can remove it at scale or leave it completely unchecked, as we recently saw when Twitter stopped enforcing its Covid-19 misinformation policy. This threatens not just people's health but their freedom of expression and ability to make proper informed decisions. With that in mind, I look forward to amendments relating to media literacy in the next group that the Committee will consider.

I turn to the specific amendments. The new clause proposed in Amendment 52 would place a duty on category 1 platforms to undertake a health misinformation risk assessment and set out a policy on their treatment of health misinformation content. It would also require that the policy and related terms of service are consistently applied and clear and accessible—something that we have previously debated in this Committee. It also defines what is meant by

"harmful health disinformation and misinformation"—

and, again, on that we have discussed the need for clarity and definition.

Amendment 99 would require Ofcom to consult an advisory committee on disinformation and misinformation when preparing draft codes of practice or amendments to such codes. Amendment 222 is a probing amendment and relates to the steps, if any, that Ofcom will be expected to take to avoid the advisory committee being dominated by representatives of regulated services. It is important to look at how the advisory committee is constructed, as that will be key not just to the confidence that it commands but to its effectiveness.

Amendment 223, in the name of my noble friend Lord Knight, addresses the matter of timeliness in respect of the establishment of the advisory committee, which should be within six months of the Bill being passed. Amendment 224, also in the name of my noble friend Lord Knight, would require the advisory committee to consider as part of its first report whether a dedicated Ofcom code of practice in this area would be effective in the public interest. This would check that we have the right building blocks in place. With that in mind, I beg to move.

Lord Bethell (Con): My Lords, it is a great honour to rise after the noble Baroness, Lady Merron, who spoke so clearly about Amendment 52 and the group of amendments connected with health misinformation, some of which stand also in my name.

As the noble Baroness rightly pointed out, we have known for a long time the negative impact of social media, with all its death scrolls, algorithms and rabbit holes on vaccine uptake. In 2018, the University of Southampton did a study of pregnant women and found that those who reported using social media to research antenatal vaccinations were 58% less likely to accept the whooping cough vaccine. Since then, things have only got worse.

3.45 pm

As a junior Health Minister during the pandemic, I saw how the successful vaccine rollout was at severe risk of being undermined by misinformation, amplified by foreign actors and monetised by cynical commercial interests. The challenge was enormous. The internet, as we know, is a highly curated environment that pushes content, functions and services that create an emotional response and retain our attention. Social media algorithms are absolutely the perfect tool for conspiracy theorists, and a pandemic necessarily raises everyone's concerns. It was unsurprising that a lot of people went down various rabbit holes on health information.

The trust between our clinical professionals and their patients relies on a shared commitment to evidence-based science. That can quickly go out of the window if the algorithms are pushing rousing content that deliberately plays into people's worst fears and anxieties, thereby displacing complex and nuanced analysis with simplistic attention-seeking hooks, based sometimes

[Lord Bethell]

on complete nonsense. The noble Baroness, Lady Merron, mentioned lemons for cancer as a vivid example of that.

At the beginning of the vaccine programme, a thorough report by King's College London, funded by the NIHR health protection research unit, found that 14% of British adults believed the real purpose of mass vaccination against coronavirus was to track and control the population. That rose to an astonishing 42% among those who got their information from WhatsApp, 39% for YouTubers, 29% from the Twitterati and 28% from Facebookers. I remember that, when those statistics came through, it put this important way out of the pandemic in jeopardy.

I remind the Committee that a great many people make money out of such fear. I highly recommend the Oxford University *Journal of Communication* article on digital profiteering for a fulsome and nuanced guide to the economics of the health misinformation industry. I also remind noble Lords that foreign actors and states are causing severe trouble in this area. "Foreign disinformation" social media campaigns are linked to falling vaccination rates, according to an international time-trend analysis published by *BMJ Global Health*.

As it happens, in the pandemic, the DHSC, the Cabinet Office and a wide group throughout government worked incredibly thoughtfully on a communications strategy that sought to answer people's questions and apply the sunlight of transparency to the vaccine process. It balanced the rights to freedom of expression with protecting our central strategy for emerging from the pandemic through the vaccine rollout. I express considerable thanks to those officials, and the social media industry, who leant into the issue more out of a sense of good will than any legal obligation. I was aware of some of the legal ambiguities around those times.

Since then, things have gone backwards, not forwards. Hesitancy in the UK has risen, with a big impact on vaccine take-up rates. We are behind on 13 out of the 14 routine vaccine programmes, well behind the 95% target set by the World Health Organization. The results are clear: measles is rising because of vaccine uptake falling, and that is true of many common, avoidable diseases. As for the platforms, Twitter's recent decision at the end of last year to suddenly stop enforcing its Covid-19 misinformation policy was a retrograde step and possibly the beginning of a worrying trend that we should all be conscious of, and is one of the motivating reasons for this amendment.

Unfortunately, the Government's decision to remove from the Bill the provisions on content harmful to adults, and with that the scope to include harmful health content, has had unintended consequences and left a big gap. We will have learned nothing from the pandemic if we do not act to plug that gap. The amendment and associated amendments in the group seek to address this by introducing three duties, as the noble Baroness, Lady Merron explained.

The first requirement is an assessment of the risks presented by harmful health disinformation and misinformation. Anyone who has been listening to these debates will recognise that this very much runs with the grain of the Bill's approach and is consistent with many of the good things already in the Bill. Risk assessments are a very valuable tool in our approach to misinformation. I remind noble Lords that, for this Bill, "content" has a broad meaning that includes services and functions of a site, including the financial exploitation of that content. Secondly, the amendment would require large platforms to publish a policy setting out their approach to health misinformation. Each policy would have to explain how it is designed to mitigate or manage risks and should be kept up to date and maintained. That kind of transparency is at the heart of how we hold platforms to account. Lastly, platforms would be required to summarise their health misinformation policy in terms that consumers can properly understand.

This approach is consistent with the spirit of the Bill's treatment of many harms: we are seeking transparency and we are creating accountability, but we are not mandating protocols. The consequences are clear. Users, health researchers and internet analysts would be able to see clearly how a platform proposes to deal with health misinformation that they may encounter on a particular service and make informed decisions as a result. The regulator would be able to see clearly what the nature of these risks is.

May I briefly tackle some natural concerns? On the question of protection of freedom of expression, my noble friend Lord Moylan rightly reminded us on Tuesday of Article 19 of the UN Universal Declaration of Human Rights: everyone has the freedom to express opinions and speech. On this point, I make it clear that this amendment would not require platforms to remove health misinformation from their service or to prescribe particular responses. In fact, I would go further. I recognise that it is important to have a full debate about the efficacy, safety and financial wisdom of treatments, cures and vaccines. This amendment would do nothing to close down that debate. It is about clarity. The purpose of the amendment is to prevent providers ducking the question about how they handle health misinformation. To that extent, it would help both those who are worried about health misinformation and those who are worried about being branded as sharing health misinformation to know where the platforms are coming from. It would ensure that providers establish what is happening on their service, what the associated risks to their users are, and then to shine a light on how they intend to deal with it.

I also make it clear that this is not just about videos, articles and tweets. We should also be considering whether back-end payment mechanisms, including payment intermediaries, donation collection services and storefront support, should be used to monetise health misinformation and enable bad actors. During the pandemic, the platforms endorsed the principle that no company should be profiting from Covid-19 vaccine misinformation, for instance. It is vital that this is considered as part of the platforms' response to health misinformation. We should have transparency about whether platforms such as PayPal and Google are accepting donations, membership or merchandise payments from known misinformation businesses. Is Amazon, for instance, removing products that are used to disseminate health misinformation? Are crowdfunding websites hosting health misinformation campaigns from bad actors?

To anticipate my noble friend the Minister, I say that he will likely remind us that there are measures already in place in the Bill if the content is criminal or likely to be viewed by children, and I welcome those provisions. However, as the Bill stands, the actual policies on misinformation and the financial exploitation of that content will be a matter of platform discretion, with no clarity for users or the regulator. It will be out of sight of clear regulatory oversight. This is a mistake, just as Twitter has just shown, and that is why we need this change.

Senior clinicians including Sir Jeremy Farrar, Professor John Bell and the noble Lord, Lord Darzi, have written to the Secretary of State to raise their concerns. These are serious players voicing serious concerns. The approach in Amendment 52 is, in my view, the best and most proportionate way to protect those who are most vulnerable to false and misleading information.

Lord Moylan (Con): My Lords, I shall speak to Amendments 59, 107 and 264 in this group, all of which are in my name. Like the noble Baroness, Lady Merron, I express gratitude to Full Fact for its advice and support in preparing them.

My noble friend Lord Bethell has just reminded us of the very large degree of discretion that is given to platforms by the legislation in how they respond to information that we might all agree, or might not agree, is harmful, misinformation or disinformation. We all agree that those categories exist. We might disagree about what falls into them, but we all agree that the categories exist, and the discretion given to the providers in how to handle it is large. My amendments do not deal specifically with health-related misinformation or disinformation but are broader.

The first two, Amendments 59 and 107—I am grateful to my noble friend Lord Strathcarron for his support of Amendment 59—try to probe what the Government think platforms should do when harmful material, misinformation and disinformation appear on their platforms. As things stand, the Government require that the platforms should decide what content is not allowed on their platforms; then they should display this in their terms of service; and they should apply a consistent approach in how they manage content that is in breach of their terms of service. The only requirement is for consistency. I have no objection to their being required to behave consistently, but that is the principal requirement.

What Amendments 59 and 107 do—they have similar effects in different parts of the Bill; one directly on the platforms; the other in relation to codes of practice—is require them also to act proportionately. Here, it might be worth articulating briefly the fact that there are two views about platforms and how they respond, both legitimate. One is that some noble Lords may fear that platforms will not respond at all: in other words, they will leave harmful material on their site and will not properly respond.

The other fear, which is what I want to emphasise, is that platforms will be overzealous in removing material, because they will have written their terms of service, as I said on a previous day in Committee, not only for their commercial advantage but also for their legal advantage. They will have wanted to give themselves a wide latitude to remove material, or to close accounts, because that will help cover their backs legally. Of course, once they have granted themselves those powers, the fear is that they will use them overzealously, even in cases where that would be an overreaction. These two amendments seek to oblige the platforms to respond proportionately, to consider alternative approaches to cancellation and removal of accounts and to be obliged to look at those as well.

There are alternative approaches that they could consider. Some companies already set out to promote good information, if you like, and indeed we saw that in the Covid-19 pandemic. My noble friend Lord Bethell said that they did so, and they did so voluntarily. This amendment would not explicitly but implicitly encourage that sort of behaviour as a first resort, rather than cancellation, blocking and removal of material as a first resort. They would still have the powers to cancel, block and remove; it is a question of priority and proportionality.

There are also labels that providers can put on material that they think is dubious, saying, "Be careful before you read this", or before you retweet it; "This is dubious material". Those practices should also be encouraged. These amendments are intended to do that, but they are intended, first and foremost, to probe what the Government's attitude is to this, whether they believe they have any role in giving guidance on this point and how they are going to do so, whether through legislation or in some other way, because many of us would like to know.

Amendment 264, supported by my noble friend Lord Strathcarron and the noble Lord, Lord Clement-Jones, deals with quite a different matter, although it falls under the general category of misinformation and disinformation: the role the Government take directly in seeking to correct misinformation and disinformation on the internet. We know that No. 10 has a unit with this explicit purpose and that during the Covid pandemic it deployed military resources to assist it in doing so. Nothing in this amendment would prevent that continuing; nothing in it is intended to create scare stories in people's minds about an overweening Government manipulating us. It is intended to bring transparency to that process.

4 pm

Amendment 264 requires that once a year, within six months of the enactment of the Bill and annually thereafter, the Government would be required to produce a report setting out relevant representations they had made to providers during that previous year. It specifies the relevant representations: trying to persuade platforms to modify their terms of service, to restrict or remove a particular user's access or to take down, reduce the visibility of or restrict access to content. The Secretary of State would be required to present a new report to Parliament once a year so that we understood what was happening. As I say, it would not inhibit the Government doing it—there may well be good reasons for their doing so—but in this age people feel entitled to know.

Concerns might be expressed that, in doing so, national security might be compromised in some way because of the involvement of the Army or whatever.

[Lord Moylan]
However, as drafted, this amendment gives the Secretary of State the power, simply if he considers something to be harmful to national security, not to publish it and to withhold it, so I think no national security argument can be made against this. Instead, he would be required to summarise it in a report to the Intelligence and Security Committee of Parliament. It would not enter the public domain. That is a grown-up thing to ask for. I am sustained in that view by the support for the amendment from at least one opposition spokesman.

Those are the two things I am trying to achieve, which in many ways speak for themselves. I hope my noble friend will feel able to support them.

Baroness Fox of Buckley (Non-Afl): My Lords, I have given notice in this group that I believe Clause 139 should not stand part of the Bill. I want to remove the idea of Ofcom having any kind of advisory committee on misinformation and disinformation, at least as it has been understood. I welcome the fact that the Government have in general steered clear of putting disinformation and misinformation into the Bill, because the whole narrative around it has become politicised and even weaponised, often to delegitimise opinions that do not fit into a narrow set of official opinions or simply to shout abuse at opponents. We all want the truth—if only it was as simple as hiring fact-checkers or setting up a committee.

I am particularly opposed to Amendment 52 from the noble Baroness, Lady Merron, and the noble Lord, Lord Bethell. They have both spoken very eloquently of their concerns, focusing on harmful health misinformation and disinformation. I oppose it because it precisely illustrates my point about the danger of these terms being used as propaganda.

There was an interesting and important investigative report brought out in January this year by Big Brother Watch entitled *Inside Whitehall's Ministry of Truth—How Secretive "Anti-Misinformation" Teams Conducted Mass Political Monitoring.* It was rather a dramatic title. We now know that the DCMS had a counter-disinformation unit that had a special relationship with social media companies, and it used to recommend that content was removed. Interestingly, in relation to other groups we have discussed, it used third-party contractors to trawl through Twitter looking for perceived terms of service violations as a reason for content to be removed. This information warfare tactic, as we might call it, was used to target politicians and high-profile journalists who raised doubts or asked awkward questions about the official pandemic response. Dissenting views were reported to No.10 and then often denounced as misinformation, with Ministers pushing social media platforms to remove posts and promote Government-sponsored lines.

It has been revealed that a similar fake news unit was in the Cabinet Office. It got Whitehall departments to attack newspapers for publishing articles that analysed Covid-19 modelling, not because it was accurate—it was not accurate in many instances—but because it feared that any scepticism would affect compliance with the rules. David Davis MP appeared in an internal report on vaccine hesitancy, and his crime was arguing against vaccine passports as discriminatory, which was a valid civil liberties opposition but was characterised as health misinformation. A similar approach was taken to vaccine mandates, which led to tens of thousands of front-line care workers being sacked even though, by the time this happened, the facts were known: the vaccine was absolutely invaluable in protecting individual health, but it did not stop transmission, so there was no need for vaccine mandates to be implemented. The fact that this was not discussed is a real example of misinformation, but we did not have it in the public sphere.

Professor Carl Heneghan's *Spectator* article that questioned whether the rule of six was an arbitrary number was also flagged across Whitehall as misinformation, but we now know that the rule of six was arbitrary. Anyone who has read the former Health Secretary Matt Hancock's WhatsApp messages, which were leaked to the *Telegraph* and which many of us read with interest, will know that many things posed as "the science" and factual were driven by politics more than anything else. Covid policies were not all based on fact, yet it was others who were accused of misinformation.

Beyond health, the Twitter files leaked by Elon Musk, when he became its new owner, show the dangers of using the terms misinformation and disinformation to pressure big tech platforms into becoming tools of political censorship. In the run-up to the 2020 election, Joe Biden's presidential campaign team routinely flagged tweets and accounts it wanted to be censored, and we have all seen the screengrab of email exchanges between executives as evidence of that. Twitter suppressed the *New York Post*'s infamous Hunter Biden laptop exposé on the spurious grounds that it was "planted Russian misinformation". The *Post* was even locked out of its own account. It took 18 months for the *Washington Post* and the *New York Times* to get hold of, and investigate, Hunter Biden's emails, and both determined that the *New York Post*'s original report was indeed legitimate and factually accurate, but it was suppressed as misinformation when it might have made some political difference in an election.

We might say that all is fair in love and war and elections but, to make us think about what we mean by "misinformation" and why it is not so simple, was the Labour Party attack ad that claimed Rishi Sunak did not believe that paedophiles should go to jail fair comment or disinformation, and who decides? I know that Tobias Ellwood MP called for a cross-party inquiry on the issue, calling on social media platforms to do more to combat "malicious political campaigns". I am not saying that I have a view one way or another on this, but my question is: in that instance, who gets to label information as "malicious" or "fake" or "misinformation"? Who gets the final say? Is it a black and white issue? How can we avoid it becoming partisan?

Yesterday, at the Second Reading of the Illegal Migration Bill, I listened very carefully to the many contributions. Huge numbers of noble Lords continually claimed that all those in the small boats crossing the channel were fleeing war and persecution—fleeing for their lives. Factually that was inaccurate, according to detailed statistics and evidence, yet no one called those contributors "peddlers of misinformation", because those speaking are considered to be compassionate

and on the righteous side of the angels—at least in the case of the most reverend Primate the Archbishop of Canterbury—and, as defined by this House, they were seen to be saying the truth, regardless of the evidence. My point is that it was a political argument, yet here we are focusing on this notion that the public are being duped by misinformation.

What about those who tell children that there are 140 genders to choose from, or that biological sex is immutable? I would say that is dangerous misinformation or disinformation; others would say that me saying that is bigoted. There is at least an argument to be had, but it illustrates that the labelling process will always be contentious, and therefore I have to ask: who is qualified to decide?

A number of amendments in this group put forward a variety of "experts" who should be, for example, on the advisory committee—those who should decide and those who should not—and I want to look at this notion of expertise in truth. For example, in the report by the Communications and Digital Committee in relation to an incident where Facebook marked as "false" a post on Covid by a professor of evidence-based medicine at Oxford University, the committee asked Facebook about the qualifications of those who made that judgment—of the fact-checkers. It was told that they were

"certified by the International Fact-Checking Network".

Now, you know, who are they? The professor of evidence-based medicine at Oxford University might have a bit more expertise here, and I do not want a Gradgrind version of truth in relation to facts, and so on.

If it were easy to determine the truth, we would be able to wipe out centuries of philosophy, but if we are going to have a committee determining the truth, could we also have some experts in civil liberties—maybe the Free Speech Union, Big Brother Watch, and the Index on Censorship—on a committee to ensure that we do not take down accurate information under the auspices of "misinformation"? Are private tech companies, or professional fact-checkers, or specially selected experts, best placed to judge the reliability of all sorts of information and of the truth, which I would say requires judgement, analysis and competing perspectives?

Too promiscuous a use of the terms "misinformation" and "disinformation" can also cause problems, and often whole swathes of opinion are lumped together. Those who raised civil liberties objections to lockdown where denounced "Covidiots", conspiracy theorists peddling misinformation and Covid deniers, on a par with those who suggested that the virus was linked to everything from 5G masts to a conscious "plandemic".

Those who now raise queries about suppressing any reference to vaccine harms, or who are concerned that people who have suffered proven vaccine-related harms are not being shown due support, are often lumped in with those who claim the vaccine was a crime against humanity. All are accused of misinformation, with no nuance and no attempt at distinguishing very different perspectives. Therefore, with such wide-ranging views labelled as "misinformation" as a means of censorship, those good intentions can backfire—and I do believe that there are good intentions behind many of these amendments.

4.15 pm

To conclude, banning inaccurate ideas—if they are actually censored as misinformation or disinformation—can push them underground and allow them to fester unchallenged in echo chambers. It can also create martyrs. How often do we hear those who have embraced full-blown conspiracy theories, often peddling cranky and scaremongering theories, say, "They're trying to silence me because they know that what I'm saying is true. What are they afraid of?" Historically, I think the best solution to bad speech is more speech and more argument; the fullest debate, discussion, scholarship, investigation and research—yes, googling, using Wikipedia or reading the odd book—and, of course, judgment and common sense to figure it out.

We should also remember from our history that what is labelled as false by a minority of people can be invaluable scepticism, challenging a consensus and eventually allowing truth to emerge. The fact—the truth—was once that the world was flat. Luckily, the fact-checkers were not around to ban the minority who challenged that view, and now we know a different truth.

Baroness Bennett of Manor Castle (GP): My Lords, I have attached my name to Amendments 52 and 99 in the name of the noble Baroness, Lady Merron, respectively signed by the noble Lords, Lord Bethell and Lord Clement-Jones, and Amendment 222 in her name. I entirely agree with what both the noble Baroness, Lady Merron, and the noble Lord, Lord Bethell, said. The noble Lord in particular gave us a huge amount of very well-evidenced information on the damage done during the Covid pandemic—and continuing to be done—by disinformation and misinformation. I will not repeat what they said about the damage done by the spread of conspiracy theories and anti-vaccination falsehoods and the kind of malicious bots, often driven by state actors, that have caused such damage.

I want to come from a different angle. I think we were—until time prevented it, unfortunately—going to hear from the noble Baroness, Lady Finlay of Llandaff, which would have been a valuable contribution to this debate. Her expert medical perspective would have been very useful. I think that she and I were the only two Members in the Committee who took part in the passage of the Medicines and Medical Devices Act. I think it was before the time of the noble Lord, Lord Bethell—he is shaking his head; I apologise. He took part in that as well. I also want to make reference to discussions and debates I had with him over changes to regulations on medical testing.

The additional point I want to make about disinformation and misinformation—this applies in particular to Amendment 222 about the independence of the advisory committee on disinformation and misinformation—is that we are now seeing in our medical system a huge rise in the number of private actors. These are companies seeking to encourage consumers or patients to take tests outside the NHS system and to get involved in a whole set of private provision. We are seeing a huge amount of advertising of foreign medical provision, given the pressures that our NHS is under. In the UK we have had traditionally, and still have, rules that place severe restrictions on the direct advertising of medicines and medical devices to patients—

[Baroness Bennett of Manor Castle]
unlike, for example, the United States, where it is very much open slather, with some disastrous and very visible impacts.

We need to think about the fact that the internet, for better or for worse, is now a part of our medical system. If people feel ill, the first place they go—before they call the NHS, visit their pharmacist or whatever—is very often the internet, through these providers. We need to think about this in the round and as part of the medical system. We need to think about how our entire medical ecology is working, and that is why I believe we need amendments like these.

Lord Bethell (Con): The noble Baroness makes two incredibly important points. We are seeking to give people greater agency on their own health and the internet has been an enormous bonus in doing that, but of course that environment needs to be curated extremely well. We are also seeking to make use of health tech—non-traditional clinical interventions, some of which do not pierce the skin and therefore fall outside the normal conversation with GPs—and giving people the power to make decisions about the use of these new technologies for themselves. That is why curation of the health information environment is so important. Does the noble Baroness have any reflections on that.

Baroness Bennett of Manor Castle (GP): I thank the noble Lord for his intervention. He has made me think of the fact that a particular area where this may be of grave concern is cosmetic procedures, which I think we debated during the passage of the Health and Care Act. These things are all interrelated, and it is important that we see them in an interrelated way as part of what is now the health system.

Baroness Kidron (CB): My Lords, I will speak to a number of amendments in this group. I want to make the point that misinformation and disinformation was probably the issue we struggled with the most in the pre-legislative committee. We recognised the extraordinary harm it did, but also—as the noble Baroness, Lady Fox, said—that there is no one great truth. However, algorithmic spread and the drip, drip, drip of material that is not based on any search criteria or expression of an opinion but simply gives you more of the same, particularly the most shocking, moves very marginal views into the mainstream.

I am concerned that our debates over the last five days have concentrated so much on content, and that the freedom we seek does not take enough account of the way in which companies currently exercise control over the information we see. Correlations such as "Men who like barbecues are also susceptible to conspiracy theories" are then exploited to spread toxic theories that end in real-world harm or political tricks that show, for example, the Democrats as a paedophile group. Only last week I saw a series of pictures, presented as "evidence", of President Biden caught in a compromising situation that gave truth to that lie. As Maria Ressa, the Nobel Peace Prize winner for her contribution to the freedom of expression, said in her acceptance speech:

> "Tech sucked up our personal experiences and data, organized it with artificial intelligence, manipulated us with it, and created behavior at a scale that brought out the worst in humanity".

That is the background to this set of amendments that we must take seriously.

As the noble Lord, Lord Bethell, said, Amendment 52 will ensure that platforms undertake a health misinformation risk assessment and provide a clear policy on dealing with harmful, false and misleading information. I put it to the Committee that, without this requirement, we will keep the status quo in which clicks are king, not health information.

It is a particular pleasure to support the noble Lord, Lord Moylan, on his Amendments 59 and 107. Like him, I am instinctively against taking material down. There are content-neutral ways of marking or questioning material, offering alternatives and signposting to diverse sources—not only true but diverse. These can break this toxic drip feed for long enough for people to think before they share, post and make personal decisions about the health information that they are receiving.

I am not incredibly thrilled by a committee for every occasion, but since the Bill is silent on the issue of misinformation and disinformation—which clearly will be supercharged by the rise of large language data models—it would be good to give a formal role to this advisory committee, so that it can make a meaningful and formal contribution to Ofcom as it develops not only this code of conduct but all codes of conduct.

Likewise, I am very supportive of Amendment 222, which seeks independence for the chair of the advisory body. I have seen at first hand how a combination of regulatory capture and a very litigious sector with deep pockets slows down progress and transparency. While the independence of the chair should be a given, our collective lived experience would suggest otherwise. This amendment would make that requirement clear.

Finally, and in a way most importantly, Amendment 224 would allow Ofcom to consider after the effect whether the code of conduct is necessary. This strikes a balance between adding to its current workload, which we are trying not to do, and tying one hand behind its back in the future. I would be grateful to hear from the Minister why we would not give Ofcom this option as a reasonable piece of future-proofing, given that this issue will be ever more important as AI creates layers of misinformation and disinformation at scale.

Baroness Healy of Primrose Hill (Lab): My Lords, I support Amendment 52, tabled by my noble friend Lady Merron. This is an important issue which must be addressed in the Bill if we are to make real progress in making the internet a safer space, not just for children but for vulnerable adults.

We have the opportunity to learn lessons from the pandemic, where misinformation had a devastating impact, spreading rapidly online like the virus and threatening to undermine the vaccine rollout. If the Government had kept their earlier promise to include protection from harmful false health content in their indicative list of harmful content that companies would have been required to address under the now removed adult safety duties, these amendments would not be necessary.

It is naive to think that platforms will behave responsibly. Currently, they are left to their own devices in how they tackle health misinformation, without appropriate regulatory oversight. They can remove it at scale or leave it completely unchecked, as illustrated by Twitter's decision to stop enforcing its Covid-19 misinformation policies, as other noble Lords have pointed out.

It is not a question of maintaining free speech, as some might argue. It was the most vulnerable groups who suffered from the spread of misinformation online—pregnant women and the BAME community, who had higher illness rates. Studies have shown that, proportionately, more of them died, not just because they were front-line workers but because of rumours spread in the community which resulted in vaccine hesitancy, with devastating consequences. As other noble Lords have pointed out, in 2021 the Royal College of Obstetricians and Gynaecologists found that only 42% of women who had been offered the vaccine accepted it, and in October that year one in five of the most critically ill Covid patients were unvaccinated, pregnant women. That is a heartbreaking statistic.

Unfortunately, it is not just vaccine fears that are spread on the internet. Other harmful theories can affect patients with cancer, mental health issues and sexual health issues, and, most worryingly, can affect children's health. Rumours and misinformation play on the minds of the most vulnerable. The Government have a duty to protect people, and by accepting this amendment they would go some way to addressing this.

Platforms must undertake a health misinformation risk assessment and have a clear policy on dealing with harmful, false and misleading health information in their terms of service. They have the money and the expertise to do this, and Parliament must insist. As my noble friend Lady Merron said, I do not think that the Minister can say that the false communications offence in Clause 160 will address the problem, as it covers only a user sending a knowingly false communication with the intention of causing harm. The charity Full Fact has stated that this offence will exclude most health misinformation that it monitors online.

Lord Clement-Jones (LD): My Lords, this has been a very interesting debate. I absolutely agree with what the noble Baroness, Lady Kidron, said right at the beginning of her speech. This was one of the most difficult areas that the Joint Committee had to look at. I am not saying that anything that we said was particularly original. We tried to say that this issue could be partly addressed by greater media literacy, which, no doubt, we will be talking about later today; we talked about transparency of system design, and about better enforcement of service terms and conditions. But things have moved on. Clearly, many of us think that the way that the current Bill is drafted is inadequate. However, the Government did move towards proposing a committee to review misinformation and disinformation. That is welcome, but I believe that these amendments are taking the thinking and actions a step forward.

4.30 pm

I do not agree with the noble Baroness, Lady Fox. What she has been saying is really a counsel of despair on not being able to deal with misinformation and disinformation. I was really interested to hear what the noble Lord, Lord Bethell, had to say about his experience—this is pretty difficult stuff to tackle when you are in a position of that sort. I support the noble Baronesses, Lady Bennett and Lady Healy, in what they had to say about this particular aspect. As the noble Baroness, Lady Kidron, said, it is about the system and the amplification that takes place, which brings out the worst in humanity.

The Puttnam report, by the Democracy and Digital Technologies Committee, also raised this. If Lord Puttnam had not retired from this House, he would be here today, saying that we need to do a lot more about this than we are proposing even in the amendments. In the report, the committee talked about a pandemic of misinformation. Nowhere is that more apparent than in health. The report was prescient; it came out in June 2020, some three years ago, well before we heard and saw all kinds of disinformation about vaccines.

We are seeing increasing numbers of commentators talking about the impact of misinformation and disinformation. We have had Ciaran Martin, former head of the National Cyber Security Centre, talking about the dangers to democracy. We have heard Sir Jeremy Fleming, head of GCHQ, saying that the main threat from AI is disinformation. We have had some really powerful statements, quite apart from seeing the impact of disinformation and misinformation on social media platforms.

On these Benches, we believe that the Government have a responsibility to intervene on misinformation and to support legislation to stop the spread of fake news. I believe that the public have an expectation that the Government do that and that the large social media companies address this issue on their platforms, hence my support for the amendments in these groups.

It has to be balanced. That is why I support the amendments by the noble Lord, Lord Moylan, as well. We have a common interest in trying to make sure that, while preventing misinformation and disinformation, we do it in a proportional way, as he described. That is of great importance.

The noble Lord, Lord Bethell, did not quote at length from the letter from Full Fact and all the health professionals, but, notably, it says:

> "One key way that we can protect the future of our healthcare system is to ensure that internet companies have clear policies on how they identify the harmful health misinformation that appears on their platforms, as well as consistent approaches in dealing with it".

It is powerful testimony from some very experienced and senior health professionals.

The focus of many of these amendments is on the way that the advisory committee will operate. Having an independent chair is of great importance, as is having a time limit within which there must be a report, along with other aspects.

The noble Lord, Lord Moylan, referred in one of the amendments to addressing the opacity of existing government methods for tackling disinformation. He mentioned one unit, but there are three units that I have been briefed about. There is the counter-disinformation unit in DCMS, which addresses mainly

[Lord Clement-Jones]
Covid issues that breach companies' terms of service, and, recently, Russia/Ukraine issues. Then we have the Government Information Cell, which is based in the FCDO, and the rapid response unit, which I think he referred to, in the Cabinet Office. Ministers referred to these and said that the principal focus of the DCMS unit during the pandemic was Covid et cetera, but we do not know very much about what these units do or what their criteria are. Do they have any relationship with Ofcom? Will they have a relationship with Ofcom? It is important that we have something that reduces that level of opacity and opens up what those units do to a greater degree of scrutiny.

The only direct reference to misinformation in the Bill as it stands is to the advisory committee, so it is important that we know how it fits in with Ofcom's wider regulatory functions, and that there is a duty to create a code of practice on information and misinformation. The advisory committee should be creative in the way it operates. One of the difficult issues we found is that there is not a great deal of knowledge out there about how to tackle misinformation and disinformation in a systemic way.

Finally, I was very interested in the briefing that noble Lords probably all received from Adobe, which talked about the Content Authenticity Initiative. That is exactly the kind of thing the advisory committee should be exploring. Apparently, it has more than 1,000 members, including media and tech companies, NGOs and so on. Its ambition is to promote the adoption of an open industry standard for content authenticity and provenance. That may sound like the holy grail, but it is something we should be trying to work towards.

These amendments are a means of at least groping towards a better way of tackling misinformation and disinformation, which, as we have heard, can have a huge impact, particularly in health.

Lord Parkinson of Whitley Bay (Con): My Lords, this debate has demonstrated the diversity of opinion regarding misinformation and disinformation—as the noble Lord said, the Joint Committee gave a lot of thought to this issue—as well as the difficulty of finding the truth of very complex issues while not shutting down legitimate debate. It is therefore important that we legislate in a way that takes a balanced approach to tackling this, keeping people safe online while protecting freedom of expression.

The Government take misinformation and disinformation very seriously. From Covid-19 to Russia's use of disinformation as a tool in its illegal invasion of Ukraine, it is a pervasive threat, and I pay tribute to the work of my noble friend Lord Bethell and his colleagues in the Department of Health and Social Care during the pandemic to counter the cynical and exploitative forces that sought to undermine the heroic effort to get people vaccinated and to escape from the clutches of Covid-19.

We recognise that misinformation and disinformation come in many forms, and the Bill reflects this. Its focus is rightly on tackling the most egregious, illegal forms of misinformation and disinformation, such as content which amounts to the foreign interference offence or which is harmful to children—for instance, that which intersects with named categories of primary priority or priority content.

That is not the only way in which the Bill seeks to tackle it, however. The new terms of service duties for category 1 services will hold companies to account over how they say they treat misinformation and disinformation on their services. However, the Government are not in the business of telling companies what legal content they can and cannot allow online, and the Bill should not and will not prevent adults accessing legal content. In addition, the Bill will establish an advisory committee on misinformation and disinformation to provide advice to Ofcom on how they should be tackled online. Ofcom will be given the tools to understand how effectively misinformation and disinformation are being addressed by platforms through transparency reports and information-gathering powers.

Amendment 52 from the noble Baroness, Lady Merron, seeks to introduce a new duty on platforms in relation to health misinformation and disinformation for adult users, while Amendments 59 and 107 from my noble friend Lord Moylan aim to introduce new proportionality duties for platforms tackling misinformation and disinformation. The Bill already addresses the most egregious types of misinformation and disinformation in a proportionate way that respects freedom of expression by focusing on misinformation and disinformation that are illegal or harmful to children.

Baroness Kidron (CB): I am curious as to what the Bill says about misinformation and disinformation in relation to children. My understanding of primary priority and priority harms is that they concern issues such as self-harm and pornography, but do they say anything specific about misinformation of the kind we have been discussing and whether children will be protected from it?

Lord Parkinson of Whitley Bay (Con): I am sorry—I am not sure I follow the noble Baroness's question.

Baroness Kidron (CB): Twice so far in his reply, the Minister has said that this measure will protect children from misinformation and disinformation. I was just curious because I have not seen any sight of that, either in discussions or in the Bill. I was making a distinction regarding harmful content that we know the shape of—for example, pornography and self-harm, which are not, in themselves, misinformation or disinformation of the kind we are discussing now. It is news to me that children are going to be protected from this, and I am delighted, but I was just checking.

Lord Parkinson of Whitley Bay (Con): Yes, that is what the measure does—for instance, where it intersects with the named categories of primary priority or priority content in the Bill, although that is not the only way the Bill does it. This will be covered by non-designated content that is harmful to children. As we have said, we will bring forward amendments on Report—which is perhaps why the noble Baroness has not seen them in the material in front of us—regarding material harms to children, and they will provide further detail and clarity.

Returning to the advisory committee that the Bill sets up and the amendments from the noble Baroness, Lady Merron, and my noble friend Lord Moylan, all regulated service providers will be forced to take action against illegal misinformation and disinformation in scope of the Bill. That includes the new false communication offences in the Bill that will capture communications where the sender knows the information to be false but sends it intending to cause harm—for example, hoax cures for a virus such as Covid-19. The noble Baroness is right to say that that is a slightly different approach from the one taken in her amendment, but we think it an appropriate and proportionate response to tackling damaging and illegal misinformation and disinformation. If a platform is likely to be accessed by children, it will have to protect them from encountering misinformation and disinformation content that meets the Bill's threshold for content that is harmful to children. Again, that is an appropriate and proportionate response.

Turning to the points made by my noble friend Lord Moylan and the noble Baroness, Lady Fox, services will also need to have particular regard to freedom of expression when complying with their safety duties. Ofcom will be required to set out steps that providers can take when complying with their safety duties in the codes of practice, including what is proportionate for different providers and how freedom of expression can be protected.

4.45 pm

My noble friend Lord Bethell and the noble Baroness, Lady Merron, are concerned that health misinformation and disinformation will not be adequately covered by this. Their amendment seeks to tackle that but, in doing so, mimics provisions on content harmful to adults previously included in the Bill which the Government consciously removed last year following debates in another place. The Government take concerns about health-related misinformation and disinformation very seriously. Our approach will serve a purpose of transparency and accountability by ensuring that platforms are transparent and accountable to their users about what they will and will not allow on their services.

Under the new terms of service for category 1 services, if certain types of misinformation and disinformation are prohibited in platforms' terms of service, they will have to remove it. That will include anti-vaccination falsehoods and health-related misinformation and disinformation if it is prohibited in their terms of service. This is an appropriate response which prevents services from arbitrarily removing or restricting legal content, however controversial it may be, or suspending or banning users where it is not in accordance with their expressed terms of service.

The Bill will protect people from the most egregious types of health-related misinformation and disinformation while still protecting freedom of expression and allowing users to ask genuine questions about health-related matters. There are many examples from recent history—Primodos, Thalidomide and others—which point to the need for legitimate debate about health-related matters, sometimes against companies which have deep pockets to defend the status quo.

My noble friend Lord Bethell also raised concerns about the role that algorithms play in pushing content. I reassure him that all companies will face enforcement action if illegal content in scope of the Bill is being promoted to users via algorithms. Ofcom will have a range of powers to assess whether companies are fulfilling their regulatory requirements in relation to the operation of their algorithms.

In circumstances where there is a significant threat to public health, the Bill already provides additional powers for the Secretary of State to require Ofcom to prioritise specified objectives when carrying out its media literacy activity and to require that companies report on the action they are taking to address the threat. The advisory committee on misinformation and disinformation will also be given the flexibility and expertise to consider providing advice to Ofcom on this issue, should it choose to.

Amendments 99 and 222 from the noble Baroness, Lady Merron, and Amendments 223 and 224 from the noble Lord, Lord Knight of Weymouth, relate to the advisory committee. Disinformation is a pervasive and evolving threat. The Government believe that responding to the issue effectively requires a multifaceted, whole-of-society approach. That is what the advisory committee seeks to do by bringing together technology companies, civil society organisations and sector experts to advise Ofcom in building cross-sector understanding and technical knowledge of the challenges and how best to tackle them. The Government see this as an essential part of the Bill's response to this issue.

I understand the desire of noble Lords to ensure that the committee is conducting its important work as quickly as possible, but it is imperative that Ofcom has the appropriate time and space to appoint the best possible committee and that its independence as a regulator is respected. Ofcom is well versed in setting up statutory committees and ensuring that committees established under statute meet their obligations while maintaining impartiality and integrity. To seek to prescribe timeframes or their composition risks impeding Ofcom's ability to run a transparent process that finds the most suitable candidates. Considering the evolving nature of disinformation and the online realm, the advisory committee will also need the flexibility to adapt and respond. It would therefore not be appropriate for the Bill to be overly prescriptive about the role of the advisory committee or to mandate the things on which it must report.

The noble Baroness, Lady Fox of Buckley, asked whether the committee could include civil liberties representatives. It is for Ofcom to decide who is on the committee, but Ofcom must have regard to the desirability of including, among others, people representing the interests of UK users of regulated services, which could include civil liberties groups.

The noble Baroness, Lady Kidron, raised the challenges of artificial intelligence. Anything created by artificial intelligence and shared on an in-scope service by a user will qualify as user-generated content. It would therefore be covered by the Bill's safety duties, including to protect children from harmful misinformation and disinformation, and to ensure that platforms properly enforce their terms of service for adults.

[Lord Parkinson of Whitley Bay]

I turn to the points raised in my noble friend Lord Moylan's Amendment 264. Alongside this strong legislative response, the Government will continue their operational response to tackling misinformation and disinformation. As part of this work, the Government meet social media companies on a regular basis to discuss a range of issues. These meetings are conducted in the same way that the Government would engage with any other external party, and in accordance with the well-established transparency processes and requirements.

The Government's operational work also seeks to understand misinformation and disinformation narratives that are harmful to the UK, to build an assessment of their risk and threat. We uphold the same commitment to freedom of expression in our operational response as we do in our legislative response. As I said, we are not in the business of telling companies what legal content they can and cannot allow. Indeed, under the Bill, category 1 services must set clear terms of service that are easy for users to understand and are consistently enforced, ensuring new levels of transparency and accountability.

Our operational response will accompany our legislative response. The measures have been designed to provide a strong response to tackle misinformation and disinformation, ensuring users' safety while promoting a thriving and lively democracy where freedom of expression is protected.

The noble Baroness, Lady Fox, and the noble Lord, Lord Clement-Jones, asked about the counter-disinformation unit run, or rather led, by the Department for Science, Innovation and Technology. That works to understand attempts to artificially manipulate the information environment, and to understand the scope, scale and reach of misinformation and disinformation. It responds to acute information incidents, such as Russian information operations during the war in Ukraine, those we saw during the pandemic and those around important events such as general elections. It does not monitor individuals; rather, its focus is on helping the Government understand online misinformation and disinformation narratives and threats.

When harmful narratives are identified, the unit works with departments across Whitehall to deploy the appropriate response, which could involve a direct rebuttal on social media or awareness-raising campaigns to promote the facts. Therefore, the primary purpose is not to monitor for harmful content to flag to social media companies—the noble Baroness raised this point—but the department may notify the relevant platform if, in the course of its work, it identifies content that potentially violates platforms' terms of service, including co-ordinated, inauthentic or manipulative behaviour. It is then up to the platform to decide whether to take action against the content, based on its own assessment and terms of service.

Baroness Fox of Buckley (Non-Afl): The Minister mentioned "acute" examples of misinformation and used the example of the pandemic. I tried to illustrate that perhaps, with hindsight, what were seen as acute examples of misinformation turned out to be rather more accurate than we were led to believe at the time. So my concern is that there is already an atmosphere of scepticism about official opinion, which is not the same as misinformation, as it is sometimes presented. I used the American example of the Hunter Biden laptop so we could take a step away.

Lord Moylan (Con): This might be an appropriate moment for me to say—on the back of that—that, although my noble friend explained current government practice, he has not addressed my point on why there should not be an annual report to Parliament that describes what government has done on these various fronts. If the Government regularly meet newspaper publishers to discuss the quality of information in their newspapers, I for one would have entire confidence that the Government were doing so in the public interest, but I would still quite like—I think the Government would agree on this—a report on what was happening, making an exception for national security. That would still be a good thing to do. Will my noble friend explain why we cannot be told?

Lord Parkinson of Whitley Bay (Con): While I am happy to elaborate on the work of the counter-disinformation unit in the way I just have, the Government cannot share operational details about its work, as that would give malign actors insight into the scope and scale of our capabilities. As my noble friend notes, this is not in the public interest. Moreover, reporting representations made to platforms by the unit would also be unnecessary as this would overlook both the existing processes that govern engagements with external parties and the new protections that are introduced through the Bill.

In the first intervention, the noble Baroness, Lady Fox, gave a number of examples, some of which are debatable, contestable facts. Companies may well choose to keep them on their platforms within their terms of service. We have also seen deliberate misinformation and disinformation during the pandemic, including from foreign actors promoting more harmful disinformation. It is right that we take action against this.

I hope that I have given noble Lords some reassurance on the points raised about the amendments in this group. I invite them not to press the amendments.

Baroness Merron (Lab): My Lords, I am most grateful to noble Lords across the Committee for their consideration and for their contributions in this important area. As the noble Baroness, Lady Kidron, and the noble Lord, Lord Clement-Jones, both said, this was an area of struggle for the Joint Committee. The debate today shows exactly why that is so, but it is a struggle worth having.

The noble Lord, Lord Bethell, talked about there being a gap in the Bill as it stands. The amendments include the introduction of risk assessments and transparency and, fundamentally, explaining things in a way that people can actually understand. These are all tried and tested methods and can serve only to improve the Bill.

I am grateful to the Minister for his response and consideration of the amendments. I want to take us back to the words of the noble Baroness, Lady Kidron.

She explained it beautifully—partly in response to the comments from the noble Baroness, Lady Fox. This is about tackling a system of amplification of misinformation and disinformation that moves the most marginal of views into the mainstream. It deals with restricting the damage that, as I said earlier, can produce the most dire circumstances. Amplification is the consideration that these amendments seek to tackle.

I am grateful to the noble Lord, Lord Moylan, for his comments, as well as for his amendments. I am sure the noble Lord has reflected that some of the previous amendments he brought before the House somewhat put the proverbial cat among the Committee pigeons. On this occasion, I think the noble Lord has nicely aligned the cats and the pigeons. He has managed to rally us all—with the exception of the Minister—behind these amendments.

Lord Bethell (Con): The noble Baroness is entirely right to emphasise amplification. May I put into the mix the very important role of the commercialisation of health misinformation? The more you look at the issue of health misinformation, the more you realise that its adverse element is to do with making money out of people's fears. I agree with the noble Baroness, Lady Fox, that there should be a really healthy discussion about the efficacy, safety and value for money of modern medicines. That debate is worth having. The Minister rightly pointed out some recent health scandals that should have been chased down much more. The commercialisation of people's fears bears further scrutiny and is currently a gap in the Bill.

Baroness Merron (Lab): I certainly agree with the noble Lord, Lord Bethell, on that point. It is absolutely right to talk about the danger of commercialisation and how it is such a driver of misinformation and disinformation; I thank him for drawing that to the Committee's attention. I also thank my noble friend Lady Healy for her remarks, and her reflection that these amendments are not a question of restricting free speech and debate; they are actually about supporting free speech and debate but in a safe and managed way.

5 pm

The Minister gave the Committee the assurance that the Bill in its current form tackles the most egregious forms of disinformation and misinformation. If only it were so, we would not have had cause to bring forward these amendments. I again refer to the point in the Minister's response when, as I anticipated, he referred to the false communications offence in Clause 160. I repeat the point gently but firmly to the Minister that this just does not address the amplification point that we seek to focus on. One might argue that perhaps it is more liberal and proportionate to allow misinformation and disinformation but to focus on tackling their amplification. That is where our efforts should be.

With those comments, with thanks to the Minister and other noble Lords, and in the hope that the Minister will have the opportunity to reflect on the points raised in this debate, I beg leave to withdraw.

Amendment 52 withdrawn.

Amendment 52A

Moved by ***Lord Knight of Weymouth***

52A: After Clause 15, insert the following new Clause—

"Duty to inform users about accuracy of content on a service

(1) This section sets out a duty to make available information to allow users to establish the reliability and accuracy of content which applies in relation to Category 1 services.

(2) A duty, where a service provides access to both journalistic and other forms of content, to make available to users such information that may be necessary to allow users to establish the reliability and accuracy of content encountered on the service."

Member's explanatory statement

This amendment is to probe what steps, if any, a carrier of journalistic content is expected to take to improve users' media literacy skills.

Lord Knight of Weymouth (Lab): I move this amendment in my name as part of a group of amendments on media literacy. I am grateful to Full Fact, among others, for some assistance around these issues, and to Lord Puttnam. He has retired from this House, of course, but it was my pleasure to serve on the committee that he chaired on democracy and digital technology. He remains in touch and is watching from his glorious retirement in the Republic of Ireland—and he is pressing that we should address issues around media literacy in particular.

The Committee has been discussing the triple shield. We are all aware of the magic of threes—the holy trinity. Three is certainly a magic number, but we also heard about the three-legged stool. There is more stability in four, and I put it to your Lordships that, having thought about "illegal" as the first leg, "terms of service" as the second and "user empowerment tools" as the third, we should now have, as a fourth leg underpinning a better and safer environment for the online world, "better media literacy", so that users have confidence and competence online as a result.

To use the user empowerment tools effectively, we need to be able to understand the business models of the platforms, and how we are paying for their services with our data and our attention; how platforms use our data; our data rights as individuals; and the threat of scams, catfishing, phishing and fraud, which we will discuss shortly. Then there is the national cyber threat. I was really struck, when we were on that committee that Lord Puttnam chaired, by hearing how nations such as Finland and the Baltic states regard media literacy as a national mission to protect them particularly from the threat of cyberwarfare from Russia.

We have heard about misinformation and disinformation. There are issues of emerging technologies that we all need to be more literate about. I remember, some six or seven years ago, my wife was in a supermarket queue with her then four year-old daughter who turned to her and asked what an algorithm was. Could any of us then confidently be able to reply and give a good answer? I know that some would be happy to do so, but we equally need to be able to answer what machine learning is, what large-language models are, or what neural networks are in order to understand the emerging world of artificial intelligence.

[Lord Knight of Weymouth]

Ofcom already has a duty under the Communications Act 2002. Incidentally, Lord Puttnam chaired the Joint Committee on that Act. It is worth asking ourselves: how is it going for Ofcom in the exercise of that duty? We can recall, I am sure, the comments last Tuesday in this Committee of the noble Baroness, Lady Buscombe, who said:

> "I took the Communications Act 2003 through for Her Majesty's Opposition, and we were doing our absolute best to future-proof the legislation. There was no mention of the internet in that piece of legislation".—[*Official Report*, 9/5/23; col. 1709.]

There is no doubt in my mind that, as a result of all the changes that have taken place in the last 20 years, the duty in that Act needs updating, and that is what we are seeking to do.

It is also possible to look at the outcomes. What is the state of media literacy in the nation at the moment? I was lucky enough this weekend to share a platform at a conference with a young woman, Monica. She lives in Greenwich, goes to Alleyn's School, is articulate and is studying computer science at A-level. When asked about the content of the computer science curriculum, which is often prayed in aid in terms of the digital and media literacy of our young people, she reminded the audience that she still has to learn about floppy disks because the curriculum struggles to keep up to date. She is not learning about artificial intelligence in school because of that very problem. The only way in which she could do so, and she did, was through an extended project qualification last year.

We then see Ofcom's own reporting on levels of media literacy in adults. Among 16 to 24 year-olds, which would cover Monica, for example, according to the most recent report out earlier this year or at the end of last, only two-thirds are confident and able to recognise scam ads, compared to 76% of the population in England. Young people are less confident in recognising search-engine advertising than the majority: only 42% of young people are confident around differentiating between organic and advertising content on search. Of course, young people are better at thinking about the truthfulness of "factual" information online. For adults generally, the report showed that only 45% of us are confident and able to recognise search-engine advertising, and a quarter of us struggle to identify scam emails and factful truthfulness online. You are less media literate and therefore more vulnerable if you are from the poorer parts of the population. If you are older, you are still yet more vulnerable to scam emails, although above average on questioning online truth and spotting ads in search engines. Finally, in 2022, Ofcom also found that 61% of social media users who say they are confident in judging whether online content is true or false actually lack the skills to be able to do so. A lot of us are kidding ourselves in terms of how safe we are and how much we know about the online world.

So, much more is to be done. Hence, Amendment 52A probes what the duty on platforms should be to improve media literacy and thereby establish the reliability and accuracy of journalistic content. Amendment 91 in my name requires social media and search services to put in place measures to improve media literacy and thereby explain things like the business model that currently is too often skated over by the media literacy content provided by platforms to schools and others. The noble Lord, Lord Holmes, has Amendment 91A, which is similar in intent, and I look forward to hearing his comments on that.

Amendment 98 in my name would require a code of practice from Ofcom in support of these duties and Amendment 186 would ensure that Ofcom has sufficient funds for its media literacy duties. Amendment 188 would update the Communications Act to reflect the online world that we are addressing in this Bill. I look forward to the comments from the noble Baroness, Lady Prashar, in respect of her Amendment 236, which, she may argue, does a more comprehensive job than my amendment.

Finally, my Amendment 189 in this group states that Ofsted would have to collaborate with Ofcom in pursuance of its duties, so that Ofcom could have further influence into the quality of provision in schools. Even this afternoon, I was exchanging messages with an educator in Cornwall called Giles Hill, who said to me that it is truly dreadful for schools having to mop up problems caused by this unregulated mess.

This may not be the perfect package in respect of media literacy and the need to get this right and prop up the three-legged stool, but there is no doubt from Second Reading and other comments through the Bill's passage that this is an area where the Bill needs to be amended to raise the priority and the impact of media literacy among both service providers and the regulator. I beg to move.

Lord Holmes of Richmond (Con): My Lords, it is a pleasure to take part in today's proceedings. As it is my first contribution on this Bill, I declare my technology and financial services interests, as set out in the register. I also apologise for not being able to take part in the Second Reading deliberations.

It is a particular pleasure to follow my friend, the noble Lord, Lord Knight; I congratulate him on all the work that he has done in this area. Like other Members, I also say how delighted I was to be part of Lord Puttnam's Democracy and Digital Technologies Committee. It is great to know that he is watching—hopefully on wide-movie screen from Skibbereen—because the contribution that he has made to this area over decades is beyond parallel. To that end, I ask my noble friend the Minister whether he has had a chance to remind himself of the recommendations in our 2020 report. Although it is coming up to three years old, so much of what is in that report is completely pertinent today, as it was on the date of publication.

I am in the happy position to support all the amendments in this group; they all have similar intent. I have been following the debate up to this point and have been in the Chamber for a number of previous sessions. Critically important issues have been raised in every group of amendments but, in so many ways, this group is perhaps particularly critical, because this is one of the groups that enables individuals, particularly young people, to have the tools that they—and we—need in their hands to enable them to grip this stuff, in all its positive and, indeed, all its less-positive elements.

My Amendment 91A covers much of the same ground as Amendment 91 from the noble Lord, Lord Knight. It is critical that, when we talk about

media literacy, we go into some detail around the subsets of data literacy, data privacy, digital literacy and, as I will come on to in a moment, financial literacy. We need to ensure that every person has an understanding of how this online world works, how it is currently constructed and how there is no inevitability about that whatever. People need to understand how the algorithms are set up. As was mentioned on a previous group, it is not necessarily that much of a problem if somebody is spouting bile in the corner; it is not ideal, but it is not necessarily a huge problem. The problem in this world is the programmability, the focus, the targeting and the weaponising of algorithms to amplify such content for monetary return. Nothing is inevitable; it is all utterly determined by the models currently in play.

It is critical for young people, and all people, to understand how data is used and deployed. In that media literacy, perhaps the greatest understanding of all is that it is not "the data" but "our data". It is for us, through media literacy, to determine how our data is deployed, for what purpose, to what intent and in what circumstances, rather than, all too often, it being sold on, and so on.

5.15 pm

Does the Minister agree that it is critical that we include financial literacy in this broader media literacy group of amendments, because so much of what is currently online is designed as financial scams or inducements? It would not be overstating it to say that there is currently an epidemic of online scamming and fraud. Does he agree that the Bill needs to be very clear on this specific issue of literacy? Will he update the Committee on the work the Government have done on the Media Literacy Taskforce Fund and, indeed, the programme fund launched last October? What updates or plans are there to scale, to develop and to further partner on both those funds?

Finally, I quote the words of the Royal College of Psychiatrists, stating pretty clearly, in terms, why media literacy matters:

"media literacy … can equip young people with the tools they need to help protect themselves as new online harms develop".

I agree but, matching like with like, I seek to amplify. More than tools, we need media literacy to be nothing short of the sword and the shield for young people in the online world—the sword and the shield for all people.

Baroness Fox of Buckley (Non-Afl): My Lords, for once, I am not entirely hostile to all these amendments—hurrah. In fact, I would rather have media literacy and education than regulation; that seems to me the solution to so much of what we have been discussing. But guess what? I have a few anxieties and I shall just raise them so that those who have put forward the arguments can come back to me.

We usually associate media literacy with schools and young people in education. Noble Lords will be delighted to know that I once taught media literacy: that might explain where we are now. It was not a particularly enlightening course for anybody, but it was part of the communications A-level at the time. I am worried about mandating schools how to teach media literacy. As the noble Lord, Lord Knight, will know, I worry about adding more to their overcrowded curriculum than they already have on their plate, but I note that the amendments actually expand the notion of being taught literacy to adults, away from just children. I suppose I just have some anxiety about Ofcom becoming the nation's teacher, presenting users of digital services as though they are hapless and helpless. In other words, I am concerned about an overly paternalistic approach—that we should not be patronising.

The noble Baroness, Lady Kidron, keeps reminding us that content should not be our focus, and that it should be systems. In fact, in practically every discussion we have had, content has been the focus, because that is what will be removed, or not, by how we deal with the systems. That is one of the things that we are struggling with.

Literacy in the systems would certainly be very helpful for everybody. I have an idea—it is not an amendment—that we should send the noble Lord, Lord Allan of Hallam, on a UK tour so that he can explain it to us all; he is not here for this compliment, but every time he spoke in the first week of Committee, I think those of us who were struggling understood what he meant, as he explained complicated and technical matters in a way that was very clear. That is my constructive idea.

Amendment 52A from the noble Lord, Lord Knight of Weymouth, focuses on content, with its

"duty to make available information to allow users to establish the reliability and accuracy of content".

That takes us back to the difficulties we were struggling with on how misinformation and disinformation will be settled and whether it is even feasible. I do not know whether any noble Lords have been following the "mask wars" that are going on. There are bodies of scientists on both sides on the efficacy of mask wearing—wielding scientific papers at dawn, as it were. These are well-informed, proper scientists who completely disagree on whether it was effective during lockdown. I say that because establishing reliability and accuracy is not that straightforward.

I like the idea of making available

"to users such information that may be necessary to allow users to establish the reliability and accuracy of content encountered on the service".

I keep thinking that we need adults and young people to say that there is not one truth, such as "the science", and to be equipped and given the tools to search around and compare and contrast different versions. I am involved in Debating Matters for 16 to 18 year-olds, which has topic guides that say, "Here is an argument, with four really good articles for it and four really good articles against, and here's a load of background". Then 16 to 18 year-olds will at least think that there is not just one answer. I feel that is the way forward.

The noble Lord, Lord Clement-Jones, said that I was preaching a counsel of despair; I like to think of myself as a person who has faith in the capacity and potential of people to overcome problems. I had a slight concern when reading the literature associated with online and digital literacy—not so much with the amendments—that it always says that we must teach people about the harms of the online world. I worry

[Baroness Fox of Buckley]
that this will reinforce a disempowering idea of feeling vulnerable and everything being negative. One of the amendments talks about a duty to promote users' "safe use" of the service. I encourage a more positive outlook, incorporating into this literacy an approach that makes people aware that they can overcome and transcend insults and be robust and savvy enough to deal with algorithms—that they are not always victims but can take control over the choices they make. I would give them lessons on resilience, and possibly just get them all to read John Locke on toleration.

Baroness Prashar (CB): My Lords, I will speak to Amendments 236, 237 and 238 in my name. I thank the noble Lord, Lord Storey, and the noble Baroness, Lady Bennett of Manor Castle, for supporting me. Like others, I thank Full Fact for its excellent briefings. I also thank the noble Lord, Lord Knight, for introducing this group of amendments, as it saves me having to make the case for why media literacy is a very important aspect of this work. It is the other side of regulation; they very much go hand in hand. If we do not take steps to promote media literacy, we could fall into a downward spiral of further and further regulation, so it is extremely important.

It is a sad fact that levels of media literacy are very low. Research from Ofcom has found that one-third of internet users are unaware of the potential for inaccurate and biased information. Further, 40% of UK adult internet users do not have the skills to critically assess information they see online, and only 2% of children have skills to tell fact from fiction online. It will not be paternalistic, but a regulator should be proactively involved in developing media literacy programmes. Through the complaints it receives and from the work that it does, the regulator can identify and monitor where the gaps are in media literacy.

To date, the response to this problem has been for social media platforms to remove content deemed harmful. This is often done using technology that picks up on certain words and phrases. The result has been content being removed that should not have been. Examples of this include organisations such as Mumsnet having social media posts on sexual health issues taken down because the posts use certain words or phrases. At one stage, Facebook's policy was to delete or censor posts expressing opinions that deviated from the norm, without defining what "norm" actually meant. The unintended consequences of the Bill could undermine free speech. Rather than censoring free speech through removing harmful content, we should give a lot more attention to media literacy.

During the Bill's pre-legislative scrutiny, the Joint Committee recommended that the Government include provisions to ensure media literacy initiatives are of a high standard. The draft version of the Bill included Clause 103, which strengthened the media literacy provisions in the Communications Act 2003, as has already been mentioned. Regrettably, the Government later withdrew the enhanced media literacy clause, so the aim of my amendments is to reintroduce strong media literacy provisions. Doing so will both clarify and strengthen media literacy obligations on online media providers and Ofcom.

Amendment 236 would place a duty on Ofcom to take steps to improve the media literacy of the public in relation to regulated services. As part of this duty, Ofcom must try to reach audiences who are less engaged and harder to reach through traditional media literacy services. It must also address gaps in the current availability of media literacy provisions for vulnerable users. Many of the existing media literacy services are targeted at children but we need to include vulnerable adults too. The amendment would place a duty on Ofcom to promote availability and increase the effectiveness of media literacy initiatives in relation to regulated services. It seeks to ensure that providers of regulated services take appropriate measures to improve users' media literacy through Ofcom's online safety function. This proposed new clause makes provision for Ofcom to prepare guidance about media literacy matters, and such guidance must be published and kept under review.

Amendment 237 would place a duty on Ofcom to prepare a strategy on how it intends to undertake the duty to promote media literacy. This strategy should set out the steps Ofcom proposes to take to achieve its media literacy duties and identify organisations, or types of organisations, that Ofcom will work with to undertake these duties. It must also explain why Ofcom believes the proposed steps will be effective in how it will assess progress. This amendment would also place a duty on Ofcom to have regard to the need to allocate adequate resources for implementing this strategy. It would require Ofcom's media strategy to be published within six months of this provision coming into force, and to be revised within three years; in both cases this should be subject to consultation.

Amendment 238 would place a duty on Ofcom to report annually on the delivery of its media literacy strategy. This reporting must include steps taken in accordance with the strategy and assess the extent to which those steps have had an effect. This amendment goes further than the existing provisions in the Communications Act 2003, which do not include duties on Ofcom to produce a strategy or to measure progress; nor do they place a duty on Ofcom to reach hard-to-reach audiences who are the most vulnerable in our society to disinformation and misinformation.

5.30 pm

The Government have previously responded by saying that there is no need to include media literacy provisions in the Bill, citing *Ofcom's Approach to Online Media Literacy*, a document published in December 2021, and the Government's own *Online Media Literacy Strategy*, published in July 2021. Both these documents make multiple references to the Online Safety Bill placing media literacy duties on Ofcom. The removal of media literacy provisions from the Bill risks this not being viewed as a priority area of the work of Ofcom or future Governments. Meta have said that it would prefer to have clear media literacy duties in the Bill, as this provides clarity. Without regulatory obligations, there is a risk that, in this important area of work, the regulator will not have the teeth it needs to monitor and regulate where there are gaps.

We need to equip society—children and adults—so that they can make knowledgeable and intelligent use of the internet. We have focused on the harm that the

internet does, but the proper use of it can have a very positive impact. The previous debate that we had about misinformation and disinformation highlighted the importance of media literacy.

Baroness Bennett of Manor Castle (GP): My Lords, it is a pleasure to follow the noble Baroness, Lady Prashar, and I join her in thanking the noble Lord, Lord Knight, for introducing this group very clearly.

In taking part in this debate, I declare a joint interest with the noble Baroness, Lady Fox, in that I was for a number of years a judge in the Debating Matters events to which she referred. Indeed, the noble Baroness was responsible for me ending up in Birmingham jail, during the time that such a debate was conducted with the inmates of Birmingham jail. We have a common interest there.

I want to pick up a couple of additional points. Before I joined your Lordships' Committee today I was involved in the final stages of the Committee debate on the economic crime Bill, where the noble Lord, Lord Sharpe of Epsom, provided a powerful argument—probably unintentionally—for the amendments we are debating here now. We were talking, as we have at great length in the economic crime Bill, about the issue of fraud. As the noble Lord, Lord Holmes of Richmond, highlighted, in the context of online harms fraud is a huge aspect of people's lives today and one that has been under-covered in this Committee, although it has very much been picked up in the economic crime Bill Committee. As we were talking about online fraud, the noble Lord, Lord Sharpe of Epsom, said that consumers have to be "appropriately savvy". I think that is a description of the need for education and critical thinking online, equipping people with the tools to be, as he said, appropriately savvy when facing the risks of fraud and scams, and all the other risks that people face online.

I have attached my name to two amendments here: Amendment 91, which concerns the providers of category 1 and 2A services having a duty, and Amendment 236, which concerns an Ofcom duty. This joins together two aspects. The providers are making money out of the services they provide, which gives them a duty to make some contribution to combatting the potential harms that their services present to people. Ofcom as a regulator obviously has a role. I think it was the noble Lord, Lord Knight, who said that the education system also has a role, and there is some reference in here to Ofsted having a role.

What we need is a cross-society, cross-systems approach. This is where I also make the point that we need to think outside the scope of the Bill—it is part of the whole package—about how the education system works, because media literacy is not a stand-alone thing that you can separate out from the issues of critical thinking more broadly. We need to think about our education system, which is far too often, for schools in particular, where we get pupils to learn and regurgitate a whole set of facts and then reward them for that. We need to think about how our education system prepares children for the modern online world.

There is a great deal we can learn from the example—often cited but worth referring to—of Finland, which by various tests has been ranked as the country most resistant to fake news. A very clearly built-in idea of questioning, scrutiny and challenge is being encouraged among pupils, starting from the age of seven. That is something we need to transform our education system to achieve. However, of course, many people using the internet now are not part of our education system, so this needs to be across our society. A focus on the responsibilities of Ofcom and the providers has to be in the Bill.

Baroness Kidron (CB): My Lords, over the last decade, I have been in scores of schools, run dozens of workshops and spoken to literally thousands of children and young people. A lot of what I pass off as my own wisdom in this Chamber is, indeed, their wisdom. I have a couple of points, and I speak really from the perspective of children under 18 with regard to these amendments, which I fully support.

Media literacy—or digital literacy, as it is sometimes called—is not the same as e-safety. E-safety regimes concentrate on the behaviour of users. Very often, children say that what they learn in those lessons is focused on adult anxieties about predators and bullies, and when something goes wrong, they feel that they are to blame. It puts the responsibility on children. This response, which I have heard hundreds of times, normally comes up after a workshop in which we have discussed reward loops, privacy, algorithmic bias, profiling or—my own favourite—a game which reveals what is buried in terms and conditions; for example, that a company has a right to record the sound of a device or share their data with more than a thousand other companies. When young people understand the pressures that they are under and which are designed into the system, they feel much better about themselves and rather less enamoured of the services they are using. It is my experience that they then go on to make better choices for themselves.

Secondly, we have outsourced much of digital literacy to companies such as Google and Meta. They too concentrate on user behaviour, rather than looking at their own extractive policies focused on engagement and time spent. With many schools strapped for cash and expertise, this teaching is widespread. However, when I went to a Google-run assembly, children aged nine were being taught about features available only on services for those aged over 13—and nowhere was there a mention of age limits and why they are important. It cannot be right that the companies are grooming children towards their services without taking full responsibility for literacy, if that is the literacy that children are being given in school.

Thirdly, as the Government's own 2021 media literacy strategy set out, good media literacy is one line of defence from harm. It could make a crucial difference in people making informed and safe decisions online and engaging in a more positive online debate, at the same time as understanding that online actions have consequences offline.

However, while digital literacy and, in particular, critical thinking are fundamental to a contemporary education and should be available throughout school and far beyond, they must not be used as a way of putting responsibility on the user for the company's design decisions. I am specifically concerned that in

[Baroness Kidron]
the risk-assessment process, digital literacy is one of the ways that a company can say it has mitigated a potential risk or harm. I should like to hear from the Minister that that is an additional responsibility and not instead of responsibility.

Finally, over all these years I have always asked at the end of the session what the young people care about the most. The second most important thing is that the system should be less addictive—it should have less addiction built into it. Again, I point the Committee in the direction of the safety-by-design amendments in the name of my noble friend Lord Russell that try to get to the crux of that. They are not very exciting amendments in this debate but they get to the heart of it. However, the thing the young people most often say is, "Could you do something to get my parents to put down their phones?" I therefore ask the Minister whether he can slip something into the Bill, and indeed ask the noble Lord, Lord Grade, whether that could emerge somewhere in the guidance. That is what young people want.

Baroness Healy of Primrose Hill (Lab): My Lords, I strongly support the amendments in the name of my noble friend Lord Knight and others in this group.

We cannot entirely contain harmful, misleading and dangerous content on the internet, no matter how much we strengthen the Bill. Therefore, it is imperative that we put a new duty on category 1 and category 2A services to require them to put in place measures to promote the media literacy of users so that they can use the service safely.

I know that Ofcom takes the issue of media literacy seriously, but it is regrettable that the Government have dropped their proposal for a new media literacy duty for Ofcom. So far, I see no evidence that the platforms take media literacy seriously, so they need to be made to understand that they have corporate social responsibilities towards their clients.

Good media literacy is the first line of defence from bad information and the kind of misinformation we have discussed in earlier groups. Schools are trying to prepare their pupils to understand that the internet can peddle falsehoods as well as useful facts, but they need support, as the noble Baroness, Lady Kidron, just said. We all need to increase our media literacy, especially with the increasing use of artificial intelligence, as it can make the difference between decisions based on sound evidence and decisions based on poorly informed opinions that can harm health and well-being, social cohesion and democracy.

In 2022, Ofcom found that a third of internet users are unaware of the potential for inaccurate or biased information online, and 61% of social media users who say they are confident in judging whether online content is true or false actually lack the skills to do so, as my noble friend Lord Knight, has pointed out.

Amendment 91 would mean that platforms have to instigate measures to give users an awareness and understanding of the nature and characteristics of the content that may be on the service, its potential impact and how platforms operate. That is a sensible and practical request that is not beyond the ability of companies to provide, and it will be to everyone's benefit.

Lord Russell of Liverpool (CB): My Lords, I indicate my support in principle for what these amendments are trying to achieve.

I speak with a background that goes back nearly 40 years, being involved in health education initiatives, particularly in primary schools. For 24 years—not very good corporate governance—I was the chair of what is now the largest supplier of health education into primary schools in the United Kingdom, reaching about 500,000 children every year.

The principle of preventive health is not a million miles away from what we are talking about today. I take the point that was well made by the noble Baroness, Lady Fox, that piling more and more duties on Ofcom in a well-intentioned way may not have the effect that we want. What we are really looking for and talking about is a joined-up strategy—a challenge for any Government—between the Department for Education, the Department for Digital, Culture, Media and Sport, the Department for Science, Innovation and Technology, and probably the Department of Health and Social Care, because health education, as it has developed over the last 40 or 50 years, has a lot to teach us about how we think about creating effective preventive education.

5.45 pm

It is not just about children; it is about adults. In the readers' problem page of any newspaper, whether from the left or the right of the political spectrum, the number of people, including those whom most of us would regard as intellectual peers or cleverer than us, who have been scammed in different ways, particularly through online intrusion, shows that it is very prevalent. These are clever, university-educated people who are being taken for a ride.

Yesterday I cleaned out the spam folder in one of my email accounts, which I do fairly quickly. As of about five minutes ago, I have three spam emails. In two of them, a major retailer seems to be telling me that I am the fortunate winner of a Ninja air fryer—not an offer that I propose to take up. The third purports to be from the Post Office, telling me that I have an exciting parcel to open. I am sure that if I clicked on it, something quite unpleasant would happen.

We need to do something about this. The point made by the noble Baroness, Lady Kidron, about children saying that we would love this to be less addictive, is a very moot point because the companies know exactly what they are doing. Clearly, we want to encourage children to understand how those tools operate and how one can try to control, mitigate or avoid them, or point them out to others who may not be as savvy. As for the one that was most desirable, parents putting down their telephones, I confess that occasionally, when sitting as a Deputy Speaker in your Lordships' House, I wish the Government Whips would spend slightly less time looking at their telephones, although I am sure that whatever they are doing is very important government business.

I do not expect the Minister to stand up and say that we have a solution. The tech companies need to be involved. We need to look at good or best practice around the world, which probably has a lot to teach us, but we can do this only if we do it together in a

joined-up way. If we try to do it in a fragmented way, we will put all the onus on Ofcom and it ain't going to work.

Lord Davies of Brixton (Lab): My Lords, I spoke at Second Reading about the relationship between online safety and protecting people's mental health, a theme that runs throughout the Bill. I have not followed the progress in Committee as diligently as I wish, but this group of amendments has caught the eye of the Mental Health Foundation, which has expressed support. It identified Amendment 188, but I think it is the general principle that it supports. The Mental Health Foundation understands the importance of education, because it asked young people what they thought should be done. It sponsored a crucial inquiry through its organisation YoungMinds, which produced a report earlier this year, *Putting a Stop to the Endless Scroll*.

One of the three major recommendations that emerged from that report, from the feelings of young people themselves, was the need for better education. It found that young people were frustrated at being presented with outdated information about keeping their details safe. They felt that they needed something far more advanced, more relevant to the online world as it is happening at the moment, on how to avoid the risks from such things as image-editing apps. They needed information on more sophisticated risks that they face, essentially what they described as design risks, where the website is designed to drag you in and make you addicted to these algorithms.

The Bill as a whole is designed to protect children and young people from harm, but it must also, as previous speakers have made clear, provide young people themselves with tools so that they can exercise their own judgment to protect themselves and ensure that they do not fall foul, set on that well-worn path between being engaged on a website and ending up with problems with their mental health. Eating is the classic example: you click on a website about a recipe and, step by step, you get dragged into material designed to harm your health through its effect on your diet.

I very much welcome this group of amendments, what it is trying to achieve and the role that it will have by educating young people to protect themselves, recognising the nature of the internet as it is now, so that they do not run the risks of affecting their mental health.

Lord Clement-Jones (LD): My Lords, this has probably been the most constructive and inspiring debate that we have had on the Bill. In particular, I thank the noble Lord, Lord Knight, for introducing this debate. His passion for this kind of media literacy education absolutely shines through. I thank him for kicking off in such an interesting and constructive way. I am sorry that my noble friend Lord Storey is not here to contribute as well, with his educational background. He likewise has a passion for media literacy education and would otherwise have wanted to contribute to the debate today.

I am delighted that I have found some common ground with the noble Baroness, Lady Fox. The idea of sending my noble friend Lord Allan on tour has great attractions. I am not sure that he would find it quite so attractive. I am looking forward to him coming back before sending him off around the country. I agree that he has made a very constructive contribution. I agree with much of what the noble Baroness said, and the noble Baroness, Lady Prashar, had the same instinct: this is a way of better preserving freedom of speech. If we can have those critical thinking skills so that people can protect themselves from misinformation, disinformation and some of the harms online, we can have greater confidence that people are able to protect themselves against these harms at whatever age they may be.

I was very pleased to hear the references to Lord Puttnam, because I think that the Democracy and Digital Technologies Committee report was groundbreaking in the way it described the need for digital media literacy. This is about equipping not just young people but everybody with the critical thinking skills needed to differentiate fact from fiction—particularly, as we have talked through in Committee, on the way that digital platforms operate through their systems, algorithms and data.

The noble Lord, Lord Holmes, talked about the breadth and depth needed for media and digital literacy education; he had it absolutely right about people being appropriately savvy, and the noble Baroness, Lady Bennett, echoed what he said in that respect.

I think we have some excellent amendments here. If we can distil them into a single amendment in time for Report or a discussion with the Minister, I think we will find ourselves going forward constructively. There are many aspects of this. For instance, the DCMS Select Committee recommended that digital literacy becomes the fourth pillar of education, which seems to me a pretty important aspect alongside reading, writing and maths. That is the kind of age that we are in. I have quoted Parent Zone before. It acknowledges the usefulness of user empowerment tools and so on, but again it stressed the need for media literacy. What kind of media literacy? The noble Baroness, Lady Kidron, was extremely interesting when she said that what is important is not just user behaviour but making the right choices—that sort of critical thinking. The noble Lord, Lord Russell, provided an analogy with preventive health that was very important.

Our Joint Committee used a rather different phrase. It talked about a "whole of government" approach. When we look at all the different aspects, we see that it is something not just for Ofcom—I entirely agree with that—but that should involve a much broader range of stakeholders in government. We know that, out there, there are organisations such as the Good Things Foundation and CILIP, the library association, and I am sorry that the noble Baroness, Lady Lane-Fox, is not in her place to remind us about Doteveryone, an organisation that many of us admire a great deal for the work it carries out.

I think the "appropriately savvy" expression very much applies to the fraud prevention aspect, and it will be interesting when we come to the next group to talk about that as well. The Government have pointed to the DCMS online media strategy, but the noble Lord, Lord Holmes, is absolutely right to ask what its outcome has been, what its results have been, and what resources are being devoted towards it. We are

[Lord Clement-Jones]
often pointed to that by the Government, here in Committee and at Oral Questions whenever we ask how the media literacy strategy is going, so we need to kick the tyres on that as well as on the kind of priority and resources being devoted to media literacy.

As ever, I shall refer to the Government's response to the Joint Committee, which I found rather extraordinary. The Government responded to the committee's recommendation about minimum standards; there is an amendment today about minimum standards. They said:

"Ofcom has recently published a new approach to online media literacy … Clause 103 of the draft Bill"—

the noble Baroness, Lady Prashar, referred to the fact that in the draft Bill there was originally a new duty on Ofcom—

"did not grant Ofcom any additional powers. As such, it is … unnecessary regulation. It has therefore been removed".

It did add to Ofcom's duties. Will the Minister say whether he thinks all the amendments here today would constitute unnecessary regulation? As he can see, there is considerable appetite around the Committee for the kind of media literacy duty across the board that we have talked about today. He might make up for some of the disappointment that many of us feel about the Government's having got rid of that clause by responding to that question.

6 pm

The noble Lord, Lord Davies, made an important point about the mental health aspects of digital literacy. A survey run by the charity YoungMinds said that this was one of the main provisions it wanted included in the Bill. Again, on those grounds, we should see a minimum standard set by Ofcom under the terms of the Bill, as we are asking for in the amendment.

The All-Party Parliamentary Group on Media Literacy has done some really good work. Just saying, "This is cross-government", "We need a holistic approach to this" and so on does not obviate the fact that our schools need to be much more vigorous in what they do in this area. Indeed, the group is advocating a media literacy education Bill, talking about upskilling teachers and talking, as does one of the amendments here, about Ofcom having a duty in this area. We need to take a much broader view of this and be much more vigorous in what we do on media literacy, as has been clear from all the contributions from around the House today.

Lord Parkinson of Whitley Bay (Con): My Lords, this has been a good debate. I am glad that a number of noble Lords mentioned Lord Puttnam and the committee that he chaired for your Lordships' House on democracy and digital technologies. I responded to the debate that we had on that; sadly, it was after he had already retired from your Lordships' House, but he participated from the steps of the Throne. I am mindful of that report and the lessons learned in it in the context of the debate that we have had today.

We recognise the intent behind the amendments in this group to strengthen the UK's approach to media literacy in so far as it relates to services that will be regulated by the Bill. Ofcom has a broad duty to promote media literacy under the Communications Act 2003. That is an important responsibility for Ofcom, and it is right that the regulator is able to adapt its approach to support people in meeting the evolving challenges of the digital age.

Amendments 52A and 91 from the noble Lord, Lord Knight, and Amendment 91A from the noble Lord, Lord Holmes of Richmond, seek to introduce duties on in-scope services, requiring them to put in place measures that promote users' media literacy, while Amendment 98 tabled by the noble Lord, Lord Knight, would require Ofcom to issue a code of practice in relation to the new duty proposed in his Amendment 91. While we agree that the industry has a role to play in promoting media literacy, the Government believe that these amendments could lead to unintended, negative consequences.

I shall address the role of the industry and media literacy, which the noble Baroness, Lady Kidron, dwelt on in her remarks. We welcome the programmes that it runs in partnership with online safety experts such as Parent Zone and Internet Matters and hope they continue to thrive, with the added benefit of Ofcom's recently published evaluation toolkit. However, we believe that platforms can go further to empower and educate their users. That is why media literacy has been included in the Bill's risk assessment duties, meaning that regulated services will have to consider measures to promote media literacy to their users as part of the risk assessment process. Additionally, through work delivered under its existing media literacy duty, Ofcom is developing a set of best-practice design principles for platform-based media literacy measures. That work will build an evidence base of the most effective measures that platforms can take to build their users' media literacy.

In response to the noble Baroness's question, I say: no, platforms will not be able to avoid putting in place protections for children by using media literacy campaigns. Ofcom would be able to use its enforcement powers if a platform was not achieving appropriate safety outcomes. There are a range of ways in which platforms can mitigate risks, of which media literacy is but one, and Ofcom would expect platforms to consider them all in their risk assessments.

Let me say a bit about the unintended consequences we fear might arise from these amendments. First, the resource demands to create a code of practice and then to regulate firms' compliance with this type of broad duty will place an undue burden on the regulator. It is also unclear how the proposed duties in Amendments 52A, 91 and 91A would interact with Ofcom's existing media literacy duty. There is a risk, we fear, that these parallel duties could be discharged in conflicting ways. Amendment 91A is exposed to broad interpretation by platforms and could enable them to fulfil the duty in a way that lacked real impact on users' media literacy.

The amendment in the name of my noble friend Lord Holmes proposes a duty to promote awareness of financial deception and fraud. The Government are already taking significant action to protect people from online fraud, including through their new fraud strategy and other provisions in this Bill. I know that my noble friends Lord Camrose, Lord Sharpe of Epsom

and Lady Penn met noble Lords to talk about that earlier this week. We believe that measures such as prompts for users before they complete financial transactions sit more logically with financial service providers than with services in scope of this Bill.

Amendment 52A proposes a duty on carriers of journalistic content to promote media literacy to their users. We do not want to risk requiring platforms to act as de facto press regulators, assessing the quality of news publishers' content. That would not be compatible with our commitment to press freedom. Under its existing media literacy duty, Ofcom is delivering positive work to support people to discern high-quality information online. It is also collaborating with the biggest platforms to design best practice principles for platform-based media literacy measures. It intends to publish these principles this year and will encourage platforms to adopt them.

It is right that Ofcom is given time to understand the benefits of these approaches. The Secretary of State's post-implementation review will allow the Government and Parliament to establish the effectiveness of Ofcom's current approach and to reconsider the role of platforms in enhancing users' media literacy, if appropriate. In the meantime, the Bill introduces new transparency-reporting and information-gathering powers to enhance Ofcom's visibility of platforms delivery and evaluation of media literacy activities. We would not want to see amendments that would inadvertently dissuade platforms from delivering these activities in favour of less costly and less effective measures.

My noble friend Lord Holmes asked about the *Online Media Literacy Strategy*, published in July 2021, which set out the Government's vision for improving media literacy in the country. Alongside the strategy, we have committed to publishing annual action plans each financial year until 2024-25, setting out how we meet the ambition of the strategy. In April 2022 we published the *Year 2 Action Plan*, which included extending the reach of media literacy education to those who are currently disengaged, in consultation with the media literacy task force—a body of 17 cross-sector experts—expanding our grant funding programme to provide nearly £2.5 million across two years for organisations delivering innovative media literacy activities, and commissioning research to improve our understanding of the challenges faced by the sector. We intend to publish the research later this year, for the benefit of civil society organisations, technology platforms and policymakers.

The noble Lord, Lord Knight, in his Amendment 186, would stipulate that Ofcom must levy fees on regulated firms sufficient to fund the work of third parties involved in supporting it to meet its existing media literacy duties. The Bill already allows Ofcom to levy fees sufficient to fund the annual costs of exercising its online safety functions. This includes its existing media literacy duty as far as it relates to services regulated by this Bill. As such, the Bill already ensures that these media literacy activities, including those that Ofcom chooses to deliver through third parties, can be funded through fees levied on industry.

I turn to Amendments 188, 235, 236, 237 and 238. The Government recognise the intent behind these amendments, which is to help improve the media literacy of the general public. Ofcom already has a statutory duty to promote media literacy with regard to the publication of anything by means of electronic media, including services in scope of the Bill. These amendments propose rather prescriptive objectives, either as part of a new duty for Ofcom or through updating its existing duty. They reflect current challenges in the sector but run the risk of becoming obsolete over time, preventing Ofcom from adapting its work in response to emerging issues.

Ofcom has demonstrated flexibility in its existing duty through its renewed *Approach to Online Media Literacy*, launched in 2021. This presented an expanded media literacy programme, enabling it to achieve almost all the objectives specified in this group. The Government note the progress that Ofcom has already achieved under its renewed approach in the annual plan it produced last month. The Online Safety Bill strengthens Ofcom's functions relating to media literacy, which is included in Ofcom's new transparency-reporting and information-gathering powers, which will give it enhanced oversight of industry activity by enabling it to require regulated services to share or publish information about the work that that they are doing on media literacy.

The noble Baroness, Lady Prashar, asked about the view expressed by the Joint Committee on minimum standards for media literacy training. We agree with the intention behind that, but, because of the broad and varied nature of media literacy, we do not believe that introducing minimum standards is the most effective way of achieving that outcome. Instead, we are focusing efforts on improving the evaluation practices of media literacy initiatives to identify which ones are most effective and to encourage their delivery. Ofcom has undertaken extensive work to produce a comprehensive toolkit to support practitioners to deliver robust evaluations of their programmes. This was published in February this year and has been met with praise from practitioners, including those who received grant funding from the Government's non-legislative media literacy work programme. The post-implementation review of Ofcom's online safety regime, which covers its existing media literacy duty in so far as it relates to regulated services, will provide a reasonable point at which to establish the effectiveness of Ofcom's new work programme, after giving it time to take effect.

Noble Lords talked about the national curriculum and media literacy in schools. Media literacy is indeed a crucial skill for everyone in the digital age. Key media literacy skills are already taught through a number of compulsory subjects in the national curriculum. Digital literacy is included in the computing national curriculum in England, which equips pupils with the knowledge, understanding and skills to use information and communication technology creatively and purposefully. I can reassure noble Lords that people such as Monica are being taught not about historic things like floppy disks but about emerging and present challenges; the computing curriculum ensures that pupils are taught how to design program systems and accomplish goals such as collecting, analysing, evaluating and presenting data.

Baroness Kidron (CB): Does the Minister know how many children are on computing courses?

Lord Parkinson of Whitley Bay (Con): I do not know, but I shall find out from the Department for Education and write. But those who are on them benefit from a curriculum that includes topics such as programming and algorithms, the responsible and safe use of technology, and other foundational knowledge that may support future study in fields such as artificial intelligence and data science.

This is not the only subject in which media literacy and critical thinking are taught. In citizenship education, pupils are taught about critical thinking and the proper functioning of a democracy. They learn to distinguish fact from opinion, as well as exploring freedom of speech and the role and responsibility of the media in informing and shaping public opinion. As Minister for Arts and Heritage, I will say a bit about subjects such as history, English and other arts subjects, in which pupils learn to ask questions about information, think critically and weigh up arguments, all of which are important skills for media literacy, as well as more broadly.

6.15 pm

In the debate on the report of the committee led by Lord Puttnam I mentioned the work of Art UK and its programme, the Superpower of Looking. There are many other excellent examples, such as the National Gallery's Take One Picture scheme, which works with schools to encourage pupils to look at just one work of art from that fabulous collection in order to encourage critical thinking and to look beyond what is immediately apparent. My department is working with the Department for Education on a cultural education plan to ensure that these sorts of initiatives are shared across all schools in the state sector . Additionally, the Department for Education published its updated *Teaching Online Safety in Schools* non-statutory guidance in January 2023, which provides schools with advice on how to teach children to stay safe online.

There are many ways outside the curriculum in which schoolchildren and young people benefit. I had the pleasure of being a judge for Debating Matters, as did the noble Baroness, Lady Bennett—though not in my case behind bars. A scheme such as this, along with debating clubs in schools, all add to the importance of critical thinking and debate.

Amendment 189 in the name of the noble Lord, Lord Knight, seeks to place a requirement on all public bodies to assist Ofcom in relation to its duties under the regime set out by the Bill. The regulator will need to co-operate with a variety of organisations. Ofcom has existing powers to enable this and, where appropriate and proportionate, we have used the Bill to strengthen them. The Bill's information-gathering powers will allow Ofcom to request information from any person, including public bodies, who appears to have information required by it in order to exercise its online safety function. Placing this broad duty on all public bodies would not be proportionate or effective. It would create an undefined requirement on public bodies and give Ofcom a disproportionate amount of power.

The noble Lord's amendment uses Ofsted as an example of a public body that would be required to co-operate with Ofcom under the proposed duty. Ofsted already has the power to advise and assist other public authorities, including Ofcom, under Section 149 of the Education and Inspections Act 2006.

I hope noble Lords have been reassured by the points I have set out and will understand why the Government are not able to accept these amendments. I will reflect on the wider remarks made in this debate. With that, I invite the noble Lord to withdraw his amendment.

Lord Knight of Weymouth (Lab): My Lords, I am grateful to all Members of the Committee for their contributions to a good debate. I was particularly happy to hear the noble Lord, Lord Clement-Jones, describe it as "inspiring". There were some great speeches.

I could go on at some length about the educational element to this, but I will constrain myself. In the last year, 1.4% of secondary school pupils in this country did computer science at GCSE. It is a constant source of frustration that computer science is prayed in aid by the Department for Education as a line for Ministers to take in the algorithm they are given to use. However, I understand that the Minister has just to deliver the message.

The noble Baroness was worried about adding to the curriculum. Like the noble Baroness, Lady Bennett, I favour a wider-scale reform of the education system to make it much more fit for purpose, but I will not go on.

I was the Minister responsible for the Education and Inspections Act 2006. I would be interested in further updates as to how it is going. For example, does Ofcom ever go with Ofsted into schools and look properly at media literacy delivery? That is what I am trying to tease out with the amendment.

The comments in the speech by the noble Baroness, Lady Prashar, were significant. She pointed out the weaknesses in the strategy and the difference between the duty as set out in the 2003 Act and the duties we now need, and the pressing case for these duties to be updated as we take this Bill through this House.

The noble Baroness, Lady Fox, had some misgivings about adding adults, which I think were perfectly answered by the noble Baroness, Lady Kidron, in respect of her plea on behalf of young people to help educate parents and give them better media literacy, particularly around the overuse of phones. We have a digital code of conduct in our own house to do with no phones being allowed at mealtimes or in bedrooms by any of us. All of that plays to the mental health issues referred to by my noble friend Lord Davies, and the preventive health aspect referred to by the noble Lord, Lord Russell.

As ever, I am grateful to the Minister for the thorough and comprehensive way in which he answered all the amendments. However, ultimately, the media literacy levels of adults and children in this country are simply not good enough. The existing duties that he refers to, and the way in which he referred to them in his speaking notes, suggest a certain amount of complacency about that. The duties are not working and need to be updated; we need clarity as to who owns the problem of that lack of media literacy, and we are not getting that. This is our opportunity to address that and to set out clearly what the responsibilities are of the companies and the regulator, and how the two work together so that we address the problem. I urge the Minister to work with those of us concerned about this and come

forward with an amendment that he is happy with at Report, so that we can update this duty. On that basis, I am happy to withdraw the amendment for now.

Amendment 52A withdrawn.

Clause 16: Duty about content reporting

Amendment 53

Moved by ***Baroness Morgan of Cotes***

53: Clause 16, page 18, line 10, at end insert—

"(3A) Content that constitutes a fraudulent advertisement within the meaning of section 33."

Member's explanatory statement

This amendment, and others in the name of Baroness Morgan, would extend the current provisions on transparency reporting, user reporting and user complaints to fraudulent advertisements.

Baroness Morgan of Cotes (Con): My Lords, I shall speak to Amendments 53 to 55, and Amendments 86, 87, 162 to 173, and 175 to 181 in my name and that of the noble Lord, Lord Clement-Jones. I declare my relevant interests in this group of amendments as a non-executive director of the Financial Services Compensation Scheme and Santander UK, and chair of the Association of British Insurers—although, as we have heard, fraud is prevalent across all sectors, so we are all interested in these issues.

This debate follows on well from that on the last group of amendments, as we were just hearing. Fraud is now being discussed so widely in this House and in Parliament that there are three Bills before your Lordships' House at the moment in which fraud is a very real issue. I am sure that there are others, but there are three major Bills—this one, the Economic Crime and Corporate Transparency Bill, and the Financial Services and Markets Bill.

These amendments seek to fill a noticeable gap in the Bill concerning fraudulent advertisements—a gap that can be easily remedied. The Minister has done a very good job so far with all groups that we have debated, batting away amendments, but I hope that he might just say, "Yes, I see the point of the amendment that you are putting forward, and I shall go away and think about it". I will see what attitude and response we get at the end of the debate.

I had the great privilege, as I said yesterday when asking a question, of chairing this House's 2022 inquiry into the Fraud Act 2006 and digital fraud. As we have heard, fraud is currently the fastest growing crime and is being facilitated by online platforms. Coincidentally, just today, UK Finance, the trade body for the UK banking industry, has published its fraud figures for 2022. It has conducted analysis on more than 59,000 authorised push payment fraud cases to show the sources of fraud. Authorised push payment is where the customer—the victim, unfortunately—transfers money to the fraudster and authorises that transfer but has often, or usually, been socially engineered into doing so. UK Finance is now asking where those frauds originate from, and its analysis shows that 78% of APP fraud cases originated online and accounted for 36% of losses, and 18% of fraud cases originated via telecommunications and accounted for 44% of losses.

I will leave to one side the fact that the Bill does not touch on emails and telecoms, and I shall focus today on fraudulent advertisements and fraud. I should say that I welcome the fact the Government changed the legislation from the draft Bill when the Bill was presented to the House of Commons so that fraudulent advertisements and fraud were caught more in the Bill than had originally been anticipated.

As we have heard, victims of fraud suffer not just financially but emotionally and mentally, with bouts of anxiety and depression. They report feeling "embarrassed or depressed" about being scammed. Many lose a significant amount of money in a way that severely impacts their lives and, in the worst cases, people have been known to take their own lives. In case of things such as romance scams or investment scams, people's trust is severely undermined in any communication that they subsequently receive. I thank all of those victims of fraud who gave evidence to our inquiry and have done so to other inquiries in this House and in the House of Commons.

Fraud is a pretty broad term, as we set out in the report, and we should be clear that this Bill covers fraud facilitated by user-generated content or via search results and fraudulent advertisements on the largest social media and search services. My noble friend the Minister spoke about the meeting held earlier this week between Members of this House and Ministers, and officials produced a helpful briefing note that makes it clear that the Bill covers such fraud. However, as I said, emails, SMS and MMS messages, and internet service providers—web hosting services—are not covered by the Bill. There remains very much a gap that victims, sadly, can fall through.

The point of the amendments in the group, and the reason I hope that the Minister can at least say yes to some of them, is that they are pushing in the direction that the Government want to go too. At the moment, the Bill appears to exclude fraudulent advertisements from several key duties that apply to other priority illegal content, thereby leaving consumers with less protection. In particular, the duties or lack of them around transparency reporting, user reporting and complaints in relation to fraudulent advertisements is concerning. It does not make any sense. That is why I hope that the Minister can explain the drafting. It could be argued that fraudulent advertising is already included in transparency reporting as defined in the Bill, but that is limited to a description of platforms' actions and does not include obligations to provide information on the incidence of fraudulent advertisements or other key details, as is required for other types of illegal content.

Transparency reporting, as I suspect we will hear from a number of noble Lords, is essential for the regulator to see how prevalent fraudulent advertisements are on a platform's service and whether that platform is successfully mitigating the advertisements. It remains essential, too, that users can easily report fraudulent content when they come across it and for there to be a procedure that allows users to complain if platforms are failing in their duty to keep users safe.

[Baroness Morgan of Cotes]

I should point my noble friend to the Government's fraud strategy published last week. Paragraph 86 states:

"We want to make it as simple as possible for users to report fraud they see online. This includes scam adverts, false celebrity endorsements and fake user profiles. In discussion with government, many of the largest tech companies have committed to making this process as seamless and consistent as possible. This means, regardless of what social media platform or internet site you are on, you should be able to find the 'report' button within a single click, and then able to select 'report fraud or scams'."

The Government are saying that they want user reporting to be as simple as possible. These amendments suggest ways in which we can make user reporting as simple as possible as regards fraudulent advertisers.

The amendments address the gap in the Bill's current drafting by inserting fraudulent advertising alongside other illegal content duties for social media reporting in Clause 16, complaints in Clause 17 and the equivalent clauses for search engines in Clauses 26 and 27. The amendments add fraudulent advertising alongside other illegal content into the description of the transparency reporting requirements in Schedule 8. Without these amendments, the regulator will struggle to understand the extent of the problem of fraudulent advertisements and platforms will probably fail to prevent this harmful content being posted.

This will, I hope, be a short debate, and I look forward to hearing what my noble friend the Minister has to say on this point. I beg to move.

6.30 pm

Lord Lucas (Con): My Lords, I also have a pair of amendments in this group. I am patron of a charity called JobsAware, which specialises in dealing with fraudulent job advertisements. It is an excellent example of collaboration between government and industry in dealing with a problem such as this. Going forward, though, they will be much more effective if there is a decent flow of information and if this Bill provides the mechanism for that. I would be very grateful if my noble friend would agree to a meeting, between Committee and Report, to discuss how that might best be achieved within the construct of this Bill.

It is not just the authorities who are able to deter these sort of things from happening. If there is knowledge spread through reputable networks about who is doing these things, it becomes much easier for other people to stop them happening. At the moment, the experience in using the internet must bear some similarity to walking down a Victorian street in London with your purse open. It really is all our responsibility to try to do something about this, since we now live so much of our life online. I very much look forward to my noble friend's response.

Viscount Colville of Culross (CB): My Lords, I had the great privilege of serving as a member of this House's Fraud Act 2006 and Digital Fraud Committee under the excellent chairing of the noble Baroness, Lady Morgan. She has already told us of the ghastly effects that fraud has on individuals and indeed its adverse effects on businesses. We heard really dramatic statistics, such as when Action Fraud told us that 80% of fraud is cyber enabled.

Many of us here will have been victims of fraud—I have been a victim—or know people who have been victims of fraud. I was therefore very pleased when the Government introduced the fraudulent advertising provisions into the Bill, which will go some way to reducing the prevalence of online fraud. It seems to me that it requires special attention, which is what these amendments should do.

We heard in our inquiry about the problems that category 1 companies had in taking down fraudulent advertisements quickly. Philip Milton, the public policy manager at Meta, told us that it takes between 24 and 48 hours to review possibly harmful content after it has been flagged to the company. He recognised that, due to the deceptive nature of fraudulent advertising, Meta's systems do not always recognise that advertising is fraudulent and, therefore, take-down rates would be variable. That is one of the most sophisticated tech platforms—if it has difficulties, just imagine the difficulty that other companies have in both recognising and taking down fraudulent advertising.

Again and again, the Bill recognises the difficulties that platforms have in systematising the protections provided in the Bill. Fraud has an ever-changing nature and is massively increasing—particularly so for fraudulent advertising. It is absolutely essential that the highest possible levels of transparency are placed upon the tech companies to report their response to fraudulent advertising. Both Ofcom and users need to be assured that not only do the companies have the most effective reporting systems but, just as importantly, they have the most effective transparency to check how well they are performing.

To do this, the obligations on platforms must go beyond the transparency reporting requirements in the Bill. These amendments would ensure that they include obligations to provide information on incidence of fraud advertising, in line with other types of priority illegal content. These increased obligations are part of checking the effectiveness of the Bill when it comes to being implemented.

The noble Baroness, Lady Stowell, told us on the fifth day of Committee, when taking about the risk-assessment amendments she had tabled:

"They are about ensuring transparency to give all users confidence".—[*Official Report*, 9/5/23; col. 1755.]

Across the Bill, noble Lords have repeatedly stated that there needs to be a range of ways to judge how effectively the protections provided are working. I suggest to noble Lords that these amendments are important attempts to help make the Bill more accountable and provide the data to future-proof the harms it is trying to deal with. As we said in the committee report:

"Without sufficient futureproofing, technology will most likely continue to create new opportunities for fraudsters to target victims".

I ask the Minister to at least look at some of these amendments favourably.

Baroness Kidron (CB): My Lords, I shall say very briefly in support of these amendments that in 2017, the 5Rights Foundation, of which I am the chair, published the *Digital Childhood* report, which in a way was the thing that put the organisation on the map. The report looked at the evolving capacity of children

through childhood, what technology they were using, what happened to them and what the impact was. We are about to release the report again, in an updated version, and one of the things that is most striking is the introduction of fraud into children's lives. At the point at which they are evolving into autonomous people, when they want to buy presents for their friends and parents on their own, they are experiencing what the noble Baroness, Lady Morgan, expressed as embarrassment, loss of trust and a sense of deserting confidence—I think that is probably the phrase. So I just want to put on the record that this is a problem for children also.

Lord Clement-Jones (LD): My Lords, this has been an interesting short debate and the noble Baroness, Lady Morgan, made a very simple proposition. I am very grateful to her for introducing this so clearly and comprehensively. Of course, it is all about the way that platforms will identify illegal, fraudulent advertising and attempt to align it with other user-to-user content in terms of transparency, reporting, user reporting and user complaints. It is a very straightforward proposition.

First of all, however, we should thank the Government for acceding to what the Joint Committee suggested, which was that fraudulent advertising should be brought within the scope of the Bill. But, as ever, we want more. That is what it is all about and it is a very straightforward proposition which I very much hope the Minister will accede to.

We have heard from around the Committee about the growing problem and I will be very interested to read the report that the noble Baroness, Lady Kidron, was talking about, in terms of the introduction of fraud into children's lives—that is really important. The noble Baroness, Lady Morgan, mentioned some of the statistics from Clean Up the Internet, Action Fraud and so on, as did the noble Viscount, Lord Colville. And, of course, it is now digital. Some 80% of fraud, as he said, is cyber-enabled, and 23% of all reported frauds are initiated on social media—so this is bang in the area of the Bill.

It has been very interesting to see how some of the trade organisations, the ABI and others, have talked about the impact of fraud, including digital fraud. The ABI said:

"Consumers' confidence is being eroded by the ongoing proliferation of online financial scams, including those predicated on impersonation of financial service providers and facilitated through online advertising. Both the insurance and long-term savings sectors are impacted by financial scams perpetrated via online paid-for advertisements, which can deprive vulnerable consumers of their life savings and leave deep emotional scars".

So, this is very much a cross-industry concern and very visible to the insurance industry and no doubt to other sectors as well.

I congratulate the noble Baroness, Lady Morgan, on her chairing of the fraud committee and on the way it came to its conclusions and scrutinised the Bill. Paragraphs 559, 560 and 561 all set out where the Bill needs to be aligned to the other content that it covers. As she described, there are two areas where the Bill can be improved. If they are not cured, they will substantially undermine its ability to tackle online fraud effectively.

This has the backing of Which? As the Minister will notice, it is very much a cross-industry and consumer body set of amendments, supporting transparency reporting and making sure that those platforms with more fraudulent advertising make proportionately larger changes to their systems. That is why there is transparency reporting for all illegal harms that platforms are obliged to prevent. There is no reason why advertising should be exempt. On user reporting and complaints, it is currently unclear whether this applies only to illegal user-generated content and unpaid search content or if it also applies to illegal fraudulent advertisements. At the very least, I hope the Minister will clarify that today.

Elsewhere, the Bill requires platforms to allow users to complain if the platform fails to comply with its duties to protect users from illegal content and with regard to the content-reporting process. I very much hope the Minister will accede to including that as well.

Some very simple requests are being made in this group. I very much hope that the Minister will take them on board.

Lord Stevenson of Balmacara (Lab): It is the simple requests that always seem to evade the easy solutions. I will not go back over the very good introductory speech from the noble Baroness, which said it all; the figures are appalling and the range of fraud-inspired criminality is extraordinary. It plays back to a point we have been hammering today: if this Bill is about anything, it is the way the internet amplifies that which would be unpleasant anyway but will now reach epidemic proportions.

I wonder whether that is the clue to the problem the noble Baroness was commenting on—I think more in hope than in having any way to resolve it. It is great news that three Bills are doing all the stuff we want. We have talked a bit about three-legged stools; this is another one that might crash over. If we are not careful, it will slip through the cracks. I am mixing my metaphors again.

If the Minister would not mind a bit of advice, it seems to me that this Bill could do certain things and do them well. It should not hold back and wait for the others to catch up or do things differently. The noble Baroness made the point about the extraordinarily difficult to understand gap, in that what is happening to priority illegal content elsewhere in the Bill does not apply to this, even though it is clearly illegal activity. I understand that there is a logical line that it is not quite the same thing—that the Bill is primarily about certain restricted types of activity on social media and not the generality of fraud—but surely the scale of the problem and our difficulty in cracking down on it, by whatever routes and whatever size of stool we choose, suggest that we should do what we can in this Bill and do it hard, deeply and properly.

Secondly, we have amendments later in Committee on the role of the regulators and the possibility recommended by the Communications and Digital Committee that we should seek statutory backing for regulation in this area. Here is a classic example of more than two regulators working to achieve the same end that will probably bump into each other on the way. There is no doubt that the FCA has primary

[Lord Stevenson of Balmacara]
responsibility in this area, but the reality is that the damage is being done by the amplification effect within the social media companies.

6.45 pm

It may or may not be correct, in terms of what we are doing, to restrict what the Bill does to those aspects of user-to-user content and other areas. If something is illegal, surely the Bill should be quite clear that it should not be happening and Ofcom should have the necessary powers, however we frame them, to make sure we follow this through to the logical conclusion. The most-needed powers are the ability for Ofcom to take the lead, if required, in relation to the other regulators who have an impact on this world—can we be sure that is in the Bill and can be exercised?—and to make sure that the transparency, the user reporting and the complaints issues that are so vital to cracking this in the medium term get sorted. I leave that with the Minister to take forward.

Lord Parkinson of Whitley Bay (Con): I am grateful to my noble friends for their amendments in this group, and for the useful debate that we have had. I am grateful also to my noble friend Lady Morgan of Cotes and the members of her committee who have looked at fraud, and for the work of the Joint Committee which scrutinised the Bill, in earlier form, for its recommendations on strengthening the way it tackles fraud online. As the noble Lord, Lord Clement-Jones, said, following those recommendations, the Government have brought in new measures to strengthen the Bill's provisions to tackle fraudulent activity on in-scope services. I am glad he was somewhat satisfied by that.

All in-scope services will be required to take proactive action to tackle fraud facilitated through user-generated content. In addition, the largest and most popular platforms have a stand-alone duty to prevent fraudulent paid-for advertising appearing on their services. This represents a major step forward in ensuring that internet users are protected from scams, which have serious financial and psychological impacts, as noble Lords noted in our debate. Fully addressing the challenges of paid-for advertising is a wider task than is possible through the Bill alone. Advertising involves a broad range of actors not covered by the current legislative framework, such as advertising intermediaries. I am sympathetic to these concerns and the Government are taking action in this area. Through the online advertising programme, we will deliver a holistic review of the regulatory framework in relation to online advertising. The Government consulted on this work last year and aim to publish a response erelong. As the noble Lord, Lord Stevenson, and others noted, there are a number of Bills which look at this work. Earlier this week, there was a meeting hosted by my noble friends Lord Camrose, Lord Sharpe of Epsom and Lady Penn to try to avoid the cracks opening up between the Bills. I am grateful to my noble friend Lady Morgan for attending; I hope it was a useful discussion.

I turn to the amendments tabled by my noble friend. The existing duties on user reporting and user complaints have been designed for user-generated content and search content and are not easily applicable to paid-for advertising. The duties on reporting and complaints mechanisms require platforms to take action in relation to individual complaints, but many in-scope services do not have control over the paid-for advertising on their services. These amendments are therefore difficult to operate for many in-scope services and would create a substantial burden for small businesses. I assure her and other noble Lords that the larger services, which have strong levers over paid-for advertising, will have to ensure that they have processes in place to enable users to report fraudulent advertising.

In reference to transparency reporting, let me assure my noble friend and others that Ofcom can already require information about how companies comply with their fraudulent advertising duties through transparency reports. In addition, Ofcom will also have the power to gather any information it requires for the purpose of exercising its online safety functions. These powers are extensive and will allow Ofcom to assess compliance with the fraudulent advertising duties.

The noble Viscount, Lord Colville of Culross, asked about the difficulty of identifying fraudulent advertising. Clauses 170 and 171 give guidance and a duty on Ofcom about providers making a judgment about content, including fraudulent advertising. There will also be a code of practice on fraudulent advertising to provide further guidance on mechanisms to deal with this important issue.

My noble friend Lord Lucas's Amendments 94 and 95 aim to require services to report information relating to fraudulent advertising to UK authorities. I am confident that the Bill's duties will reduce the prevalence of online fraud, reducing the need for post hoc reporting in this way. If fraud does appear online, there are adequate systems in place for internet users to report this to the police.

People can report a scam to Action Fraud, the national reporting service for fraud and cybercrime. Reports submitted to Action Fraud are considered by the National Fraud Intelligence Bureau and can assist a police investigation. Additionally, the Advertising Standards Authority has a reporting service for reporting online scam adverts, and those reports are automatically shared with the National Cyber Security Centre.

The online advertising programme, which I mentioned earlier, builds on the Bill's fraudulent advertising duty and looks at the wider online advertising system. That programme is considering measures to increase accountability and transparency across the supply chain, including proposals for all parties to enhance record keeping and information sharing.

My noble friend Lord Lucas was keen to meet to speak further. I will pass that request to my noble friend Lord Sharpe of Epsom, who I think would be the better person to talk to in relation to this on behalf of the Home Office—but I am sure that one of us will be very happy to talk with him.

I look forward to discussing this issue in more detail with my noble friend Lady Morgan and others between now and Report, but I hope that this provides sufficient reassurance on the work that the Government are doing in this Bill and in other ways. I invite my noble friends not to press their amendments.

Lord Lucas (Con): My Lords, I am grateful to my noble friend for replying to my amendments and for his offer of a meeting, which I will certainly accept when issued.

The Government are missing some opportunities here. I do not know whether he has tried reporting something to Action Fraud, but if you have not lost money you cannot do it; you need to have been gulled and lost money for any of the government systems to take you seriously. While you can report something to the other ones, they do not tell you what they have done. There is no feedback or mechanism for encouraging and rewarding you for reporting—it is a deficient system.

When it comes to job adverts, by and large they go through job boards. There is a collection of people out there who are not direct internet providers who have leverage, and a flow of data to them can make a huge difference; there may also be other areas. It is that flow of data that enables job scams to be piled down on, and that is what the Bill needs to improve. Although the industry as a whole is willing, there just is not the impetus at the moment to make prevention nearly as good as it should be.

Baroness Morgan of Cotes (Con): My Lords, I thank my noble friend the Minister very much indeed for his response. Although this has been a short debate, it is a good example of us all just trying to get the Bill to work as well as possible—in this case to protect consumers, but there will be other examples as well.

My noble friend said that the larger services in particular are the ones that are going to have to deal with fraudulent advertisements, so I think the issue about the burdens of user reporting do not apply. I remind him of the paragraph I read out from the *Fraud Strategy*, where the Government themselves say that they want to make the reporting of fraud online as easy as possible. I will read the record of what he said very carefully, but it might be helpful after that to have a further conversation or perhaps for him to write to reassure those outside this Committee who are looking for confirmation about how transparency reporting, user reporting and complaints will actually apply in relation to fraudulent advertisements, so that this can work as well as possible.

On that basis, I will withdraw my amendment for today, but I think we would all be grateful for further discussion and clarification so that this part of the Bill works as well as possible to protect people from any kind of fraudulent advertisement.

Amendment 53 withdrawn.

Clause 16 agreed.

Clause 17: Duties about complaints procedures

Amendments 53A to 55 not moved.

Clause 17 agreed.

House resumed.

House adjourned at 6.56 pm.

Grand Committee

Thursday 11 May 2023

1 pm

The Deputy Chairman of Committees (Lord Young of Cookham) (Con): If there is a Division in the Chamber while we are sitting, this Committee will adjourn as soon as the Division Bells are rung and resume after 10 minutes.

Economic Crime and Corporate Transparency Bill

Committee (7th Day)

1 pm

Amendment 106D

Moved by ***Lord Coaker***

106D: After Clause 187, insert the following new Clause—

"Compensation for victims of economic crime

(1) The Secretary of State must, within the period of 180 days beginning with the day on which this Act is passed, publish and lay before Parliament a strategy for the potential establishment of a fund for the compensation of victims of economic crime.

(2) Any such fund must comprise the proceeds of property recovered under the Proceeds of Crime Act 2002 in relation to economic crime."

Member's explanatory statement

This new Clause would require the Secretary of State to prepare and publish a strategy on the potential establishment of a fund to provide compensation to victims of economic crime within 180 days of this Act being passed.

Lord Coaker (Lab): Good afternoon, everyone. I want to make just a few remarks on my Amendment 106D, which is obviously a probing amendment seeking some information on the Government's thinking with respect to compensation for victims of economic crime. The proposed new clause to be inserted by this amendment would require the Government to prepare and publish a wide-ranging strategy on efforts to ensure that the necessary financial compensation is made available to victims of economic crime, wherever they may be. This could and should be applied to victims of international crimes, of which the war in Ukraine is without doubt an example, but it could also be applied more broadly as a means of providing a measure of justice to the victims of any other kleptocratic regime around the world. As I say, the proposed new clause would provide a mechanism for compensating victims of economic crime in the UK, including thousands of British victims of online scams every year. That briefly sets out the purpose of my Amendment 106D.

I thought it might also be helpful to the Committee for me to read into the record from the Government's *Fraud Strategy*. As the Minister will know, it is dated May 2023; it does not state the day so I do not know whether there is a later version but that is where we are. I want to do so in case the Committee has not had an opportunity to read the report. I have not read all of it—I have just dipped into it for the purposes of this amendment—but it is quite staggering when you read the statistics. I will quote the report; I hope that the Committee will bear with me because it is important for those who read our proceedings, as many people do, to see the facts as laid out by the Government.

The report—the Government's own words—states:

"In the year ending December 2022, 1 in 15 adults were victims of fraud. 18% of those victimised became victims more than once. The sums of money involved are staggering. The total cost to society of fraud against individuals in England and Wales was estimated to be at least £6.8 billion in 2019-20. This includes the money lost by victims, the cost of caring for victims, and the costs of recovery, investigation and prosecution of fraudsters".

It continues:

"In the year ending March 2021, Action Fraud received victim reports totalling a loss of £2.35 billion … There is also considerable cost to business and enterprise. UK Finance, the trade body for the banking and finance industry, reported that in 2021 its members lost over £1.3 billion to fraud".

The figures just go on. Clearly, this is a huge problem, as all of us recognise.

Can the Minister outline something for us? Among all the points made in the strategy, I could not find anything concrete and specific with regard to compensation. It would be helpful if the Minister could spell out the current arrangements on compensation for victims of fraud. Given the scale of the problem, which the Government have helpfully just published in their *Fraud Strategy*, what are their proposals in respect of compensating individuals? I know from speaking to Members of the Committee here and many people, including friends and family, that the cost to individuals is immense. It is not just a financial cost but an emotional one; I know that the Minister understands that. It is important for us to know the answers to these questions.

The other point is what the current rules on compensation are, how much someone could expect to get back, what the Government propose to improve that situation, and the perennial question we keep coming back to: how that will be made real.

I found paragraph 7, on page 4 of the strategy, particularly interesting. The Government say:

"We will ensure victims of fraud are reimbursed and supported".

Again, we go back to previous questions: does that mean under the current reimbursement regime, or are the Government proposing a new one? How will people be "supported"?

I think the noble Lord, Lord Agnew, will be particularly interested in the next sentence, the first part of which says:

"We will … Change the law so that more victims of fraud will get their money back".

Where in the Bill before us is this change to the law so that more victims of fraud will get their money back? It may well be in here. I am not trying to trip anyone up; I just could not find it myself. It would be helpful if the Minister could point out where it is. If it is not in the Bill, where will that change in the law be put, when is it coming and what change do the Government propose?

The second part says that the Government will:

"Overhaul and streamline fraud communications so that people know how to protect themselves from fraud and how to report it".

[Lord Coaker]
Again, how will the Government "overhaul" and "streamline" those communications? Added to that, how do people know what their rights are and—a question we keep coming back to—how does an individual citizen take on a bank, financial institution or whoever to assert the rights that the Government say they will give them to get compensation back for the money they have lost through fraud? Those are really important questions.

I will stop there. I could go on and on repeating the same thing in different words, but I think the Minister gets the nub of what I am saying, and I think the Committee would be interested to hear the Government's views, as well as those of other Members of the Committee. With that, I beg to move Amendment 106D.

The Lord Bishop of St Albans: I am sorry I have been unable to engage more fully and consistently with this Bill, but this amendment prompted me to come here when I had a few minutes. I was recently speaking to someone I met at a social gathering. In the course of the evening, we were talking about a whole range of things, and he was talking about the fact that he had been defrauded of some money and how it is now materially affecting his retirement. His comment was: "I feel so embarrassed, because I've always tended to think it was simple people who didn't understand financial matters who were likely to lose money. I'm highly literate, I've done all the right things, but I've been defrauded". This is having a big effect.

Also, as we are becoming increasingly cashless and more and more transactions are online—it looks like that will be the trajectory for quite some while—there is far more potential for these sorts of frauds. For example, I note that fraud on lost and stolen cards had increased by 30% by 2022 and card ID theft, where a criminal opens or takes over a card account, had almost doubled in the previous year. In other words, this crime is getting worse.

It is in everybody's interests that we encourage people to use what is, for most of us, a great convenience being able to pay with our cards—but we need to make sure that people have confidence. The statistic that the noble Lord, Lord Coaker, gave us—that one in 15 adults has been a victim—is particularly interesting. In other words, it is now widely assumed among groups of ordinary people chatting that this is a very real problem. There is a good side to that—hopefully, we are being far more cautious and savvy—but, nevertheless, that will not encourage people to invest and use some of the financial services that we might hope they will as they plan their retirements.

I just want to add my words of encouragement and ask the Government whether they can give us some idea about whether this amendment, or something similar, might be a way forward. It would give people confidence if they knew that there was clear and simple way to find redress when they were a victim of fraud. Also, could this be built on in some way, not least because the proceeds of property recovered under this future Act could then be directed towards compensation?

Lord Fox (LD): My Lords, I thank the noble Lord, Lord Coaker, and the right reverend Prelate the Bishop of St Albans for their words. I am not going to try to add to the issue of individuals; instead, I note that we should remember that this also involves businesses. The Home Office survey said that one-fifth of businesses have been hit by fraud. Such fraud can be existential to those businesses—at the very least, it is a tax on growth because money that is stolen is not reinvested in that business—so this matters.

In earlier debates, we have talked about the other side of this: stemming the cause of fraud. We have talked about the failure to report as well as the facilitation issue. The Government seem much more interested in picking up on the failure to report side than on the facilitation side. I ask the Minister to go back and find a middle way between what was being proposed by the noble Baroness, Lady Morgan, and her committee and what we have now, which is nothing—that is, to find some sort of code of conduct with teeth that starts to address the facilitation issue. It is through facilitation that this fraud is happening, in many cases. At the same time as addressing questions about compensation, we must go back and find effective ways of preventing this happening.

With noble Lords' indulgence, I will slightly broaden the scope of my speech because, over the course of the last day or so—since we debated this issue—the United States has repatriated seized assets to Ukraine. Can the Minister ask his officials to have a look at how that was achieved? Which international laws were used to facilitate that repatriation? In previous Committee debates, we have discussed freezing and seizing, so it would be very useful for your Lordships to know more about this before we get to Report; it is an issue that we remained concerned about. Although I realise that the United States is a different legal domain, it sits in the same international climate of law. Therefore, it would very much help our deliberations if the Minister was able to talk to the department's officials and get some sort of readback as to how this seizure and repatriation to Ukraine was achieved.

Otherwise, Amendment 106D is a good way of trying to find out where the Government sit on compensation, although I would open it up to include business compensation as well. Perhaps there are also issues around the insurance industry that the Government should be thinking about.

1.15 pm

The Parliamentary Under-Secretary of State for Migration and Borders (Lord Sharpe of Epsom) (Con): My Lords, I thank the noble Lord, Lord Coaker, for this amendment. Of course, the Government take the compensation of victims of economic crime very seriously, as it is crucial for limiting the harm of these ruthless crimes.

The noble Lord referred to the fraud strategy. I will come back to that in a second. Of course, the object of that exercise, as well as going after stolen money, is to prevent it happening in the first place. So this has to be considered in the round. These are obviously anti-crime measures, as well as enforcement and mitigation measures.

I completely agree with the noble Lord, Lord Fox: fraud is an attack on growth and we should bear in that in mind. Fraud and the reimbursement of fraud, as we know, costs the banks many billions a year already

under the existing arrangements, which I will come back to. Clearly, somebody has to pay for that and it is not easy for society to bear, never mind the banks themselves.

Asset recovery powers under the Proceeds of Crime Act 2002 already provide the court with the ability to prioritise the payment of compensation orders to victims. We have had extensive conversations on all manner of asset seizures and reimbursements, including on the Ukraine question, to which the noble Lord, Lord Fox, just referred. I have absolutely no doubt that those conversations will continue. We are looking at the situation that he described, which developed, as I understand it, overnight. I do not know the details—we will find out.

The Government are legislating, through the Financial Service and Markets Bill, to remove any regulatory barriers to the Payment Systems Regulator making reimbursement mandatory for victims defrauded through the faster payments system. We are therefore already taking active steps to improve compensation routes and consider that there are already means of redress available.

Having said that, I also point to the fraud strategy, which the noble Lord, Lord Coaker, referred to. There is only one relatively small paragraph on this but if he goes to page 24, he will see that the City of London Police

"are also working with the private sector on a limited pilot to explore whether civil debt recovery and other powers can recover more of victims' money. As this pilot develops, we will review whether there are further civil enforcement powers that could be applied to fraud".

I will come back to that in more detail, obviously, but clearly it is very much at the pilot stage at the moment. That is explicit in the text. But the interests of victims are being actively considered via the fraud strategy. Again, there is more to be said on that, which I will do shortly.

As I have said before in Grand Committee, victims' interests are at the heart of the new powers introduced by Part 4 of the Bill, which will allow applications for stolen crypto assets or funds in accounts to be released to victims at any stage of civil forfeiture proceedings. This will ameliorate the negative impacts of criminal conduct, including economic crime.

More widely, and I have referred to this from the Dispatch Box in the Chamber, victims need to have the confidence and trust to come forward to report fraud and to know that their case will be dealt with. That is why we are providing £30 million to the City of London Police to upgrade Action Fraud, which, as noble Lords will know, has not been widely applauded in this House. The new service will use the latest technology to drastically improve reporting and support for victims and provide far greater intelligence to policing, which will allow greater prevention and disruption at scale. The upgrade is already happening. It will be fully operational in 2024 and we are implementing consistent support for victims across England and Wales by expanding the National Economic Crime Victim Care Unit, to which I have also referred.

Where there are overseas victims in bribery, corruption and economic crime cases, the Serious Fraud Office, Crown Prosecution Service and National Crime Agency compensation principles have committed law enforcement bodies to ensuring that compensation is considered in every relevant case, and to using whatever available legal mechanisms to secure it where appropriate.

The Government are also fully committed to utilising suitable means to return the proceeds of corruption to their prior legitimate owner and/or to compensate victims, in line with international obligations under the UN Convention against Corruption. This is set out in detail in the Government's *Framework for Transparent and Accountable Asset Return.*

Of course, the private sector also has responsibility for the protection of its customers, and we are increasing that further. Victims of unauthorised fraud, where payment has been taken without the victim's permission, are already reimbursed by payment service providers. The contingent reimbursement model code has improved the reimbursement by payment service providers of victims of authorised fraud where a fraudster has manipulated the victim into approving the payment.

On the subject of PSPs, the right reverend Prelate made a good point about consumers becoming more savvy. I recently read in a briefing—I cannot remember whether it comes from the *Fraud Strategy* or some other current initiative—about the level of information sharing by PSPs, which will enable potential victims to identify the platforms that tend to be the most used. If they can be appropriately savvy when looking at those platforms and, perhaps, a little more suspicious and questioning, that will help enormously in stopping this happening in the first instance. I will come back with more detail on that, because I cannot quite remember under which regime that sits.

On the contingent reimbursement model, in 2021, £583 million was lost to APP scams. According to UK Finance data, the faster payment system was used in 97% of APP scams by volume in 2021. Under the contingent reimbursement model code, which is the voluntary scam reimbursement code signed by several major banks, the level of reimbursement is just over 50% of total APP scam losses for those signatory firms. Following PSR action, we expect that consumers will be reimbursed more consistently and comprehensively.

I realise that there is a lot more work to do on this. Clearly, the picture is fast evolving, as I am sure all noble Lords would acknowledge. There is clear intent on the part of the Government to make sure that victims are front and centre in the current regimes and all future planning. With that, I hope that the noble Lord, Lord Coaker, feels reassured and able to withdraw his amendment.

Lord Coaker (Lab): I thank the Minister for that response. I am somewhat reassured, because I believe he has his own personal commitment to this. However, as with many amendments that we have discussed here, you get the feeling that it needs a bit of a boost a surge of urgency.

There is clearly a lot of good will and a lot of good government policy. There is nothing in particular wrong with the *Fraud Strategy*, which has some really good stuff in it, but the example that the Minister gave from page 24, which was perfectly reasonable, is a pilot. It does not say, "We will change the law", but "we will review" what the pilot tells us, whereas, if you go back

[Lord Coaker]

to the much stronger commitment at the beginning of the *Fraud Strategy*, it gives you some expectation that something will happen. It does not say, "We will review" but "We will ensure"—which is the sort of language that people want to hear—that

"victims of fraud are reimbursed and supported".

It does not say, "We will review the law" but

"We will … Change the law so that more victims of fraud will get their money back".

I get what the Minister said—that it is a pilot and a review, which is good—but a pilot and a review is not the same as what is promised in paragraph 7 on page 4 of the *Fraud Strategy*. We are talking about colossal sums of money and, as the right reverend Prelate the Bishop of St Albans pointed out to us, people are embarrassed; large numbers do not know what their rights are under the current law and cannot get their money back. That is the reality. The simple question for the Government, who I am sure want to improve it—there is no doubt about that—is: what five practical things will it mean? We cannot change the past, but we could do something about the future.

I also take the Minister's point that this is about prevention, too. I absolutely accept that; we need double authentication and so on. I thank the right reverend Prelate the Bishop of St Albans for his support and helpful comments in this short but important debate. I also thank the noble Lord, Lord Fox, for reminding us that businesses and enterprises are also subject to fraudulent activity and that this is about them too. That was an important point to make.

To conclude, I thank the Minister for his response but ask him to speak to his department about how we get that surge of energy into the Bill and make what the *Fraud Strategy* says a reality so that we make a real difference. With that, I beg leave to withdraw my amendment.

Amendment 106D withdrawn.

Amendments 106E to 106EB not moved.

Amendment 106EC

Moved by ***Baroness Kramer***

106EC: After Clause 187, insert the following new Clause—

"Register of beneficial ownership: freeports

Each Freeport Governance Body required—

(a) to undertake reasonable efforts to verify the beneficial owner of businesses operating within the Freeport tax site, and

(b) to make this information available to the Commissioners for His Majesty's Revenue and Customs, law enforcement agencies and other public bodies

must also register this information with the registrar for public inspection."

Member's explanatory statement

This amendment would require governing bodies of freeports to make the information they are required to collect about beneficial ownership of companies operating within the freeport available to the public.

Baroness Kramer (LD): My Lords, I have two amendments in this group. The first addresses freeports. I think even the Government recognise that freeports are catnip to criminals and money launderers. We discussed the issue pretty extensively in relation to the National Insurance Contributions Bill, the piece of legislation prior to this which gave an opportunity to discuss freeports. The Government made it clear that they were very conscious that there were potential issues of criminality around freeports that we had to take exceedingly seriously. I am glad of that, but I have still been waiting for replies to help me understand what kinds of actions will be taken to minimise that risk.

Since that period of discussion, we know that at least one of the major freeports will be under the Dubai Ports World regime, which already has ownership of major docks in London. Its various purchases of port facilities around the world have typically been very controversial. Of course, the most recent controversy in the UK occurred when Dubai ports summarily fired 800 British-based sailors, I think by Zoom, to replace them with much cheaper agency staff. The law has since been changed to ensure that there cannot be a repetition of this kind of behaviour.

I would make the point that the kind of people who are attracted to freeports tend to be those who absolutely push the law to the limit, even when they do not go beyond it. We have so many examples from around the world where the players in various different freeports have gone well beyond it. Again, I do not want to spend time on this because we did so on the National Insurance Contributions Bill, but because there are no customs declarations, customs inspections or tax-related declarations in freeports, the normal mechanisms that provide data and direct monitoring and enforcement agencies are simply not available.

My understanding from what we have been told by the Government and which we have certainly read is that the entities that own freeports are to make a reasonable effort to identify the beneficial owners of facilities within their port complex and, in effect, make a register of that to pass on to enforcement agencies. Nowhere is that in statute, so the first two paragraphs of this amendment would put that into primary legislation.

More important is the third part of the amendment, which is that that register should be available "for public inspection". In all the debates and discussions on Companies House and the British regime for cleaning up business in every kind of way, going back to George Osborne, we have heard that transparency is important: that the sunlight of a public register enables not just enforcement agencies to see what is happening within the complex world of foreign ownership but civic groups, people with an interest and a much wider population—a phrase I sometimes use in relation to whistleblowing is a citizens' army—to look in and therefore be much more effective in countering abuse and misuse.

As I asked in the national insurance contributions debate: why is the register that is going to be put together for freeports not to be made public? If I understood the answer that I got, it was, "Oh, this will all be dealt with when we get to Companies House legislation". Well, here we are: that economic crime Bill 2, with Companies House at the heart of it, but

I cannot see anything that deals with making that register of beneficial owners in freeports public, nor can I understand that anyone going to Companies House and searching through the information would in any easy way be able to extract from that whether the various declarations of beneficial ownership were from companies that were engaged in freeports in any way—it did not seem that that was a required part of any of the discussion. I would really like the Government to bring us up to date on this and, because they recognise that there are real risks both of criminality and of money laundering, to have some answers. I hope that they have re-examined their determination not to make public the register that will be held and will explain to us why. We are dealing with Companies House legislation, so the answer cannot be, "Just wait for that".

1.30 pm

The second amendment in this group is much more of a probing one. We will obviously have investment zones. I have tried reading all the various announcements on investment zones and the word "fluffy" probably comes to mind. Some principles are laid out, but it is very hard to tell any of the details. It seems that we will have this same element of confusion.

If there is going to be a register—and it is quite possible that there will be one as far as I can see for investment zones—for a whole variety of purposes, that register should be in the public domain as well, pursuing the underlying principle that has been established so long in the UK: that sunlight, transparency and the capacity of the public to see through are critical pillars of cleaning up transactions and our economy. I beg to move.

Baroness Bennett of Manor Castle (GP): My Lords, I apologise to the noble Baroness, Lady Kramer, because I would certainly have attached my name to these two amendments had I been able to get my head sufficiently above the parapet in the face of the barrage of legislation that your Lordships' House currently faces. They are terribly important amendments, as was highlighted yesterday in the other place in Prime Minister's Questions, when the Prime Minister in response to a question about what is happening on Teesside said:

"Contracts at the site will be a commercial matter for the companies involved".—[*Official Report*, Commons, 10/5/23; col. 334.]

There is great public concern about what is happening on Teesside, and it is at the moment extremely opaque.

I shall concentrate mostly on freeports, because, as the noble Baroness said, investment zones are such a "fluffy" area that is very hard to grasp on to it. As to what we know about freeports and what is happening, a lot of the questions are being asked by the independent media and the civil society organisations referred to by the noble Baroness. I would point anyone who is interested to an excellent, 44-page report from the Byelines Network that was put out by local journalists from around the country in areas directly affected. It does a great job of examining some of the issues, but butting up again and again against commercial confidentiality and lack of recording. One of those reports notes that in 2020, the Royal United Services Institute Centre for Financial Crime and Security Studies submitted evidence to the International Trade Committee saying that

"there is evidence of criminal activity taking place in multiple freeports around the world. It often involves trade in counterfeit goods, drug trafficking, smuggling of untaxed goods or trade-based money laundering".

If we were to think of something that is essential to the purposes of the economic crime Bill now before us, shining the light, opening the doors and being able to see what is happening would clearly be it. What we are talking about with freeports are huge concessions from the Government. As the noble Baroness, Lady Kramer, said, they include freedom from all kinds of usual customs controls, but also stamp duty land tax relief, enhanced structures and building allowance, enhanced capital allowances, employer national insurance contributions relief, and business rates relief and retention. Those are huge concessions. Surely it would only be absolutely fair and reasonable to demand full transparency about who is responsible and who is making those decisions.

It is very evident that there is great public concern. This is one way that the Bill or some other mechanism—I directly put the question, "If not this Bill, where else?", to the Minister—will make sure of what will happen if we create these structures. The reason why people are so suspicious about this seems to go back to an uncredited blog from 2010 on the website of a right-wing lobbying group, the TaxPayers' Alliance, which raised the idea of charter cities. People are very suspicious. Surely the Government would want to dispel some of those suspicions by ensuring that there is absolute transparency and openness.

Lord Agnew of Oulton (Con): My Lords, I rise because I hope that I might be able to provide some help to my noble friend the Minister, as this is obviously not his area of expertise; this is at the Companies House end.

Right at the beginning of Committee, I tabled Amendment 44. Its explanatory statement says:

"This amendment mandates companies to disclose whether their shareholders are acting as nominees. Nominee shareholders protect the identity of the beneficiary of the shareholding. This measure will help mitigate the risk of abuse through nominee shareholders. Failure to comply would incur a penalty".

Last night, I met the Minister, my noble friend Lord Johnson, who indicated to me that the Government were sympathetic to this approach. I do not want to put words into his mouth, as he is not here now, but I suggest to the Minister, my noble friend Lord Sharpe, that he talks to my noble friend Lord Johnson to see whether there is any way that we could look at this; that would deal with the specific concern raised by the noble Baroness, Lady Kramer, in relation to freeports.

Lord Coaker (Lab): I was not going to say very much but I have been provoked by what the noble Baroness, Lady Bennett, and the noble Lord, Lord Agnew, have said.

I very much support the thrust of what the noble Baroness, Lady Kramer, said. One wonders why transparency is such a difficult notion for the Government. I suspect that the Minister will send up smoke by saying that we are all in favour of freeports, that they

[Lord Coaker]
are a great way of generating employment, and so on. It is certainly what I would say if I were him—that freeports are a great thing for creating jobs and that we should not stand in the way of free enterprise, which is developing enterprise zones in some of the most difficult and challenging areas in the country. However, this is not about that—it is about transparency and knowing how this is funded—so I hope that the Minister does not send up smoke. The issue is transparency; the noble Baroness, Lady Kramer, was right to point that out.

I will not repeat the list from the noble Baroness, Lady Bennett, of concessions and allowances made to ensure that businesses can operate—perhaps in an area that they would not operate in—as that is something for the Minister to discuss.

On what the noble Lord, Lord Agnew, said, has the Minister had discussions with the noble Lord, Lord Johnson? Is it right that the Government are considering some concessions? Is that what the Minister is going to tell us—that he is going to go away and talk to the noble Lord, Lord Johnson, about what we have just been informed about? Is there hope for this amendment or will the Minister just reject it? Is it something that we will hear more about as we go to Report? Will we get a government amendment on transparency around this issue, if not from the Minister then from the noble Lord, Lord Johnson?

With those questions, I will listen to the Minister with care.

Lord Sharpe of Epsom (Con): I thank the four noble Lords who have spoken in this debate. I also thank the noble Baroness, Lady Kramer, for her Amendments 106EC and 106ED. Amendment 106EC would require an overseas entity to apply for registration in the register of overseas entities if it is operating in a freeport. Amendment 106ED would require an overseas entity to apply for registration in the register of overseas entities if it is operating in an investment zone tax site. I thank the noble Lord, Lord Coaker, for his eloquent support for freeports.

Lord Coaker (Lab): Can I clarify that I was saying what I thought the Minister would say, not what I think?

Lord Sharpe of Epsom (Con): It was spot on so I suspect that the noble Lord has nobbled my notes at some point.

The economic merits of and progress in delivering freeports and investment zones remain at the heart of the Government's levelling-up agenda, and good progress is being made. However, that is not quite within the scope of this Bill, so I will focus on the core points raised in relation to corporate transparency and illicit finance. I will endeavour to answer the questions asked of me while noting, as my noble friend Lord Agnew has, that this is not necessarily my specialist subject.

Turning first to Amendment 106EC, I am assured that, throughout the bidding prospectus and subsequent business case processes, freeports were required to set out how they will manage the risk of illicit activity. I will go into this in some detail because it is important and, as I am not a specialist in this subject, I asked for extra detail. These plans were approved by officials in the Border Force, HMRC, the NCA and other relevant crime prevention bodies, including the Home Office, the police, the Department for Transport and DLUHC.

At business case stages, freeports are required to commit to further requirements to mitigate risk. That includes commitments to the OECD's code of conduct for clean free trade zones and they were required to establish robust local governance structures in place to monitor risk and ensure effective co-operation between relevant bodies with remits to prevent illicit activity. In most cases, that included most of the bodies I have already referenced—the police, NCA, and so on. Those plans were approved by officials who have responsibility for security and preventing illicit activity across government, and they are also required to carry out an annual audit of security each year to ensure that these structures remain effective and the risk mitigations remain robust and relevant. These audits will be reviewed by the Government annually.

Freeport status in no way undermines or weakens existing port security arrangements. Special customs status, which has been noted, builds on, rather than radically departs from, facilitations available elsewhere in the UK, and is available only on specific customs sites within the wider freeport footprint. These are secure sites administered by a specially authorised customs site operator—CSO. CSOs are required to obtain AEO or equivalent authorisation from HMRC, an international gold standard for safety and security, and remain subject to robust ongoing oversight from HMRC. Freeport customs sites therefore uphold the UK's high standards on security and preventing illicit activity and should not be conflated with some entirely different international free trade zones.

I hope I have been clear that the Government require each freeport governance body to undertake reasonable efforts to verify the beneficial ownership of businesses operating within the freeport tax site. As I have said, freeports uphold the UK's high standards on security, safety, workers' rights, data protection, biosecurity, tax avoidance and evasion, and the environment. They are subject to the same legislation and regulation to protect them as the rest of the country. To impose additional requirements on businesses investing in freeport tax sites would directly undermine the objective of freeports: to facilitate investment and regenerate some of the most deprived areas of the UK. The Government therefore do not think it is proportionate to impose this additional cost and administrative burden on freeports compared to elsewhere in the UK, which would also risk acting as a disadvantage for bringing in investment.

I turn to investment zones. The Chancellor announced in the Autumn Statement that the investment zones programme was being refocused to catalyse the development of clusters in areas in need of levelling up in order to boost productivity, growth and jobs. At the Spring Budget, the Government announced eight areas in England that it had identified to co-develop an investment zone proposal with the Government, with a view to agreeing proposals by the end of the year, subject to requirements being met. The Government

will work with these places to co-develop proposals, ensuring that the same high standards that are required for freeport tax sites are met for any investment zone tax sites designated.

Given the early stages of policy development on investment zones, it is too early to set out the governance arrangements in any detail. However, I am clear that businesses within investment zone tax sites will need to comply with the same laws and high standards regarding transparency as any other business investing in the UK. I am also afraid that both amendments would duplicate existing requirements on UK-registered businesses. If a business in either a freeport or an investment zone, once established, is a UK-registered company, it is already bound by the requirements to report its people with significant control to Companies House. This information is publicly available on the Companies House register.

It would also partially duplicate the requirements of the register of overseas entities. Any overseas entity owning, buying or leasing land or property in a freeport or an investment zone, once established, would be required to give information about their beneficial owners to Companies House. This information is also available to the public and would help law enforcement track down those abusing freeports for money laundering or other nefarious purposes. In both cases, all information held by Companies House is available to law enforcement, even information which is not publicly available; for example, the information about trusts.

I also draw noble Lords' attention to the far-reaching impact of the amendments, which refer to "businesses operating" in free ports and zones. A "business" goes beyond companies and similar corporate entities and includes, for example, sole traders; "operating" is also an imprecise term. Let us imagine a truck of goods arriving at a freeport: the amendment would require the freeport governance board to determine the beneficial ownership of the haulage company owning the truck as well as the beneficial ownership of every business whose goods are being carried on that truck. One company may own the truck and another the trailer, both are caught. Under this scenario, even the delivery driver bringing sandwiches to the businesses located in the zone would be impacted by the amendment. I am sure that was not the noble Baroness's intention and she will say that it could be improved at the drafting stage, but it is worth pointing that out.

1.45 pm

Those seeking to operate in freeports are also likely to require, for example, financial services; this directly addresses the point on money laundering raised by the noble Baroness, Lady Kramer. Where that is the case, the money laundering regulations require professionals entering into a relationship with them to carry out due diligence and know your customer checks, which provide a further safeguard.

I hope I have provided sufficient assurances to the noble Baroness, Lady Kramer, that the Government are committed to ensuring that freeports—and investment zones, once established—are used for legitimate investment purposes only and do not become so-called hotbeds for illicit activity. As I have set out, we have robust processes in place to guard against this in freeports and will put in place similar arrangements for investment zones once the policy is more developed. There is absolutely no intent to place some sort of opaque blanket over all this. Considerable transparency is already built into the system, which ought to be reassuring to noble Lords.

As for my noble friend Lord Agnew's point about discussions with the noble Lord, Lord Johnson, I have not had similar discussions. I am unable to comment any further, therefore, but rest assured that I will have a conversation with my noble friend.

I ask the noble Baroness, Lady Kramer, to withdraw Amendment 106EC and not move Amendment 106ED.

Baroness Kramer (LD): My Lords, I suspect your Lordships will guess that I am not terribly happy. I will be perfectly happy if the Government go away and clean up my drafting; I do not pretend to be at all expert at it. The kind of niggles that the Minister identified could, I am sure, be dealt with extremely efficiently and quickly by his team.

The Minister raised an issue that we have heard about before: the cost of having a transparent register. However, if all this data is being gathered anyway, the cost of putting it into a public format is de minimis. We are not asking for the collection of all kinds of additional information; we are asking for transparency on the information that the Government keep saying they are definitely going to collect anyway. It is the public's ability to view it that matters.

Can the Minister help me with one issue? He said that, actually, one can see all this just by going to Companies House. That is not the feedback I have had from officials, although I accept that my understanding could have been wrong. They said that, when you look at the register in Companies House, you will never know where to begin because you have to have a name to start with in order to track down the company; of course, you do not know the name. If the Minister can help me through that process, that would be extremely helpful. Will he also publish his advice? Civil society groups all over the world are keen to be able to carry out these activities but, so far as I can gather, they are currently completely befuddled. They do not know about the access that the Minister implied is present so, if he could do that, I would be grateful. Further, if he looks at this issue and finds out that, actually, this does not work and outsiders cannot get a look at the system, will he go back and look at providing transparency?

I base this point on policies from the Minister's own Government—at least, from George Osborne's time as Chancellor—in that transparency is thought to be absolutely crucial as a key pillar of cleaning up the complex, difficult world of financial services, which always has such potential for corruption because of the amount of money that is available in abusing the system. I beg leave to withdraw the amendment.

Amendment 106EC withdrawn.

Amendment 106ED not moved.

Clause 188 agreed.

Clause 189: Regulations

Amendment 106F

Moved by ***Lord Sharpe of Epsom***

106F: Clause 189, page 173, line 21, after "Regulations" insert "made by the Secretary of State"

Member's explanatory statement

This amendment is consequential on new clause (Fraud offences: supplementary) and ensures that the requirement that regulations under the Bill must be made by statutory instrument only applies to regulations made by the Secretary of State.

Lord Sharpe of Epsom (Con): My Lords, these government amendments concern commencement and cut across several clauses. Amendments 106F, 106H and 107A are consequential on the regulation-making powers introduced by the new clause headed, "Fraud offences: supplementary", which is one of the Government's new clauses introducing a failure to prevent fraud offence. Amendments 106G and 107B, and the proposed new clauses to be inserted by Amendments 109 and 110, replace Clause 191 with a new commencement clause and a separate transitional provision clause. The clauses are being separated into two to make the commencement provisions easier to follow and avoid having one long and complex commencement provision.

They include a number of small, technical changes to ensure that the commencement provisions in the Bill work as effectively as possible and bring the devolution aspects of the commencement powers into line with previous similar legislation. They also bring into force, on Royal Assent, procedures in the Bill about the codes of practice which will govern the strengthened information order powers. This will ensure that those powers can quickly start to be used. Certain money laundering reporting measures are also being commenced on Royal Assent: the exemption for "exiting and paying away" and the new defence against failure to report, which we debated earlier in Committee. That will give certainty to businesses about their reporting duties as soon as the Bill is passed.

I hope noble Lords will support these amendments. I beg to move.

Lord Fox (LD): My Lords, I will speak very briefly—I am sure the Minister will be glad to know that. I am intrigued by Amendment 109 because it complicates the process of bringing the Bill into being quite a lot. There are a lot of moving parts set out in Amendments 109 and 110 for the Bill to start to be effective. The simple question is: from start to finish—from Royal Assent to when everything is working and all parts are moving—what is the Government's estimate as to long it will take to fulfil all the steps set out in these amendments?

Baroness Blake of Leeds (Lab): I too will speak very briefly. I note the comments about consultation with devolved authorities. Given concerns about the extent of consultation in other areas, can the Minister reassure us that it is adequate, and deemed adequate by the devolved authorities? That is a clear theme running through some of the legislation.

We have discussed—we will revisit it, I am sure—the issue of failure to prevent and the specific mention of large organisations. We understand that keeping it to large organisations will not capture a broad enough spectrum of the businesses that we are covering. Having said that, I recognise that this is a tidying-up exercise. With further amendments we might revisit some of the issues at a future stage, but I would be grateful if the Minister could respond to those comments.

Lord Sharpe of Epsom (Con): I thank noble Lords for their brief comments. In answer to the noble Lord, Lord Fox, about when the powers in the Bill will be brought into force, obviously I speak with authority only for the Home Office measures in the Bill. Certain measures in the Bill that are necessary to issue codes of practice will come into force on the day of Royal Assent, as will some of the money laundering reporting measures that we discussed previously in Committee. It is our intention for some of the remaining measures to be brought into force in autumn. This is subject to obtaining Royal Assent before summer.

The operalisation of these powers is a priority for the Government and our law enforcement partners. That is why we have taken steps to provide pre-commencement consultation for a number of measures in the Bill, to facilitate it coming into force as early as practically possible.

Some of the Companies House reforms will require consequential changes, including secondary legislation and guidance. Certain reforms, such as identity verification, will also require system development following Royal Assent. Some changes will be implemented almost immediately but others will take longer. We cannot commit to precise dates at present but work on implementing the measures is already under way at Companies House. Companies House is an executive agency of the Department for Business and Trade and there are various governance mechanisms to hold the agency to account on those reforms.

As I mentioned previously, these amendments are technical. They are designed to ensure that the Bill is effective and to make changes following amendments debated previously in Committee.

Before I wind up, I thank all noble Lords for their participation in the Committee, in particular the Front Benches. It has been a lively, extremely interesting and well-informed Committee. It will certainly improve the Bill over the course of its passage through Parliament. I thank my officials for the constructive spirit in which they have engaged with all interested Peers. From a personal point of view, I also thank them for guiding me through some fairly tricky questions. I hope that noble Lords are satisfied with the amendments.

Baroness Blake of Leeds (Lab): My Lords, I asked—

Lord Sharpe of Epsom (Con): My profuse apologies to the noble Baroness, Lady Blake. I am assured that all discussions have taken place with the devolved Administrations and that they are all content with it.

Amendment 106F agreed.

Amendments 106G to 107B

Moved by ***Lord Sharpe of Epsom***

106G: Clause 189, page 173, line 21, at end insert—

"(2A) For regulations made under this Act by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) (Scottish statutory instruments).

(2B) Any power of the Department of Justice in Northern Ireland to make regulations under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12))."

Member's explanatory statement

This amendment is about the classification of certain instruments made by the Scottish Ministers or the Department of Justice in Northern Ireland.

106H: Clause 189, page 173, line 33, at end insert—

"(ea) regulations made by the Secretary of State under section (Fraud offences: supplementary) (1);

(eb) regulations under section (Section (Failure to prevent fraud): large organisations) (5) or (6);"

Member's explanatory statement

This amendment provides for regulations under the specified powers to be subject to affirmative procedure.

107: Clause 189, page 173, line 37, at end insert—

"(4A) But subsection (4) does not apply to a statutory instrument that only contains regulations appointing the appointed day for the purposes of section 51."

Member's explanatory statement

This amendment ensures that the regulation-making power to specify an appointed day for the purposes of Clause 51 is not subject to any procedural requirements since it is similar to a commencement power.

107A: Clause 189, page 173, line 37, at end insert—

"(4A) Regulations made by the Scottish Ministers under section (Fraud offences: supplementary) (1) are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).

(4B) Regulations made by the Department of Justice in Northern Ireland under section (Fraud offences: supplementary) (1) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly."

Member's explanatory statement

This amendment is consequential on new clause (Fraud offences: supplementary), which confers new powers to make regulations on the Scottish Ministers and the Northern Ireland Department.

107B: Clause 189, page 173, line 38, leave out "section 191" and insert "sections (Commencement) and (Transitional provision)"

Member's explanatory statement

This amendment is consequential on the amendments in the name of Lord Sharpe of Epsom that leave out Clause 191 and insert new Clauses in relation to commencement and transitional provision.

Amendments 106G to 107B agreed.

Clause 189, as amended, agreed.

Clause 190: Extent

Amendment 108 not moved.

Clause 190 agreed.

Clause 191: Commencement

Amendment 109

Moved by ***Lord Sharpe of Epsom***

109: Clause 191, leave out Clause 191 and insert the following new Clause—

"Commencement

(1) Except as provided by subsections (2) to (5), this Act comes into force on such day as the Secretary of State may by regulations made by statutory instrument appoint.

(2) The following come into force on the day on which this Act is passed—

(a) this Part;

(b) any provision of, or amendment made by, Parts 1 to 5 so far as it confers a power to make regulations or relates to the exercise of the power;

(c) paragraph 1 of Schedule 7 so far as it inserts section 303Z25 into the Proceeds of Crime Act 2002;

(d) paragraph 16 of Schedule 7 so far as it relates to that section;

(e) section 168 so far as it relates to the provisions mentioned in paragraphs (c) and (d);

(f) section 170;

(g) section (Money laundering: offences of failing to disclose);

(h) section 172(12) and (13);

(i) section 173(13) and (14).

(3) Section 187 comes into force at the end of the period of 2 months beginning with the day on which this Act is passed.

(4) The following come into force (so far as not brought into force by subsection (2)(b)) on such day as the Scottish Ministers may by regulations appoint after consulting the Secretary of State—

(a) Part 2 of Schedule 6, and

(b) section 167 so far as it relates to that Part.

(5) The following come into force (so far as not brought into force by subsection (2)(b)) on such day as the Department of Justice in Northern Ireland may by order appoint after consulting the Secretary of State—

(a) Part 3 of Schedule 6, and

(b) section 167 so far as it relates to that Part.

(6) No regulations may be made under subsection (1) bringing into force any of the following provisions, so far as they extend to Scotland, unless the Secretary of State has consulted the Scottish Ministers—

(a) Schedule 7, and

(b) section 168 so far as it relates to that Schedule.

(7) No regulations may be made under subsection (1) bringing into force any of the following provisions, so far as they extend to Northern Ireland, unless the Secretary of State has consulted the Department of Justice in Northern Ireland—

(a) Schedule 7, other than paragraphs 6(7), 10 and 11, and

(b) section 168 so far as it relates to that Schedule, other than paragraphs 6(7), 10 and 11.

(8) No regulations may be made under subsection (1) bringing into force section (Failure to prevent fraud) unless the Secretary of State has published guidance under section (Guidance about preventing fraud offences)(3).

(9) Regulations under subsection (1) or (4), and orders subsection (5), may appoint different days for—

(a) different purposes, and

(b) where regulations under subsection (1) appoint a day for the coming into force of any provision of Schedule 7 or 8, different areas.

(10) A power of the Department of Justice in Northern Ireland to make an order under subsection (5) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).”

Member's explanatory statement

This amendment leaves out Clause 191 and inserts a replacement commencement Clause that provides for additional provisions to come into force at Royal Assent and for consultation requirements to apply in relation to certain cryptoasset provisions. See also the new transitional provision Clause to be inserted after Clause 191.

Amendment 109 agreed.

Clause 191, as amended, agreed.

Amendment 110

Moved by ***Lord Sharpe of Epsom***

110: After Clause 191, insert the following new Clause—

“Transitional provision

(1) The Secretary of State may by regulations made by statutory instrument make transitional or saving provision in connection with the coming into force of any provision of this Act, other than a provision mentioned in section (Commencement) (4) or (5).

(2) The Scottish Ministers may by regulations make transitional or saving provision in connection with the coming into force of a provision mentioned in section (Commencement) (4).

(3) The Department of Justice in Northern Ireland may by order make transitional or saving provision in connection with the coming into force of a provision mentioned in section (Commencement) (5).

(4) The power to make regulations under subsection (1) or (2), and the power to make orders under subsection (3), includes power to make different provision for—

(a) different purposes, and

(b) where regulations under subsection (1) make provision in connection with the coming into force of any provision of Schedule 7 or 8, different areas.

(5) Transitional provision and savings made under subsections (1) to (3) are additional, and without prejudice, to those made by or under any other provision of this Act.

(6) A power of the Department of Justice in Northern Ireland to make an order under subsection (3) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).”

Member's explanatory statement

This new Clause contains the powers to make transitional provision that were previously in Clause 191. It also includes additional powers for the Scottish Ministers and the Department of Justice in Northern Ireland to make transitional provision and savings in connection with the coming into force of certain cryptoasset provisions.

Amendment 110 agreed.

Clause 192 agreed.

Bill reported with amendments.

Committee adjourned at 1.56 pm.