Vol. 831
No. 181

Monday
26 June 2023

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

Lords wishing to be supplied with these Daily Reports should give notice to this effect to the Printed Paper Office.

No proofs of Daily Reports are provided. Corrections for the bound volume which Lords wish to suggest to the report of their speeches should be clearly indicated in a copy of the Daily Report, which, with the column numbers concerned shown on the front cover, should be sent to the Editor of Debates, House of Lords, within 14 days of the date of the Daily Report.

This issue of the Official Report is also available on the Internet at
https://hansard.parliament.uk/lords/2023-06-26

The abbreviation [V] after a Member's name indicates that they contributed by video call.

The following abbreviations are used to show a Member's party affiliation:

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

No party affiliation is given for Members serving the House in a formal capacity or for the Lords spiritual.

House of Lords

Monday 26 June 2023

2.30 pm

Prayers—read by the Lord Archbishop of York.

Death of a Member: Baroness McDonagh

Announcement

2.36 pm

The Lord Speaker (Lord McFall of Alcluith): My Lords, I regret to inform the House of the death of the noble Baroness, Lady McDonagh, on Saturday 24 June. On behalf of the House, I extend our condolences to the noble Baroness's family and friends.

International Widows Day

Question

2.37 pm

Asked by ***Lord Loomba***

To ask His Majesty's Government what plans they have to respond to the United Nations' International Widows Day, specifically with regard to measures to empower widows and their dependants to achieve economic independence.

Lord Loomba (CB): My Lords, in begging leave to ask the Question standing in my name on the Order Paper, I declare my interest as a founder and chairman trustee of the Loomba Foundation.

The Minister of State, Foreign, Commonwealth and Development Office (Lord Goldsmith of Richmond Park) (Con): My Lords, the UK recognises that widows can face multiple forms of abuse, stigmatisation and hardship following the loss of their partner. The FCDO's new international women and girls strategy will support grass-roots, women-led civil society organisations to reach the most marginalised women and girls. Using the full range of the FCDO's levers, we are challenging harmful social norms and advocating for gender-focused policies, systems and laws that support women and girls' rights, freedom and potential.

Lord Loomba (CB): I thank the Minister for that Answer. Given the critical importance of eradicating discrimination against widows to achieving the UN sustainable development goals of ending poverty and hunger, achieving gender equality, reducing inequalities and creating sustainable communities, will the Government continue their long-standing support of the campaign to achieve justice for widows, in particular through British expertise and research to help UN member states develop and implement effective, evidence-based policies and programmes?

Lord Goldsmith of Richmond Park (Con): My Lords, under the strategy I mentioned in my Answer, the FCDO will continue to stand up and speak out for women and girls' rights and freedoms on the global stage and in our bilateral relationships. It also commits us to ensuring that at least 80% of the FCDO's bilateral aid has a focus on gender equality by the end of this decade. We will target that investment towards the main life stages of women and girls to secure lifelong, intergenerational impact and strengthen political, economic and social systems that play an important role in protecting and empowering women and girls.

Baroness Hodgson of Abinger (Con): My Lords, as my noble friend has stated, widows suffer particular discrimination in so many countries of the world. I am delighted to hear that we offer them special help, but can he give us a bit more detail about this, especially in the area of property rights? All too often, families will seize their property and cast them out.

Lord Goldsmith of Richmond Park (Con): My Lords, I will struggle to provide details on the property issue, but it is certainly true that the UK rightly recognises that older widows in particular face a wide range of discrimination. That is why the international women and girls strategy adopts a life-course approach, targeting investment at the key life stages of women and girls to ensure that we secure the greatest possible intergenerational impacts.

Lord Hussain (LD): My Lords, in Indian-administered Kashmir, tens of thousands of men and women are being held in custody for long periods of time under notorious laws such as the Public Safety Act. There are as many as 3,000 women known as "half-widows", whose husbands either were picked up by the Indian forces or have gone missing in mysterious circumstances. Their families do not know their whereabouts and these half-widows are living under huge distress, fear and agony. Will the Minister raise the release of these men, or at least informing their families of their whereabouts, with the Indian authorities?

Lord Goldsmith of Richmond Park (Con): My Lords, I will certainly convey that message and request to the Minister for Asia. We are proud that the UK is recognised as a global leader in tackling violence against women and girls in all its forms, by pioneering approaches around the world that have shown measurable reductions in violence of around 50%, proving that violence against women and girls is preventable. We are investing up to £67.5 million in the "What Works to Prevent Violence" programme, which will systematically scale up proven approaches to prevent violence against women and girls worldwide.

Lord Collins of Highbury (Lab): I congratulate the noble Lord, Lord Loomba, on all his work on behalf on International Widows Day, his ongoing work with the review and the Loomba Foundation's work on the *World Widows Report*. That recent report focused on how important the SDGs are to the welfare of widows. Unfortunately, the last national voluntary review we conducted in 2019 into implementing the SDGs did not mention widows at all, or the specific problems that the noble Baroness, Lady Hodgson, mentioned. When are we likely to see the second voluntary national review? Will it include the important work that the noble Lord, Lord Loomba, has drawn such important attention to?

Lord Goldsmith of Richmond Park (Con): I echo the noble Lord's compliments in recognition of the noble Lord, Lord Loomba, for the work his foundation has done. The noble Lord is right to make the point that, in many respects, the sustainable development goals are particularly relevant to women and girls, especially elderly women. I am afraid that the second national review is something I am not directly involved in, so I do not know when it will be produced. I have very little doubt that when it is produced, it will encompass all the issues raised in both the previous questions.

Lord Laming (CB): My Lords, at the heart of this Question is the status of women and the recognition of all the work that has yet to be done to improve their status in every country across the world. Can the Minister assure the House that the Government are doing everything they can to address these issues?

Lord Goldsmith of Richmond Park (Con): My Lords, at the Commission on the Status of Women in March 2019, the UK directly helped secure the first-ever UN-level recognition of the need to invest in adequate measures to protect and support widows. The UK also helped to ensure that widows' rights were recognised in the 2022 Commission on the Status of Women's agreed conclusions.

Baroness Burt of Solihull (LD): My Lords, we know that widows are some of the poorest and least economically empowered people in the world, particularly in developing countries. What effect has the cut in the foreign aid budget from 0.7% of GDP to 0.5% had on widows specifically?

Lord Goldsmith of Richmond Park (Con): My Lords, it is difficult to work out exactly how much of the funding directed towards women and girls is focused specifically on widows. That number does not exist, and I am not sure it could exist. However, the work of women's rights organisations and movements is critical to advancing gender equality. It was calculated that in 2021-22, just over 1% of the total global figure dedicated to gender equality—a figure of $56.5 billion—went to those women's rights organisations and movements on the ground. That is something we are challenging in our own work bilaterally, but also through the multilateral institutions.

Sudan

Question

2.45 pm

Asked by ***Baroness Anelay of St Johns***

To ask His Majesty's Government what assessment they have made of the security and humanitarian situation in Sudan; and the adequacy of international assistance to those who have sought refuge in neighbouring countries.

The Minister of State, Foreign, Commonwealth and Development Office (Lord Goldsmith of Richmond Park) (Con): My Lords, 25 million people need humanitarian assistance in Sudan. Over 1.9 million people are internally displaced and 600,000 have fled due to the current violence. The scale of need is great, access is limited and the UN appeals are underfunded. The UK continues to work with international partners to secure an end to hostilities and to ensure that aid reaches those in need in Sudan and those who have fled, and that neighbouring countries can keep their borders open.

Baroness Anelay of St Johns (Con): My Lords, there are widespread concerns that the conflict in West Darfur between the Sudanese armed forces and the Rapid Support Forces—apparently supplied with land-to-air missiles by the Wagner Group—is leading the region into another genocide. There are already credible reports of the RSF targeting non-Arab populations. Can my noble friend tell the House what the Government have been doing, as a member of the Friends of Sudan international group, to encourage the African Union to take action now to ensure that there is a credible truce, instead of engaging and providing temporary ceasefires, which really only prolong the whole conflict?

Lord Goldsmith of Richmond Park (Con): The noble Baroness is right to identify the escalating violence and displacement in Darfur. There has been a big increase following the outbreak of hostilities on 15 April. It is believed that 280,000 people are now internally displaced, and the lack of humanitarian access into and within Darfur continues to make the work of humanitarian organisations very difficult indeed. The UK Government's engagement with the African Union has been extensive: the Prime Minister, the Minister for Development and Africa, the Foreign Secretary and numerous senior officials engage frequently with counterparts across the region, but particularly with the African Union.

Lord Alton of Liverpool (CB): My Lords, I reinforce the point made by the noble Baroness, Lady Anelay, about the position in Darfur. Twenty years ago this year, I visited Geneina in West Darfur; some 200,000 to 300,000 people died there, and 2 million people were displaced. Has the Minister seen this weekend's statement by the President of Kenya, William Ruto, warning of another impending genocide? Is he aware that, later today, Darfuris resident here in the UK are coming to give evidence in your Lordships' House about these unfolding events? The 1948 convention on the crime of genocide requires us to prevent and protect, and to punish those responsible. Will we do any better this time than we did last time?

Lord Goldsmith of Richmond Park (Con): My Lords, we are pursuing all diplomatic avenues to try to bring about a cessation of violence, establish humanitarian access and pave the way for meaningful lasting talks. On 29 April, the Minister for Africa went to Kenya, where he met President Ruto and the chairperson of the African Union to discuss this issue. He also visited Egypt in May to discuss Sudan with his counterparts. The Prime Minister, the Minister for Development and Africa, the Foreign Secretary and officials have all engaged frequently with their counterparts in Kenya, Djibouti, South Sudan and Egypt. The Foreign Secretary has directly engaged with the two military leaders to urge a ceasefire.

Lord Collins of Highbury (Lab): My Lords, earlier this month the mandate of the UN Integrated Transition Assistance Mission in Sudan was extended until December; this follows the agreement of a text drafted by the UK as penholder. Given the fourth strategic objective of the mission includes supporting co-ordination of humanitarian assistance, to which the Minister referred, can he tell us exactly what we are doing to ensure that it is implemented, and give us an update on how the mission can help those fleeing conflict, both internally and externally?

Lord Goldsmith of Richmond Park (Con): My Lords, the UK is active on all the fronts I have already described but, in addition, we are heavily invested in Sudan. Over the last five years we have invested about a quarter of a billion pounds' worth of aid, and in May this year the Minister for Development and Africa announced a further £21.7 million for Sudan, which is part of a broader £143 million package of humanitarian aid for east Africa. We are heavily invested in the region and will continue to be so.

Lord Purvis of Tweed (LD): My Lords, I declare an interest as I am actively involved in supporting the co-ordination of the civilian voice of the Sudanese and will be returning to the region the week after next to carry out some of this work. The Minister painted the very bleak picture of the humanitarian need of the people of Sudan. Does he agree that civilians—especially the young people and women, who were so remarkably resilient against the previous dictatorship and now have been resilient in this war—are an enormous resource for the co-ordination of humanitarian assistance? Can he outline the work of His Majesty's Government in supporting the AU's intergovernmental authority development in the Horn of Africa to ensure that civilians are at the forefront of the co-ordination of this work?

Lord Goldsmith of Richmond Park (Con): My Lords, we continue to work with international partners to bring about a permanent cessation of hostilities and that includes through a new African Union-led core group to ensure inclusive regional and international action to secure a viable peace process. It is our view, as it is the noble Lord's, that a transition to civilian rule is the best and probably only way to deliver peace and prosperity.

Baroness Sugg (Con): My Lords, my noble friend the Minister has set out the terrible scale of the humanitarian crisis in the region. Despite the ongoing challenges caused by the conflict, the World Food Programme has managed to assist over 1 million people, but 19 million people are expected to need that assistance by August this year. The UK has long been a trusted partner of the World Food Programme. Can my noble friend set out what support the Government have been able to give the WFP and what they may be able to do in the future?

Lord Goldsmith of Richmond Park (Con): My Lords, I am afraid I do not have the figures for the most recent contribution to the World Food Programme, but we are one of the major donors. We have always been one of the major donors and we remain committed to that programme.

Lord Stirrup (CB): My Lords, although it is early days, are the Government making an assessment of the potential impact of the events in Russia over the weekend on the involvement of the Wagner Group with the Rapid Support Forces in Sudan and, indeed, on its criminal activities on the wider international scene?

Lord Goldsmith of Richmond Park (Con): My Lords, the UK has repeatedly emphasised, and pointed the finger at, the negative influence of Russian activities in Africa. Russian state and non-state activities in Sudan seek to capitalise on instability for their own interests. The UK Government have repeatedly made clear our concerns over negative Russian activities—including, reportedly, by the Wagner Group—in the exploitation of Sudanese gold resources and in supplying weapons to the Rapid Support Forces. The impacts of recent events in Russia are being assessed in relation to this and other conflicts in Africa, but we are not yet in a position to articulate them.

Baroness Blower (Lab): My Lords, given the dire situation in Sudan, what consideration has been given to the creation of safe and legal routes for those seeking to flee to come to the UK?

Lord Goldsmith of Richmond Park (Con): My Lords, the question of legal routes is one that I will have to put to the Home Office. Due to the conflict, we had no option but to close the visa application centre in Khartoum, which obviously makes things more difficult when it comes to the movement of people. I will get back to the noble Baroness in writing.

Lord Singh of Wimbledon (CB): My Lords, does the Minister agree that while humanitarian aid is urgently required for the long-suffering people of Sudan, it is also important to stop the flow of arms getting to the combatants from countries such as Russia, China, Egypt, the UAE and Iran, fuelling the conflict for sordid economic and political gain?

Lord Goldsmith of Richmond Park (Con): The noble Lord makes an important point, which relates to the question I was asked earlier about the nefarious activities sponsored directly or indirectly by Russia. He is right that we continue to invest in solutions in the region, but we are also using every diplomatic lever at our disposal.

Lord Hamilton of Epsom (Con): My Lords, I am not quite as close to Sudan as is my noble friend Lady Anelay or the noble Lord, Lord Alton. Can my noble friend tell us what the African Union has actually achieved in Sudan over recent years?

Lord Goldsmith of Richmond Park (Con): That is a very good question. As noble Lords will know, there have been a number of agreed ceasefires in recent months. It is right to say that every one of them has been fragile and has not held, and conflict continues

[Lord Goldsmith of Richmond Park]
to grip the country. The African Union has a hugely important role, not least because it has legitimacy to bring different parties together. Until peace is established in Sudan, I do not think anything can be described as a success.

Farm Animal Welfare

Question

2.55 pm

Asked by ***Baroness Bakewell of Hardington Mandeville***

To ask His Majesty's Government what plans they have, if any, to improve the standards of farm animal welfare.

The Minister of State, Department for Environment, Food and Rural Affairs (Lord Benyon) (Con): My Lords, I declare my interests as set out in the register. We have delivered an ambitious legislative programme since the publication of the *Action Plan for Animal Welfare*. We are committed to maintaining our strong track record on animal welfare and delivering continued improvements in the course of this Parliament and beyond. This includes our commitment to ban the export of live animals for fattening and slaughter.

Baroness Bakewell of Hardington Mandeville (LD): I thank the Minister for his Answer. Defra's call for evidence showed strong support and appetite from the public for animal welfare labelling on supermarket products to level the playing field for British farmers and help consumers make informed choices based on how the food they buy has been produced. That could not be more important when future trade deals will allow food to be imported which has been produced to lower standards than we legally allow in this country. Supermarkets such as Waitrose have already shown their voluntary commitment to leading standards of animal welfare. It is vital that there is a means for different standards of farming practices to be clearly and consistently communicated to consumers to help them and provide choices. Can the Minister confirm when he will publish the long-awaited consultation setting out the proposals to expand mandatory labelling requirements for animal welfare for both imported and domestic products?

Lord Benyon (Con): The noble Baroness is right that the power to improve animal welfare lies in large measure with the consumer, and keeping the consumer informed is a key part of this. Therefore, in answer to her question, we received over 1,600 responses to the consultation, a summary of which is available on GOV.UK. Based on the evidence provided, the Government are continuing to explore options for improving and expanding mandatory animal welfare labelling, covering both domestic and imported products, and we will keep the House informed of our progress.

Baroness McIntosh of Pickering (Con): My Lords, while I applaud the high standards that farming communities and the Government have achieved on farmed animals in this country, does my noble friend regret the fact that we have not extended the same high standards to imports, particularly those from Australia and New Zealand through the free trade agreements? Will he give the House a commitment today that future trade agreements will insist on the same animal welfare and environmental standards for imports as are applied in this country?

Lord Benyon (Con): Imports into the UK must comply with our existing import requirements. Products produced to different environmental and animal welfare standards can be placed on the UK market if they comply with these requirements. We are taking a tailored approach in each of our new free trade agreements. For example, pork, poultry and eggs were excluded from our agreement with Australia, and in our agreements with Australia and New Zealand, we secured non-regression and non-derogation clauses on animal welfare. This will be a feature of future agreements.

Lord Winston (Lab): My Lords, I take this opportunity to thank the noble Lord for his courteous correspondence after the conclusion of the Genetic Technology (Precision Breeding) Act. Apropos of that Act, it is very clear that, when we start to modify animals, there will be a number of mutations which are likely to be unpredictable. Can the Minister give us some idea of how we will control the potential for animal cruelty when mutant animals are produced in this sort of way?

Lord Benyon (Con): I am grateful to the noble Lord for his involvement with that Act. He challenged me and the House to become more knowledgeable during our debates on it. We think that the Act will have huge benefits for animal welfare; I have two examples for the noble Lord. The Roslin Institute and Genus have developed gene-edited versions of pigs, which could improve the situation with regard to porcine reproductive and respiratory syndrome, a terrible disease of that animal. The other example is pancreatic necrosis virus in salmon. We want to make sure that we are regulating this properly; we talked about that throughout debates on the Act. We now have a system in which there is transparency about how we regulate that, but I will continue to keep the House informed as we develop that.

Baroness Hoey (Non-Afl): My Lords, can the Minister clarify exactly when the ban on live animals for slaughter being exported is coming in? Is it not a fact that, when and if it does, it could not apply to Northern Ireland because Northern Ireland has been under EU rules on live animals for slaughter?

Lord Benyon (Con): The number of live animals exported from Great Britain since Brexit has been zero—none: not one. There is one vessel, the "Joline", which operates out of Folkestone and has the capacity to take live exports from Great Britain to Europe, and there is none going on that vessel at the moment. We still want to bring in this legislation, because there may be future demand, the infrastructure to support that trade might start up again and we want to make sure we are legislating in the right way. On the key point about Northern Ireland, that is an even more complex issue, because we are trying to resolve this through the Windsor Framework, but I will write to the noble Baroness on that.

Lord Kamall (Con): My Lords—

Baroness Fookes (Con): My Lords—

Lord Kamall (Con): I know my place.

Baroness Fookes (Con): Perhaps I may take issue with my noble friend about the export of animals for slaughter, which has been a concern of mine for more years than I now care to remember. This is a good time to do it when nothing much is happening; that could change overnight. What is more, countries such as Australia are seriously considering operating such a ban. Here, we could give a good lead, and if the Government want to be at the forefront, now is the time to do it.

Lord Benyon (Con): I agree with my noble friend. She is not taking issue with me; she is pushing at an open door. This is a manifesto commitment and in our animal welfare action plan, and we want to do it.

Lord Rooker (Lab): Given that the hundreds of millions of food production animals that we eat have to be slaughtered first, should not the public be entitled to know what the method of slaughter is?

Lord Benyon (Con): We have a very clear set of guidelines, which we have improved in recent years, such as by putting CCTV cameras in slaughterhouses. As the noble Lord will know, the Food Standards Agency oversees this and requires vets to be present. I think his point relates to pre-stun slaughter, and that is an ongoing discussion. We want to work with those groups that want a particular type of slaughter, while recognising that there is a very strong view out there about our knowledge and understanding of what an animal senses in those final moments of its life. We want to make sure that our WATOK rules, as they are called, are absolutely up to date, and I shall continue to keep him informed of this.

Lord Kamall (Con): My Lords, it is absolutely right that the Government seek to be at the forefront not only of technology but also of animal welfare. What thinking is there in the department about the future of meat, particularly lab-grown meat and whether there are any welfare implications for lab-grown meat in future?

Lord Benyon (Con): This is a fast-moving technology all over the world, and I think people look at it with some suspicion in terms of where plants come from and what has to happen to plants in order to make them both taste like meat and look like meat. We want to support a livestock industry in this country that continues to have a much wider benefit across the rural economy but with the highest welfare standards possible. However, in this area of policy, if a Minister was to stand at this Dispatch Box and go to the furthest extreme possible, there would still be people in the animal welfare movement—or more the animal rights movement—who would say it is too little, too late; you will never satisfy everyone. I think the Government have this right.

Baroness Anderson of Stoke-on-Trent (Lab): Nearly three years ago, the campaign group Christian Ethics of Farmed Animal Welfare published a report exploring the ethics of current farming practices, yet little has seemingly progressed. When Christian churches are concerned about severe welfare problems experienced by caged laying hens, broiler chickens and the impact of fast-growth breeds, we should probably take note. What discussions is the Minister having with chicken farmers to encourage transition back to slower-growing, higher-welfare breeds of chicken, as recommended by the RSPCA?

Lord Benyon (Con): I refer the noble Baroness to my earlier comments about the power of the consumer here and retailers in informing their consumers and providing what they want. There is that side to it, but the Government have a role. The UK is currently 91% self-sufficient in eggs and produces 40 million hens per year. The movement for them to be either in cages where there are high welfare standards or reared in the open air is now moving very fast, but there is more that we can do. That is why we passed several rafts of legislation in recent years: the Animal Welfare (Sentencing) Act; the Animal Welfare (Sentience) Act, which does have relevance here; the Animals (Penalty Notices) Act; and a whole range of other measures, which we described in the *Action Plan for Animal Welfare* which the Government are taking through. Some of them are legislative but not all of them.

Artificial Intelligence

Question

3.06 pm

Asked by ***Lord Harries of Pentregarth***

To ask His Majesty's Government what steps they are taking in co-operation with international partners to reach a global agreement on the regulation of advanced forms of artificial intelligence.

The Parliamentary Under-Secretary of State, Department for Science, Innovation and Technology (Viscount Camrose) (Con): The Government are co-operating with international partners both bilaterally and multilaterally to address advanced AI's regulatory challenges, including via our autumn global AI safety summit. The AI regulation White Paper recognises the importance of such co-operation, as we cannot tackle these issues alone. As per the G7 leaders' communiqué, we are committed to advancing international discussions on inclusive AI governance and interoperability to achieve our common vision and goal of trustworthy AI aligned with shared democratic values.

Lord Harries of Pentregarth (CB): I thank the Minister for his Answer and commend the Prime Minister for his initiatives in this area. Clearly, advanced AI is epoch-making for the future of humanity and international co-operation is essential. Can the Minister say, first, whether there has been any response from China to the Prime Minister's initiatives? Secondly, would he agree that one possible role model is the International Atomic Energy Agency as a way of monitoring future developments?

Viscount Camrose (Con): We must recognise that China is ranked number two in AI capabilities globally, and we would not therefore envisage excluding China from any such discussions on how to deal best with the frontier risks of AI. That said, in the way we approach China and involve it in this, we need to take full cognisance of the associated risks. Therefore, we will engage effectively with our partners to assess the best way forward.

Lord Clement-Jones (LD): My Lords, in a recent speech the Minister rightly said that AI regulation clarity is critical. How on earth, in trying to achieve this, is he going to reconcile the AI White Paper's tentative and voluntary sectoral approach to AI governance with the Prime Minister saying that unregulated AI poses an existential threat to humanity and with his desire to lead the world in AI safety and regulation? Does this mean that a screeching U-turn is in prospect?

Viscount Camrose (Con): I thank the noble Lord for that question. The starting point for the AI White Paper—of which I do not accept the characterisation of tentative—was, first, not to duplicate existing regulators' work; secondly, not to go after specific technologies, because the technology space is changing so quickly; and, thirdly, to remain agile and adaptive. We are seeing the benefits of being agile and adapting to a very rapidly shifting landscape.

Lord Kirkhope of Harrogate (Con): My Lords, I congratulate my noble friend the Minister and the Government on getting involved in international negotiations and discussions in this area. However, is this not an area where we have to be careful that we do not have a situation where there is nothing to fear but fear itself, and where we will lose out, if we are not careful, in having overregulation that prevents us using AI to the fullest extent for positive, excellent reasons on behalf of the people of this country?

Viscount Camrose (Con): My noble friend is absolutely right that the potential benefits of AI are extremely great, but so too are the risks. One of the functions of our recently announced Foundation Model Taskforce will be to scan the horizon on both sides of this—for the risks, which are considerable, and for the benefits, which are considerable too.

Lord Reid of Cardowan (Lab): My Lords, I differ from the noble Lord, Lord Kirkhope, who said that we must develop AI to the maximum extent. There are benefits, but does the Minister accept that we ignore the dangers of AI to the great peril of not only ourselves but the world? The problem is that, despite the advantages of artificial intelligence, within a very short period it will be more intelligent than human beings but it will lack one essential feature of humanity: empathy. Anybody or anything without empathy is, by definition, psychopathic. It will achieve its ends by any means. Therefore, the noble and right reverend Lord, Lord Harries, is correct to say that, despite the difficulty of competition between states, such as the US and China, and within states, such as between Google, Microsoft and the rest, it is essential that we get an ethical regulatory framework before technology runs so far ahead of us that it becomes impossible to control this phenomenon.

Viscount Camrose (Con): The risks have indeed been well publicised and are broadly understood as to whether and when AI becomes more intelligent than humans. Opinions vary but the risk is there. Collectively and globally, we must take due account of the risks; if not, I am afraid that the scenario that the noble Lord paints will become reality. That is why bilateral and multilateral engagements globally are so important, so as to have a single interoperable regulatory and safety regime, and to have AI that the world can trust to produce some of the extraordinary benefits of which it would be capable.

The Archbishop of York: My Lords, I am very grateful to the noble and right reverend Lord, Lord Harries, for raising this issue. I too believe that the best way for us to find the potential of AI is by paying great attention to regulation and ethics, building on what has just been said. What is best in us is beyond rationality—

> "Greater love hath no man than this, that a man lay down his life for his friends"

is not a rational decision. I have a simple question about the autumn summit, which I welcome. Because of the smorgasbord of ethical issues that AI raises, I am slightly concerned—although I may have got this wrong—that the summit will be gathering together business leaders. What about people from civil society? Will they be invited to the summit, and has this been given real consideration in helping us build an ethical framework for regulation?

Viscount Camrose (Con): The most reverend Primate is right to argue that we need a broad field of contributors to the difficult questions around AI ethics. As to the specific attendees and agenda of the AI global summit this autumn, those are to be determined, but we will have, if I may use the phrase, a broad church.

Lord Patel (CB): My Lords, it is easier to talk about ethical regulations, particularly internationally, than to address them. Innovations, particularly in advanced AI and generative AI, are occurring at a pace. Generative AI is already threatening some of our key industries. We need regulation that reduces that threat at the same time as allowing the economy to grow.

Viscount Camrose (Con): The White Paper set out the Government's approach to regulation. The consultation on the White Paper closed on Wednesday; it has received a range of highly informed critiques, and praise from several surprising quarters. Once we have been through it and assessed the findings of that, we will take forward the approach to regulating AI, which, as the noble Lord quite rightly points out, is moving at a very fast pace.

Lord Bassam of Brighton (Lab): My Lords, while we are told that the Online Safety Bill is both technology-neutral and future-proofed, concerns are being raised, with doubts that emerging AI-related threats are sufficiently covered. With the Bill finally approaching

Report, do the Government intend to introduce any AI-focused protective measures? What if the Government realise after the Bill's passage that more regulations are needed? How confident is the Minister that future legislation will not be subject to the same sorts of delays that we have experienced with the Online Safety Bill?

Viscount Camrose (Con): The noble Lord is absolutely right to point out that legislation must necessarily move more slowly than technology. As far as possible, the Online Safety Bill has been designed to be future-proof and not to specify or identify specific technologies and their effects. AI has been discussed as part of that, and those discussions continue.

Emergency Communications

Private Notice Question

3.16 pm

Asked by ***Baroness Anderson of Stoke-on-Trent***

To ask His Majesty's Government (1) when they became aware of yesterday's fault with the 999 emergency system and (2) what action they are taking to ensure the resilience of emergency communications.

The Parliamentary Under-Secretary of State, Department for Science, Innovation and Technology (Viscount Camrose) (Con): A technical issue with the 999 public emergency call system was reported to us at 9.20 am on Sunday 25 June 2023. This issue has now been fully resolved and the service is running as normal. A full investigation is under way to understand what caused this problem. Ofcom has formally requested information from BT, using its existing powers as the independent regulator. The Government are conducting a post-incident report to identify actions that will strengthen the resilience of the 999 public emergency call service.

Baroness Anderson of Stoke-on-Trent (Lab): My Lords, this is an incredibly disconcerting event. We all rely on the 999 emergency number as our ultimate safety net at times of distress and vulnerability. Any failure in the system will undermine faith in our emergency provision. We are seemingly very fortunate that there was no major incident yesterday morning. Can the Minister inform the House whether this eventuality—the loss of the main 999 capacity—has been tested in any training exercise for major incidents? Are the Government clear on what the potential risks associated with the use of the back-up system are, and what risk there might be to public safety as a result of the system's failure?

Viscount Camrose (Con): Following the failure of the system, three strands of investigation have been put in place. First, BT is performing its own internal investigation. Secondly, Ofcom is engaging directly with BT, which it is required to regulate. Thirdly, based on the findings of those two, there will be the Government's lessons learned approach. The combination of all those will allow us to learn lessons to improve future resilience of the system.

Lord Clement-Jones (LD): My Lords, one of the worrying things about this incident is not the failure of the main 999 service itself—although that is bad enough—but the failure of the back-up as well. The Minister will know that I have raised the issue of the changeover from analogue to digital on a consistent basis, particularly BT's digital voice changeover. This changeover from analogue to digital creates huge risks. Will the Minister say whether the incident report will also include a wider look at the changeover from analogue to digital? There are huge risks involved in this. This is critical infrastructure, and in the case of emergency, it is even more important that we have an analogue back-up to our digital services.

Viscount Camrose (Con): I pay tribute to the noble Lord's frequent correspondence with me on this subject and recognise the importance of what he says. I do not want to prejudge the findings of the deep root-cause analysis that will now be going on at both BT and Ofcom level, but I will make sure that that question is at least asked, and asked forcefully.

Lord Birt (CB): The Minister must be deeply troubled that not one but two critical technology platforms in our national security infrastructure have failed in a very short space of time—the Border Force as well as 999—and, in each case, as the noble Lord, Lord Clement-Jones, has just said, with no immediate back-up coming into play. Will the Government ascertain whether any deep common causes underlie these failures and, therefore, what other parts of our national technology structure, not just our national technology security infrastructure, may be at risk?

Viscount Camrose (Con): Indeed, I recognise the risk that the noble Lord describes. One of the absolute priorities must be to identify whether there is a broader systemic risk of which the unfortunate events yesterday were a symptom or whether this is isolated; the ongoing investigation will absolutely establish that.

Lord Harris of Haringey (Lab): My Lords, I refer to my interests in the register, in particular that I chair the National Preparedness Commission. As we understand it, this was a failure of the 999 system itself. What consideration have the Government given to circumstances in which there is an interruption in electrical power? That could mean, first, that there will need to be reliance on analogue systems—as the noble Lord, Lord Clement-Jones referred to—but also that most domestic landlines will cease to function and, within a couple of hours, so too will most mobile phones, because masts will no longer have power.

Viscount Camrose (Con): It will be an area covered by the report. I stress that, from the information that I have so far, BT was able to implement its disaster recovery planning and system and return, albeit at a slightly slower pace, to the ability to answer 999 calls. I very much take the point that the wrong combination of catastrophic failures would indeed create a very serious and broad situation.

Lord Allan of Hallam (LD): My Lords, people dealing with a health crisis may call either 111 or 999 and each of those services will refer people on to the other as appropriate. Can the Minister confirm that there are protocols in place such that the operators of each service are informed as soon as one of them goes down so that they can stop referring people on, and whether there are protocols in place for each service to handle the overload if one has gone down?

Viscount Camrose (Con): It is an excellent question; I am afraid the truth is that I do not know the answer at this point, but I will be happy to write to the noble Lord.

Viscount Stansgate (Lab): My Lords, the Minister would be the first to agree that an event of this kind is really serious. He has told the House when the Government were informed. When did British Telecom first know that there was a problem, how was it communicated to Ministers and—once the inquiry that has now been indicated happens—in what way, and when, will the House be informed of the outcome of it so that we can discuss any of the consequences as a result of what we find went wrong?

Viscount Camrose (Con): I accept the great seriousness of the situation. The event that caused the platform to go down occurred at 6.30 am on Sunday. The Government were advised of the event at 9.20 am, so just under three hours later. I understand that the Government were informed as quickly as was practically possible. One area that the inquiry will look into is whether that should or could have been faster. As regards when and how the findings will be presented to the House, let me think about the best way of doing so; I will commit to sharing that in the most appropriate way.

Lord Hogan-Howe (CB): My Lords, the major response seemed to be to continue to dial 101. What worries about me about that is that at the moment the average waiting time for people to get through on 101 is five minutes, which is already hugely too long. If other calls go into that system, then the call time can only get longer, and it cannot discriminate between emergency and non-emergency calls.

I have some worries in relation to announcements. First, there was no announcement that the script that the call handlers were using had been changed. Often people were trying to problem-solve on the phone rather than just finding out what needed to happen and then despatching resources if necessary. Secondly, I heard nothing about officers or ambulance people getting out of offices so that people could go to find them, if that was possible. That is what happens with paramedics at the moment: they park up in certain places, provided that those places are identified for people to go to.

Thirdly, is it not time that we started having joint call handling? At the moment we have three separate forces, and the only reason why BT needs to take the call is that the ambulance service, the fire service and the police have to take them independently. You have to make a call to BT to declare which service you require, often at a time when you do not actually know which one you need. Why do we not answer them together? Why do we not remove the cost that BT imposes on the whole system, since it appears that it has not worked very well on this occasion?

Viscount Camrose (Con): There are a range of important questions there. First, BT provides the service of call handling directly to the communications providers. The CPs then act as they are required to, as regulated by Ofcom.

On the question of the script, call handlers were required to update their script because, once the disaster recovery system had kicked in, it no longer provided geographical information and therefore the script required them to ascertain the location of the caller, which is normally done automatically. I forget some other parts of the noble Lord's question, but if he would like to contact me for follow-up then I will be happy to answer them.

Lord Ponsonby of Shulbrede (Lab): My Lords, given the serious nature and the longevity of the system failure, was there a COBRA meeting about this incident? If so, when did it meet? If it did not, is that because it was a Sunday?

Viscount Camrose (Con): To my knowledge, there was no COBRA meeting—I imagine because the disaster recovery system kicked in and was able to meet the emergency requirements.

Lord Fox (LD): My Lords, I am sure that specific recommendations will come out of the inquiry, but there should also be systematic ones that apply to other areas of national infrastructure. This is not the only single strand of infrastructure that is put in the hands of one private sector company that keeps people's services alive. Will the Minister undertake that those systematic lessons are applied across the piece and across government?

Viscount Camrose (Con): I do not want to prejudge the outcome of the inquiries. If they determine that there are systemic issues that need to be addressed, then we will put in place a plan to address them.

Lord Bach (Lab): My Lords, I ask this question as an ex-police and crime commissioner. What assurances have Ministers sought from the emergency services that there were no serious issues as a result of the failure of the 999 system? Secondly, have they asked for confirmation of that from both BT and the relevant emergency services?

Viscount Camrose (Con): Those questions will rightly be the focus of the ongoing inquiries.

Lord Kamall (Con): My Lords, a number of noble Lords have already warned about potential failures of other technology and a lack of resilience. I shall add one more, referring particularly to the question from the noble Lord, Lord Clement-Jones, about the switchover from analogue to digital. There is concern in some

quarters about the impact that will have on monitoring devices, especially for people receiving social care or healthcare in their home. Could the Minister update us on the conversations going on within government to make sure that, when that switchover comes, either the devices that no longer work will be replaced or a way will be found to use those devices on the digital network?

Viscount Camrose (Con): I recognise the importance of those questions, particularly with respect to our ambition to provide technology that is available to all at all times. The questions will also quite rightly be an important part of the ongoing inquiries.

Baroness Ritchie of Downpatrick (Lab): My Lords, yesterday the northern part of the UK experienced very heavy, intense thunderstorms. Communities rely on the emergency services; they also rely on access to the 999 telephone service to access those emergency services when there is flooding and other, associated incidents. Will that level of resistance be built into the inquiry to ensure that future systems operate in the best possible way to achieve the best possible outcomes for all communities throughout the UK?

Viscount Camrose (Con): I recognise the value of what the noble Baroness is bringing out. The scope of the inquiry must remain: what went wrong, what were the impacts and what do we therefore need to fix? Questions about the future improvement of the overall telecommunications network in the country are also, no doubt, critical, but I do not believe that they are part of the scope of this investigation.

Baroness Wheatcroft (CB): My Lords, what protocols are in place to test the resilience of such systems before they go down?

Viscount Camrose (Con): I recognise the question, but we are entering an area of technicality that is, I am afraid, slightly beyond my knowledge. I am happy to write to the noble Baroness on that point.

Baroness O'Grady of Upper Holloway (Lab): My Lords, can the Minister tell us whether BT, a private company, has been subject to a minimum service level requirement? If it has been deemed to fail that minimum service level requirement, what sanction will it face?

Viscount Camrose (Con): I do not want to prejudge the investigation—

Noble Lords: Oh!

Viscount Camrose (Con): How can I? BT is required by Ofcom to answer 95% of calls in five seconds or less. As to how many of those have been missed at this point, subject to the ongoing inquiry, I do not know.

Building Safety (Responsible Actors Scheme and Prohibitions) Regulations 2023

Building Safety Act 2022 (Consequential Amendments etc.) Regulations 2023

Motions to Approve

3.32 pm

Moved by ***Baroness Scott of Bybrook***

That the draft Regulations laid before the House on 25 April and 10 May be approved.

Relevant document: 38th Report from the Secondary Legislation Scrutiny Committee. Special attention drawn to the first instrument by the Joint Committee on Statutory Instruments. Considered in Grand Committee on 20 June.

Motions agreed.

Environmental Protection (Plastic Plates etc. and Polystyrene Containers etc.) (England) Regulations 2023

Motion to Approve

3.33 pm

Moved by ***Lord Harlech***

That the draft Regulations laid before the House on 23 May be approved.

Relevant document: 43rd Report from the Secondary Legislation Scrutiny Committee. Considered in Grand Committee on 20 June.

Motion agreed.

Electricity and Gas (Energy Company Obligation) Order 2023

Motion to Approve

3.33 pm

Moved by ***Lord Callanan***

That the draft Order laid before the House on 24 May be approved.

Relevant document: 43rd Report from the Secondary Legislation Scrutiny Committee. Considered in Grand Committee on 20 June.

The Parliamentary Under-Secretary of State, Department for Energy Security and Net Zero (Lord Callanan): My Lords, I beg to move the Motion standing in my name on the Order Paper.

Lord Forsyth of Drumlean (Con): My Lords, can I ask the Minister briefly about this order? As I understand it, the order is about requiring the providers of energy services to take measures to reduce people's energy bills, which is very welcome at a time when there is a cost of living crisis. Can the Minister confirm whether the reports in today's *Daily Telegraph* that the Government

[Lord Forsyth of Drumlean]
are planning to reintroduce the green levy on people's electricity bills are correct? If so, is it wise to do so at this time?

Lord Callanan (Con): My Lords, my noble friend is being slightly mischievous on this. The question he asks is not in any way related to the statutory instrument debated last week, but I would be happy to have a separate conversation with him about it.

Motion agreed.

Retained EU Law (Revocation and Reform) Bill

Commons Reasons

3.34 pm

Motion A

Moved by ***Lord Callanan***

That this House do not insist on its Amendment 15D, to which the Commons have disagreed for their Reason 15E.

15E: Because the Commons do not consider the Lords Amendment necessary in order to maintain environmental protection.

The Parliamentary Under-Secretary of State, Department for Energy Security and Net Zero (Lord Callanan) (Con): My Lords, with the leave of the House, I will also speak to Motion B. The House will be pleased to know that I can be brief again today. We have extensively debated these issues on a number of occasions.

The reality is that the House of Commons has considered this Bill once more and has come to the same conclusions as previously, again with significant majorities. This is now the third time that it has made its will clear. It is the elected House and has been firm in its position. We have to take that into account, along with its democratic legitimacy.

I welcome that the noble and learned Lord, Lord Hope, recognises our constitutional position. I hope that the noble Lord, Lord Krebs, will be able to do the same. The other place would find it extremely difficult to understand if, on the amendment of the noble Lord, this unelected House sent a Bill back to it yet again.

Noble Lords have seen that the Government have moved on a number of issues during the passage of the Bill, both on Report and subsequently. Crucially, we have provided transparency on our plans on what retained EU law we intend to revoke this year—I remind the House that this was a key demand from this House during the Bill's passage—by publishing a schedule of retained EU law that is to be removed from our statute book by the end of 2023. This addressed the concerns raised by many noble Lords and, of course, provided greater legal certainty.

We have been clear throughout the passage of the Bill that the Government will not row back on our world-leading environmental protections. In reviewing our retained EU law, we want environmental law to be fit for purpose for the UK's unique environment and able to drive improved environmental outcomes, as we have set out in our Environment Act targets, while ensuring that regulators can act efficiently. Any changes to environmental regulations across government will be driven with those goals in mind.

In addition, I emphasise that it is standard practice to consult on major policy changes for the environment. It is right that Secretaries of State may exercise discretion when it comes to consultation. Any such discretion must be exercised in accordance with the law and guided by the consultation principles published by the Government. Those principles ensure an efficient and proportionate burden on government, while facilitating meaningful consultation.

Furthermore, it is worth noting the new legal framework created by the Environment Act 2021, our ambitious environmental plans created under it and the legally binding targets set under Sections 1 to 3 of that Act. This is the context in which the REUL Bill and its regulation-making powers will operate.

Moreover, from 1 November there will also be a legal duty on Ministers to have due regard to the environmental principles policy statement when making policies using the Bill's powers. This Government use expert advice, including that of many independent experts, when making provisions that relate to the environment.

The UK continues to play a leading role on the international stage, driving increased ambition in environmental international law. Most recently, at the 15th meeting of the Conference of the Parties to the Convention on Biological Diversity, UK leadership was instrumental in securing global agreement to stretching targets to halt and reverse biodiversity loss. We will remain a world leader on the environment. Nothing in this Bill alters that fact.

Let me now turn to Amendment 42F. I thank the noble and learned Lord, Lord Hope, and the noble Lord, Lord Anderson, for their dedication on this amendment. I am sure I speak for us all in this House when I say that parliamentary scrutiny is, and always will be, the pivotal foundation of our democracy. Their commitment and expertise on this matter is, of course, admirable. As I have said throughout the passage of the Bill, the Government recognise the significant role that Parliament has played in scrutinising instruments, including throughout the EU exit process. I firmly believe that UK citizens voted to leave the EU to re-establish the sovereignty of our UK Parliament. At its heart, the Bill seeks to do exactly that. It is for this reason that we have included the process of sifting committees for the powers to revoke or replace, among others in the Bill.

To further reassure the House, let me put it beyond any doubt. On each and every occasion to date, we have always followed the sifting committee's recommendations. We will continue to adopt the same practice of following the recommendations that the sifting committee makes to upgrade the scrutiny procedure attached to instruments made under the powers in this Bill. Where the committee considers that a statutory instrument should be subject to the affirmative procedure, we will ensure that it is laid in draft before Parliament so that it can be debated in both Houses. This will ensure that Members are able to debate all reforms which the committee considers merit the highest level of scrutiny, to ensure that Members have the opportunity

to properly scrutinise those reforms and that Ministers are aware of their arguments, ideas and recommendations. It will of course be at the Minister's discretion, but where significant reforms are planned on which there is particular interest from the House, Ministers will be able to publish draft instruments, alongside any relevant statements and consultation responses, ahead of laying those statutory instruments.

In addition, I can commit today that, where the Government are making significant reforms to retain EU law, using the replace limbs of the powers in Clause 14, we will follow the usual protocols on public consultation. These will be run in the usual way, as is already a ministerial duty. I reassure the House that the results of such consultation will be made available to Members of both Houses in the established manner.

Finally, as noble Lords will know, we have committed in this Bill to publish a report on retained EU law reform and the use of the powers to Parliament every six months. In this report we will provide Parliament with a six-month forward-look at major reforms which will utilise the powers under Clause 14. This will provide Parliament ample time to ask the Government questions on these reforms through the normal procedures of Parliamentary Questions and correspondence. It will also provide the relevant Select Committees with the time to initiate inquiries on reforms where they deem it necessary and to provide the Government with recommendations, which as usual we will respond to.

Taken together, these measures will allow parliamentarians, both in this House and the other place, an additional opportunity to review our reform plans ahead of any debates. They will provide an opportunity and time for this House, as well as the general public and UK businesses, to let their views on reforms be known. After all, this is the fundamental benefit of Brexit: we will ensure that our statute book reflects the best interests of the UK, rather than some of the compromises of all EU member states. This will allow our citizens, our businesses and, importantly, our parliamentarians to make their voices heard in this important reform process.

I hope that I have sufficiently reassured the House of the Government's intentions, and that both noble Lords now feel able not to press their Motions and to allow this Bill to progress to Royal Assent. This is an important piece of legislation. Let me repeat once again that the Government have already made significant amendments in the light of many of your Lordships' concerns. Frankly, it is now time that the Bill reached the statute book. I beg to move.

Motion A1 (as an amendment to Motion A)

Moved by ***Lord Krebs***

At end insert ", and do propose Amendment 15F in lieu—

15F: After Clause 15, insert the following new Clause—

"Environmental protection

(1) Regulations may be made by a relevant national authority under section 15 only if the relevant national authority is satisfied that the regulations do not reduce the level of environmental protection arising from the EU retained law to which the provision relates.

(2) Prior to making any provision to which this section applies, the relevant national authority must seek advice from persons who are independent of the authority and have relevant expertise.""".

Lord Krebs (CB): My Lords, the debates we have had on the various amendments that I have put forward to ensure environmental protection remind me of the train journey from Oxford to London in recent months, due to disruption of the Paddington line. The journey takes longer than you would have wished and you do not end up at the destination that you had hoped to end up at.

This is the fourth time that my amendment has been debated, including on Report, and each time I have made concessions. I have reduced the scope of the amendment and this time I have made a further concession. The Government are still unwilling to accept the amendment, which is a source of disappointment to me. However, I did have a positive meeting with the noble Lord, Lord Benyon, and the noble Baroness, Lady Neville-Rolfe, last week, when we talked about points that could be made from the Dispatch Box that would provide a level of reassurance. For example, my amendment refers to the need to take independent advice before changing any rules that protect the environment—and the noble Lord, Lord Callanan, indeed said that in his speech a few moments ago. He made reference to the environmental principles, which is a very positive step—although I note that the principles do not come into effect until later this year, so there will be a gap between the approval of this law, assuming it goes through, and the application of the environmental principles. There is a short window of worry there.

3.45 pm

I was pleased to hear the Minister say that environmental protection will be maintained, although he was not prepared to say that there would be no regression on environmental standards. Sometimes you look as closely at what people are not prepared to say as at what they are prepared to say. There is a slight amber warning light in my mind about why the Government are not prepared to say, in terms, that they will commit to non-regression on environmental standards and protections. Nevertheless, some positive words were said.

Equally important was the Minister's statement that the question of environmental protection and standards was not owned by just one department, Defra. He clearly said that the business of protecting the environment applies right across government, and that the commitment to uphold environmental standards is a government-wide commitment and not just a Defra commitment.

We have travelled on a long journey, as I say, and have made some progress in the Minister's speech today. We have not quite ended up at the destination that I would have hoped to end up at, but, at this point, I beg to move.

Baroness McIntosh of Pickering (Con): My Lords, I echo some of the concerns expressed by the noble Lord, Lord Krebs. In moving the amendment, my noble friend the Minister referred to the amendments from the Commons, completely overlooking the fact

[Baroness McIntosh of Pickering]
that there is no legislative consent. Scottish and Welsh legislative consent has been withheld, and I understand that the Government have not yet heard from Northern Ireland. I think that he referred to the fact that we have now moved on and do not have to rely on the other member states to pass our environmental laws, but I would feel more comfortable if the four nations agreed on what the environmental principles should be. I would be very pleased to hear from my noble friend what he believes the situation currently is.

I have just one word of caution. I fear that environmental protections are not as secure as perhaps we might be led to believe by this Government. We have just had brought into effect two ground-breaking free trade agreements with Australia and New Zealand, both of which have set lower standards for imported meat and foodstuffs, which do not meet the same requirements of animal welfare and environmental protection such as our home producers have to meet. That is another source of concern.

Perhaps my overriding concern is that we have seen already—despite the fact that they said that they would not do this—that the Government have overturned primary legislation through secondary legislation in the form of a statutory instrument in the past two weeks.

I have outstanding concerns on these amendments, but I respect the fact that our power is limited to scrutiny in this Chamber. I believe that the Bill is in a better place than when it was first introduced to this House, but I have concerns about what will happen when it leaves this place.

Baroness Bennett of Manor Castle (GP): My Lords, I rise briefly to express great concern about the lack of any offer on non-regression. I am going to bring this back to the absolute physical reality of the UK and the England that we are in today. In the other place, the Science, Innovation and Technology Committee has started an inquiry into the impact of insect decline on food security. If anyone wants to see the practical reality of this, I invite them to go out the back of the Foreign Office today, where a wonderful wildflower meadow has been created—they should go and look at it and ask where the insects are, because there are practically no insects there.

We have insect decline and a decline in our plants. Non-native plants now outnumber native plants in the UK: that is the state of the UK today. We have, right now, a huge, category 4 marine heatwave, which is going to have a huge impact on our marine world. It is very clear that the protections for the environment that we have now are vastly not enough, yet we are not promising even to maintain them. I ask everyone in this House to consider what people in the future will think when they look at today's debate.

Lord Hope of Craighead (CB): My Lords, I think it is appropriate that I speak to Motion B1 in my name, on the issue of parliamentary scrutiny. That issue remains as important this afternoon as it has been since the Bill first arrived in this House and the noble and learned Lord, Lord Judge, addressed us, with his usual skill, as to the importance of the issue. I have been doing my best to secure its place in the Bill at every stage, but each attempt has been rejected, either as novel and untested, which happened twice, or as incompatible with the system that the Bill lays down, on the last occasion. I regret very much that I have not been able to devise any other way of achieving that object that would be acceptable to the Government.

However, I did find two words, buried in a long and rather complicated paragraph in Schedule 5, which I think may at least open the door to something which is worth looking at more carefully, and that is the subject of my amendment. I am particularly grateful to the noble Lord, Lord Callanan, for being prepared to speak to me so that I could explain the purpose of my amendment and ask him whether he would be prepared to make a statement, in effect, giving me, in his words, what I was asking for in my amendment: words of explanation about these two words and reassurance about how the Government propose to respect the need for Parliament to be kept properly informed and consulted at each stage as the process of revocation proceeds.

The two words I am talking about, by way of explanation, are to be found in paragraph 6 of Schedule 5, which sets out an elaborate screening process in a case where a Minister is of the view that these statutory instruments should be subject to the negative procedure. The protection lies in the hands of screening committees of both Houses, which can take the view that the instrument should be subject to the affirmative procedure. If that is done, the Minister has the opportunity to give an explanation and perhaps try to persuade the committees to change their mind.

The important point for my purposes is to be found in sub-paragraph (12) and the words:

> "Nothing in this paragraph prevents a Minister of the Crown from deciding at any time before a statutory instrument containing regulations under section 11, 12 or 14 is made that another procedure should apply in relation to the instrument".

It is the words "another procedure" that caught my attention, because there is no further explanation in the schedule as to what that other procedure might be, except that in the following sub-paragraph there is a declaration that the statutory procedure for laying regulations in draft under the 1946 Act is not to apply, so we cannot have the statutory procedure of the 40-day period; that has been ruled out. My question to the Minister is: what is this other procedure that is available? The Minister has been very good in explaining in considerable detail what he builds into these words. In effect, he is providing me with exactly what my amendment is asking for. I welcome very much the clarity of his statement and we will of course bear it very closely in mind as the process proceeds.

My concern has always been that we are moving into the unknown. We have been told many times that the dashboard contains information. The dashboard sets out a list of names of the instruments, but it does not tell us, at least at the moment, what is to be done with them. That is the importance of the statement that the Minister has made today, because we need to be told, as everything proceeds, what is going on and what is planned and be able to express our views as to whether the proposals are acceptable or sensible or otherwise. I thank the Minister for his statement and

I also express my warm thanks to all noble Lords who have supported me throughout my campaign and enabled me to maintain my campaign to the point I have reached today, but in the light of what the Minister has very kindly said, I am not intending to press my amendment.

Lord Hacking (Lab): My Lords, I thank the noble and learned Lord, Lord Hope, and the noble Lord, Lord Anderson, for their persistence on these issues that they have brought before the House. I hear with a little disappointment that the noble and learned Lord does not intend to press further with his amendment in its current form. From their efforts, it is absolutely clear that this House strongly holds that, if the Bill is to become law, it must contain proper parliamentary scrutiny over the treatment of all EU legislation, whether that treatment is to revoke, amend or approve it. There are in the region of 4,000 regulations that need to be considered.

I remind the House of the Divisions that have resulted from these efforts. There have been three Divisions on Report and two more in our jousts with the Commons during so-called ping-pong. On each occasion, we have replied not to the Government as a whole or to the House of Commons as a whole, but to a small caucus of Government Ministers and parliamentary draftsmen. I ask noble Lords to look at the substantial numbers in the House—up to 400 Members and sometimes more—who voted on all five of these amendments. For example, on 6 June no fewer than 439 Members voted and on 20 June no fewer than 422. The majorities on each occasion ran between 91 and 60 votes.

The question is what happens now. Sadly, although most understandably, it appears that the noble and learned Lord, Lord Hope, and, I imagine, the noble Lord, Lord Anderson, are saying that this is the time to give up. This could bring the Parliament Acts into consideration. I will not go into them, but I have examined their application very carefully. I have also examined, and had good conversations with the noble Lord, Lord Fox—he need not look so startled; he must remember them—about, their relevance. The serious difficulty with the Parliament Acts is that, if we held our ground, the House of Commons would have to present this Bill in its original form to the House of Lords. As the noble and learned Lord wisely commented to me, "Oh really?" I took that plainly as a reluctance for us to involve them at all. The question of the Parliament Acts must now arise on another occasion, which may not be far off.

4 pm

Lord Fox (LD): My Lords, for the record, my advice was to not apply the Parliament Acts.

The substantive point of this debate is to look at the two amendments and, in particular, to listen and understand what the Minister has said in response to those amendments. I am grateful for the interpretations of the noble and learned Lord, Lord Hope, and the noble Lord, Lord Krebs.

I turn first to the amendment in the name of the noble Lord, Lord Krebs. It is clear that your Lordships have repeatedly expressed their concern about potential regression, especially around environmental rules. We have heard fulsome and completely true undertakings from the noble Lords, Lord Callanan and Lord Benyon, and others from the Dispatch Box in seeking to allay your Lordships' fears. However, not every ministry and every Secretary of State has been represented. We only have to look at what happened over the weekend, when a Government Minister from the Department for Levelling Up took aim at pollution rules with a view to development issues, to know that there are potential problems around this. My noble friend Lady Parminter talked about canaries in coalmines; that was a canary. We have to hope and trust that the undertakings made by the noble Lords, Lord Callanan and Lord Benyon, are applied right across His Majesty's Government. It is clear that, after repeated discussions, we will not be voting on this today.

I turn to the amendment in the name of the noble and learned Lord, Lord Hope. Your Lordships should thank not just the noble and learned Lord, Lord Hope, and the noble Lord, Lord Anderson, but the noble Lords, Lord Hamilton and Lord Hodgson, who have identified the issue of parliamentary sovereignty and worked hard to try to resolve it. The Minister himself spoke about the number of times this has come back. If it had not come back this time, the Minister would not have given the undertaking he just gave from the Dispatch Box which satisfied the noble and learned Lord, Lord Hope. The fact that it satisfied the noble and learned Lord means that it satisfies me.

We have been through a long journey but I do not think this journey has been in any way frivolous. It has been worthwhile, and it has exacted, as the Minister set out, many changes to the Bill. Your Lordships need to be proud of the work they have done on this Bill.

Baroness Chapman of Darlington (Lab): My Lords, we agree with Amendments 15F and 42F from the noble Lord, Lord Krebs, and the noble and learned Lord, Lord Hope. We are sorry that the Government take the attitude they do to the involvement of Parliament in the scrutiny of retained law, especially as this House has been proved right on these issues. This House has given the Government good advice that they have largely ended up taking.

The amendment in lieu in the name of the noble and learned Lord, Lord Hope, simply asks that the Minister considers how regulations might best be dealt with. We note the assurances from the Minister; they have been, as the noble Lord, Lord Fox, rightly pointed out, hard-won. We thank the noble and learned Lord, Lord Hope, and the noble Lord, Lord Anderson, in particular for the sterling work they have done over many months to get as far as we have.

The amendment in the name of the noble Lord, Lord Krebs, would protect law on environmental standards. We think there are clear and obvious reasons to want to do this, not least because we want to see the environment protected. It is worth adding that the Government's failure to support this point as fully as they could have done still leaves further uncertainty for business and potential investors about the exact nature of the framework that they would have to comply with. We are sorry about the approach the Government have taken.

[Baroness Chapman of Darlington]

We are very grateful to our Cross-Bench colleagues in particular for the work that they have put in. The Bill is in a much better place now than it was when we first encountered it—noble Lords will remember the sunset clause and the lengthy arguments we had over that. The Government did listen in the end, though initially with some reluctance. I hope that in time Ministers will see that that was the right decision. We have got to a better place this afternoon.

Lord Callanan (Con): My Lords, I thank everyone who contributed to today's debate. I will respond to some of the points that have been made. First, we take Dispatch Box commitments extremely seriously. I reiterate that this Government will not row back on our world-leading environmental protections, as I mentioned in my opening remarks.

To respond directly to the point made by the noble Lords, Lord Krebs and Lord Fox, and the noble Baroness, Lady Bennett, on this issue of non-regression, the fundamental problem is that nobody know what non-regression actually means. We all think we do, but putting it in primary legislation invites every change to environmental regulations to be challenged, as they inevitably would be, in the courts. The courts would then be asked to take a view on whether a particular change was regression or not. In effect, we would be transferring the legislative process from Parliament to the courts, on every individual regulation. Although we are content to say that we will not row back on environmental protections, that is the reason we are unwilling to see such a phrase placed in primary legislation. I am sure some of the environmental lobbyists and their lawyers would be very happy about all the work it would generate for them if we were to do so, but this is not the way to make legislation. We have to be clear about what we mean in Parliament. As I have said before, any regulation would have to be approved by this House and the other place, which is the appropriate place for these things to be decided. Great though the courts in this country are, it is not their job to legislate.

On the question raised by the noble and learned Lord, Lord Hope, paragraph (6)(12) of Schedule 5 to the Bill clarifies that the provisions of paragraph (6), which sets out processes relating to an instrument proposed as a negative instrument and subject to sifting, would not prevent a Minister deciding that another scrutiny procedure should apply to a particular instrument any time before that instrument is made. In deciding which other procedure should apply, the provisions of the Bill give a Minister a choice between the negative and the draft affirmative procedure, and in practice would give a Minister the ability to upgrade the scrutiny procedure from the negative to the draft affirmative procedure. The sifting committees already have the ability to recommend that regulations which the Government are proposing to make via the negative procedure are of such importance in their content that they should be upgraded to the affirmative procedure, which would then allow them to be debated as normal in both Houses. As I have set out today, and I am happy to repeat it again, on each and every occasion to date we have followed the sifting committee's recommendations, and we will continue to do so if utilising the powers under this Bill.

We have debated these matters long and hard on many different occasions, as the noble Baroness, Lady Chapman, acknowledged. We have listened to the House; we have amended the Bill quite considerably in response to some of the concerns raised by noble Lords. This House has done its job in scrutinising the Bill. This House has asked the House of Commons to think again on a number of different occasions. It has thought again and it has responded. It is now time to let this Bill pass to Royal Assent.

Lord Krebs (CB): My Lords, I thank all noble Lords who have taken part in this short debate today, and also on the previous occasions when we have debated these two amendments. I do not want to highlight any particular contribution, although I thank the noble Lord, Lord Fox, for introducing cricket last week and canaries this week; sport and birds are two of my favourite occupations, so I thank him very much for that. I thank the Minister for his patience throughout the many hours of debate, with its recursive nature that meant we kept coming back to the same arguments.

I do not totally buy what the Minister has just said about non-regression handing this over to the courts, and that the environmental groups would have a field day. Such groups could equally have a field day over the words that the Minister himself used about maintaining our high environmental standards. Surely the Bill could have defined what non-regression means in this context.

I do not buy the argument and I remain disappointed. Luckily for me, when I became head of an Oxford college 15 or so years ago, somebody bought me a book on how to deal with disappointment; that has come in very handy this afternoon so I am not going to throw a wobbly. In accepting the Government's response, I think they will be aware, of course, that it is not just Members of your Lordships' House who will be watching carefully to ensure that environmental standards are upheld; it is the wider public. We have only to look at the number of people who belong to organisations with an environmental interest, such as the National Trust and the Royal Society for the Protection of Birds, to realise that a very powerful force is out there.

There will be scrutiny of what the Government do. They will be held to account on "non-regression" or "maintaining high environmental standards". I am sure that Ministers in this Administration and any future Administration will be fully aware of the public concern about the state of our environment, which was so eloquently illustrated by the noble Baroness, Lady Bennett of Manor Castle, a few minutes ago. Nevertheless, at this point, I beg leave to withdraw Motion A1.

Motion A1 withdrawn.

Motion A agreed.

Motion B

Moved by ***Lord Callanan***

That this House do not insist on its Amendment 42D, to which the Commons have disagreed for their Reason 42E.

42E: Because the Commons consider the scrutiny procedure imposed by the Lords Amendment to be inappropriate.

Motion B1 not moved.

Motion B agreed.

Northern Ireland Troubles (Legacy and Reconciliation) Bill

Report (2nd Day)

4.13 pm

Clause 13: Conduct of reviews

Amendment 31

Moved by ***Baroness Ritchie of Downpatrick***

31: Clause 13, page 11, line 13, at end insert—

"(3A) The Commissioner for Investigations must ensure that each review—

(a) is carried out to criminal justice standards as modelled on Operation Kenova,

(b) complies fully with obligations under the European Convention on Human Rights,

(c) gathers as much information as possible in relation to the death or harmful conduct, and

(d) explores all evidential opportunities.

(3B) "Operation Kenova" means the independent investigation established under the overall command of former Chief Constable Jon Boutcher in 2016, known as Operation Kenova."

Member's explanatory statement

This amendment establishes minimum standards for a "review" conducted by the ICRIR to ensure conduct is investigated to criminal justice standards, along the lines of Operation Kenova.

Baroness Ritchie of Downpatrick (Lab): My Lords, we had an extensive debate on Amendment 31 last Wednesday and on behalf of my noble friend Lord Hain, I want to test the opinion of the House.

4.14 pm

Division on Amendment 31

Contents 203; Not-Contents 179.

Amendment 31 agreed.

Division No. 1

CONTENTS

Aberdare, L.
Addington, L.
Alderdice, L.
Allan of Hallam, L.
Alton of Liverpool, L.
Anderson of Ipswich, L.
Anderson of Stoke-on-Trent, B.
Anderson of Swansea, L.
Andrews, B.
Armstrong of Hill Top, B.
Bach, L.
Bakewell of Hardington Mandeville, B.
Bakewell, B.
Barker, B.
Bassam of Brighton, L.
Beith, L.
Benjamin, B.
Bennett of Manor Castle, B.
Blackstone, B.
Blair of Boughton, L.
Blake of Leeds, B.
Blower, B.
Blunkett, L.
Bonham-Carter of Yarnbury, B.
Bowles of Berkhamsted, B.
Bradley, L.
Brinton, B.
Brooke of Alverthorpe, L.
Browne of Belmont, L.
Bruce of Bennachie, L.
Burt of Solihull, B.
Campbell-Savours, L.
Carter of Coles, L.
Cashman, L.
Chakrabarti, B.
Chandos, V.
Chapman of Darlington, B.
Chartres, L.
Clancarty, E.
Clement-Jones, L.
Collins of Highbury, L.
Colville of Culross, V.
Coussins, B.
Craig of Radley, L.
Crawley, B.
Cromwell, L.
Cunningham of Felling, L.
Davies of Brixton, L.
Dholakia, L.
Dodds of Duncairn, L.
Donaghy, B.
Doocey, B.
D'Souza, B.
Dubs, L.
Eames, L.
Falconer of Thoroton, L.
Faulkner of Worcester, L.
Finlay of Llandaff, B.
Foster of Bath, L.
Fox, L.
Garden of Frognal, B.
German, L.
Giddens, L.
Goddard of Stockport, L.
Golding, B.
Green of Hurstpierpoint, L.
Grender, B.
Grocott, L.
Hacking, L.
Hamwee, B.
Hanworth, V.
Harries of Pentregarth, L.
Harris of Haringey, L.
Harris of Richmond, B.
Haskel, L.
Haworth, L.
Hay of Ballyore, L.
Hayman of Ullock, B.
Hayman, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Hendy, L.
Henig, B.
Hogan-Howe, L.
Hope of Craighead, L.
Howarth of Newport, L.
Humphreys, B.
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Jay of Paddington, B.
Jones of Whitchurch, B.
Jones, L.
Kennedy of Southwark, L. [Teller]
Knight of Weymouth, L.
Kramer, B.
Lawrence of Clarendon, B.
Layard, L.
Lee of Trafford, L.
Lennie, L.
Leong, L.
Levy, L.
Liddell of Coatdyke, B.
Lipsey, L.
Lister of Burtersett, B.
Livermore, L.
Loomba, L.
Mackenzie of Framwellgate, L.
Mair, L.
Mann, L.
Mawson, L.
McConnell of Glenscorrodale, L.
McCrea of Magherafelt and Cookstown, L.
McIntosh of Hudnall, B.
McNally, L.
McNicol of West Kilbride, L.
Meacher, B.
Merron, B.
Mitchell, L.
Morgan, L.
Morris of Yardley, B.
Morrow, L.
Murphy of Torfaen, L.
Newby, L.
Northover, B.
Nye, B.
Oates, L.
O'Grady of Upper Holloway, B.
O'Loan, B.
O'Neill of Bengarve, B.
Osamor, B.
Paddick, L.
Palmer of Childs Hill, L.
Parminter, B.
Pinnock, B.
Pitkeathley, B.
Ponsonby of Shulbrede, L.
Prashar, B.
Primarolo, B.
Prosser, B.
Purvis of Tweed, L.
Ramsay of Cartvale, B.
Randerson, B.
Razzall, L.
Rebuck, B.
Redesdale, L.
Reid of Cardowan, L.
Ritchie of Downpatrick, B.
Rooker, L.
Rowlands, L.
Royall of Blaisdon, B.
Russell of Liverpool, L.
Russell, E.
Sahota, L.
Scott of Needham Market, B.
Sharkey, L.
Sheehan, B.
Sherlock, B.
Shipley, L.
Smith of Basildon, B.
Smith of Newnham, B.
Snape, L.
Stansgate, V.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Stunell, L.
Suttie, B.
Taylor of Bolton, B.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Tomlinson, L.
Tope, L.
Triesman, L.
Truscott, L.
Tunnicliffe, L.
Turnberg, L.
Twycross, B.

Uddin, B.
Vaux of Harrowden, L.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Warner, L.
Warwick of Undercliffe, B.
Watkins of Tavistock, B.
Watson of Invergowrie, L.
Watson of Wyre Forest, L.
Watts, L.
Weir of Ballyholme, L.
Wellington, D.
West of Spithead, L.
Wheatcroft, B.
Wheeler, B. [Teller]
Whitaker, B.
Whitty, L.
Wigley, L.
Wilcox of Newport, B.
Winston, L.
Wrigglesworth, L.

NOT CONTENTS

Agnew of Oulton, L.
Ahmad of Wimbledon, L.
Altmann, B.
Altrincham, L.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Ashcombe, L.
Attlee, E.
Balfe, L.
Barran, B.
Bellamy, L.
Bellingham, L.
Benyon, L.
Berridge, B.
Bertin, B.
Bew, L.
Blackwell, L.
Blackwood of North Oxford, B.
Blencathra, L.
Borwick, L.
Bourne of Aberystwyth, L.
Bray of Coln, B.
Bridges of Headley, L.
Browning, B.
Buscombe, B.
Caine, L.
Caithness, E.
Callanan, L.
Camrose, V.
Carrington of Fulham, L.
Chisholm of Owlpen, B.
Choudrey, L.
Courtown, E. [Teller]
Craigavon, V.
Crathorne, L.
Cruddas, L.
Dannatt, L.
Davies of Gower, L.
De Mauley, L.
Dobbs, L.
Duncan of Springbank, L.
Dunlop, L.
Eccles, V.
Effingham, E.
Evans of Bowes Park, B.
Evans of Rainow, L.
Fairfax of Cameron, L.
Fall, B.
Faulks, L.
Finn, B.
Fleet, B.
Fookes, B.
Forsyth of Drumlean, L.
Fraser of Craigmaddie, B.
Frost, L.
Geddes, L.
Gilbert of Panteg, L.
Godson, L.
Goldie, B.
Goodlad, L.
Grade of Yarmouth, L.
Greenhalgh, L.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hamilton of Epsom, L.
Hannan of Kingsclere, L.
Harding of Winscombe, B.
Harlech, L.
Harrington of Watford, L.
Haselhurst, L.
Hayward, L.
Helic, B.
Henley, L.
Herbert of South Downs, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Holmes of Richmond, L.
Hooper, B.
Horam, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
Jackson of Peterborough, L.
Jenkin of Kennington, B.
Johnson of Lainston, L.
Kamall, L.
Kirkhope of Harrogate, L.
Laming, L.
Lamont of Lerwick, L.
Lampard, B.
Lancaster of Kimbolton, L.
Lawlor, B.
Lea of Lymm, B.
Leicester, E.
Leigh of Hurley, L.
Lexden, L.
Lilley, L.
Lindsay, E.
Lingfield, L.
Lucas, L.
Manzoor, B.
Markham, L.
Maude of Horsham, L.
McInnes of Kilwinning, L.
McIntosh of Pickering, B.
Meyer, B.
Mobarik, B.
Morris of Bolton, B.
Morse, L.
Mott, L.
Moylan, L.
Moynihan, L.
Murray of Blidworth, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Nicholson of Winterbourne, B.
Norton of Louth, L.
Offord of Garvel, L.
O'Neill of Bexley, B.
Parkinson of Whitley Bay, L.
Patten of Barnes, L.
Penn, B.
Pidding, B.
Polak, L.
Popat, L.
Porter of Spalding, L.
Powell of Bayswater, L.
Randall of Uxbridge, L.
Rawlings, B.
Reay, L.
Redfern, B.
Remnant, L.
Risby, L.
Roberts of Belgravia, L.
Roborough, L.
Saatchi, L.
Sanderson of Welton, B.
Sandhurst, L.
Sarfraz, L.
Sassoon, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, B.
Sewell of Sanderstead, L.
Sharpe of Epsom, L.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Shinkwin, L.
Smith of Hindhead, L.
Soames of Fletching, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stewart of Dirleton, L.
Stowell of Beeston, B.
Stroud, B.
Sugg, B.
Suri, L.
Swinburne, B.
Swire, L.
Taylor of Holbeach, L.
Trefgarne, L.
Trenchard, V.
True, L.
Tyrie, L.
Udny-Lister, L.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Verma, B.
Warsi, B.
Wei, L.
Wharton of Yarm, L.
Williams of Trafford, B. [Teller]
Wyld, B.
Young of Cookham, L.
Younger of Leckie, V.

4.25 pm

The Deputy Speaker (Lord Russell of Liverpool) (CB): My Lords, I ask the House to be patient, as we now have to gallop through a series of amendments up to Amendment 99, so please bear with me and do not move around too much.

Amendment 32 and 33

Moved by ***Lord Caine***

32: Clause 13, page 11, line 18, at end insert—

"(4A) In particular, the Commissioner for Investigations is to decide whether a criminal investigation is to form part of a review."

Member's explanatory statement

This makes clear that the Commissioner for Investigations should consider whether there should be a criminal investigation as part of an ICRIR review.

33: Clause 13, page 11, line 48, at end insert—

"(7A) Subsection (A1) does not limit the duty of the Commissioner for Investigations to comply with the obligations imposed by the Human Rights Act 1998 when exercising other functions."

Member's explanatory statement

This makes clear that the duty of the Commissioner for Investigations to comply with the Human Rights Act 1998 is not limited by the express provision in the new subsection (A1).

Amendments 32 and 33 agreed.

Clause 15: Production of reports on the findings of reviews

Amendment 34 to 36

Moved by ***Lord Caine***

34: Clause 15, page 13, line 14, at end insert—

"(2A) The final report must include a statement of the manner in which the review was carried out."

Member's explanatory statement

This amendment requires the final report to include a statement about the manner in which a review was carried out.

35: Clause 15, page 14, line 4, leave out "a draft of the report to the individual" and insert "a copy of that material to the individual"

Member's explanatory statement

This amendment limits the material that is to be given to a person criticised by a draft report before the final report is produced (so that the person is only given the critical material).

36: Clause 15, page 14, line 6, at end insert—

"(6A) In the case of any review, if it is proposed to include in the final report material criticising a public authority, the Chief Commissioner must, before producing the report—

(a) give a copy of that material to the public authority or to a person who, in the Chief Commissioner's view, currently has responsibility for the public authority; and

(b) allow that public authority or person to make representations about that material during the applicable response period."

Member's explanatory statement

This amendment provides for a public authority that is criticised in a draft report to be given the opportunity to make representations about the critical material.

Amendments 34 to 36 agreed.

Amendment 37 not moved.

Amendment 38

Moved by ***Lord Caine***

38: Clause 15, page 14, line 10, leave out from "are" to "and" and insert "consulted"

Member's explanatory statement

This amendment replaces existing wording with the new defined term "consulted" which is inserted into subsection (12) by the amendment in Lord Caine's name.

Amendment 38 agreed.

Amendment 39 not moved.

Amendment 40

Moved by ***Lord Caine***

40: Clause 15, page 14, line 16, leave out "subsections (3) to (5)" and insert "the consultation provisions"

Member's explanatory statement

This amendment replaces existing wording with the new defined term "consultation provisions" which is inserted into subsection (12) by the amendment in Lord Caine's name.

Amendment 40 agreed.

Amendment 41 not moved.

Amendment 42 to 46

Moved by ***Lord Caine***

42: Clause 15, page 14, line 18, leave out from "has" to "this" in line 19 and insert "consulted a person,"

Member's explanatory statement

This amendment replaces existing wording with the new defined term "consulted" which is inserted into subsection (12) by the amendment in Lord Caine's name.

43: Clause 15, page 14, line 21, at end insert "or any material included in it"

Member's explanatory statement

This amendment is consequential on the amendment of subsection (6)(a) in Lord Caine's name.

44: Clause 15, page 14, line 26, leave out from "is" to "means" in line 27 and insert "consulted,"

Member's explanatory statement

This amendment replaces existing wording with the new defined term "consulted" which is inserted into subsection (12) by the amendment in Lord Caine's name.

45: Clause 15, page 14, line 32, at end insert—

""consultation provisions" means subsections (3) to (6A);

"consulted" means given a draft of a report or other material, and allowed to make representations, in accordance with the consultation provisions;"

Member's explanatory statement

This amendment adds the defined terms "consultation provision" and "consulted" to the interpretation provision of Clause 15. These terms replace existing references to subsections (3) to (5), and bring subsection (6) and the new subsections (6A) within the scope of those references.

46: Clause 15, page 14, line 32, at end insert—

""material criticising a public authority" means material which, in the Chief Commissioner's view, constitutes significant criticism of a public authority (and that material may consist of or include criticism of one or more individuals, whether living or not);"

Member's explanatory statement

This amendment adds a defined term which is used in the new subsection (6A).

Amendments 42 to 46 agreed.

Amendment 47 not moved.

Amendment 48

Moved by ***Lord Caine***

48: Clause 15, divide Clause 15 into two Clauses, the first (Production of reports on the findings of reviews) to consist of subsections (1) to (2A) and the second (Consultation on reports) to consist of subsections (3) to (12)

Member's explanatory statement

This amendment would divide Clause 15 into two Clauses.

Amendment 48 agreed.

Clause 16: Issuing and publication of reports

Amendments 49 and 50

Moved by ***Lord Caine***

49: Clause 16, page 15, line 13, at end insert—

"(5A) If a final report is not published in such a case, the Chief Commissioner must publish the statement of the manner in which the review was carried out that is included in the final report in accordance with section 15(2A)."

Member's explanatory statement

This amendment requires the Chief Commissioner to publish the statement about the manner in which the review was carried out if the final report is not published.

50: Clause 16, page 15, line 14, after "report" insert ", or statement of the manner in which a review was carried out,"

Member's explanatory statement

This amendment is consequential on the amendment in Lord Caine's name to insert the new subsection (5A).

Amendments 49 and 50 agreed.

Clause 17: Reports: general provision

Amendments 51 to 58

Moved by ***Lord Caine***

51: Clause 17, page 15, line 26, leave out from "to" to end of line 27 and insert "—

(a) producing under section 15, and giving and publishing under section 16(2) and (3), the final report on the findings of an excepted review, or

(b) publishing under section 16(5A) the statement of the manner in which an excepted review was carried out.

(2A) For that purpose an "excepted review" is—"

Member's explanatory statement

This amendment expands subsection (2) to delay the production or publication of the final report, or the statement required by section 15(2A), where conduct is referred to a prosecutor.

52: Clause 17, page 15, line 32, leave out "23(1)" and insert "23"

Member's explanatory statement

This amendment is consequential on the amendments to Clause 23 in Lord Caine's name.

53: Clause 17, page 15, line 33, after "be" insert "produced and published, or the statement is not to be"

Member's explanatory statement

This amendment is consequential on the amendment of subsection (2) in Lord Caine's name.

54: Clause 17, page 15, line 40, after first "report" insert ", material which it is proposed to include in a final report"

Member's explanatory statement

This amendment is consequential on the amendment of Clause 15(6), and the new subsection (6A) inserted into Clause 15, by other amendments in Lord Caine's name.

55: Clause 17, page 15, line 42, at end insert "or statement of the manner in which a review was carried out"

Member's explanatory statement

This amendment is consequential on the amendment of subsection (2) in Lord Caine's name.

56: Clause 17, page 16, line 4, leave out "Section 20(8)(f) and (g)" and insert "Paragraph 3(2)(d) and (e) of Schedule (No immunity in certain circumstances)"

Member's explanatory statement

This amendment is consequential on material in Clause 20(8) being removed and instead appearing in the new Schedule (No immunity in certain circumstances) by virtue of other amendments in Lord Caine's name.

57: Clause 17, page 16, line 9, leave out "23(1)," and insert "23,"

Member's explanatory statement

This amendment is consequential on the amendments to Clause 23 in Lord Caine's name.

58: Clause 17, page 16, line 11, leave out "23(3)(a)" and insert "23"

Member's explanatory statement

This amendment is consequential on the amendments to Clause 23 in Lord Caine's name.

Amendments 51 to 58 agreed.

Clause 18: Immunity from prosecution

Amendments 59 and 59A not moved.

Amendment 60

Moved by ***Lord Caine***

60: Clause 18, page 16, line 35, at end insert ", and

(b) any other law that might or would prevent a prosecution of P for an offence from being begun or continued (for example, abuse of process—but see paragraph 3 of Schedule (No immunity in certain circumstances))."

Member's explanatory statement

This provides that the immunity requests panel can ignore any law that would prevent a prosecution, when the panel is deciding when P's disclosed conduct would tend to expose P to criminal enforcement action in respect of an offence.

Amendment 60 agreed.

Amendments 61 to 63 not moved.

Amendments 64 and 65

Moved by ***Lord Caine***

64: Clause 18, page 17, line 22, after "revoked" insert ", except by a court under section (Subsequent convictions: revocation of immunity)"

Member's explanatory statement

This amendment is in consequence of new Clause (Subsequent convictions: revocation of immunity).

65: Clause 18, page 17, line 31, for "section 19" substitute "Schedule (No immunity in certain circumstances)"

Member's explanatory statement

This amendment is in consequence of new Schedule (No immunity in certain circumstances).

Amendments 64 and 65 agreed.

Amendment 66

Moved by ***Lord Murphy of Torfaen***

66: Clause 18, leave out Clause 18

Member's explanatory statement

This amendment would remove Clause 18 from the Bill, preventing a person from requesting immunity from prosecution as part of the ICRIR's investigations of Troubles-related conduct.

Lord Murphy of Torfaen (Lab): My Lords, this amendment deletes Clause 18, which introduces conditional immunity in the Bill. This is the most contentious and controversial part of the Bill. It is almost universally condemned in Northern Ireland, and I wish to test the opinion of the House.

4.29 pm

Division on Amendment 66

Contents 197; Not-Contents 185.

Amendment 66 agreed.

Division No. 2

CONTENTS

Aberdare, L.	Anderson of Stoke-on-Trent, B.
Addington, L.	Anderson of Swansea, L.
Alderdice, L.	Andrews, B.
Allan of Hallam, L.	Armstrong of Hill Top, B.
Alton of Liverpool, L.	Bach, L.
Anderson of Ipswich, L.	

Bakewell of Hardington Mandeville, B.
Bakewell, B.
Barker, B.
Bassam of Brighton, L.
Beith, L.
Benjamin, B.
Bennett of Manor Castle, B.
Blackstone, B.
Blair of Boughton, L.
Blake of Leeds, B.
Blower, B.
Blunkett, L.
Bonham-Carter of Yarnbury, B.
Bowles of Berkhamsted, B.
Bradley, L.
Brinton, B.
Brooke of Alverthorpe, L.
Browne of Belmont, L.
Bruce of Bennachie, L.
Burt of Solihull, B.
Campbell-Savours, L.
Carter of Coles, L.
Cashman, L.
Chakrabarti, B.
Chandos, V.
Chapman of Darlington, B.
Chartres, L.
Clement-Jones, L.
Collins of Highbury, L.
Craig of Radley, L.
Crawley, B.
Cunningham of Felling, L.
Davies of Brixton, L.
Dholakia, L.
Dodds of Duncairn, L.
Donaghy, B.
Doocey, B.
D'Souza, B.
Dubs, L.
Eames, L.
Falconer of Thoroton, L.
Faulkner of Worcester, L.
Finlay of Llandaff, B.
Foster of Bath, L.
Fox, L.
Garden of Frognal, B.
German, L.
Giddens, L.
Goddard of Stockport, L.
Golding, B.
Green of Hurstpierpoint, L.
Grender, B.
Griffiths of Burry Port, L.
Grocott, L.
Hacking, L.
Hamwee, B.
Hanworth, V.
Harries of Pentregarth, L.
Harris of Haringey, L.
Harris of Richmond, B.
Haskel, L.
Haworth, L.
Hay of Ballyore, L.
Hayman of Ullock, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Hendy, L.
Henig, B.
Hogan-Howe, L.
Howarth of Newport, L.
Humphreys, B.
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Janke, B.
Jay of Paddington, B.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jones, L.
Kennedy of Southwark, L. [Teller]
Knight of Weymouth, L.
Kramer, B.
Laming, L.
Lawrence of Clarendon, B.
Layard, L.
Lee of Trafford, L.
Lennie, L.
Leong, L.
Levy, L.
Liddell of Coatdyke, B.
Lipsey, L.
Lister of Burtersett, B.
Livermore, L.
Loomba, L.
Mackenzie of Framwellgate, L.
Macpherson of Earl's Court, L.
Mair, L.
Mann, L.
McConnell of Glenscorrodale, L.
McCrea of Magherafelt and Cookstown, L.
McIntosh of Hudnall, B.
McNicol of West Kilbride, L.
Merron, B.
Mitchell, L.
Morgan, L.
Morris of Yardley, B.
Morrow, L.
Murphy of Torfaen, L.
Newby, L.
Northover, B.
Nye, B.
Oates, L.
O'Grady of Upper Holloway, B.
O'Loan, B.
O'Neill of Bengarve, B.
Osamor, B.
Paddick, L.
Palmer of Childs Hill, L.
Parminter, B.
Pinnock, B.
Ponsonby of Shulbrede, L.
Prashar, B.
Primarolo, B.
Prosser, B.
Purvis of Tweed, L.
Ramsay of Cartvale, B.
Randerson, B.
Razzall, L.
Rebuck, B.
Redesdale, L.
Rennard, L.
Ritchie of Downpatrick, B.
Rogan, L.
Rooker, L.
Rowlands, L.
Royall of Blaisdon, B.
Russell of Liverpool, L.
Russell, E.
Sahota, L.
Scott of Needham Market, B.
Sharkey, L.
Sheehan, B.
Sherlock, B.
Shipley, L.
Smith of Basildon, B.
Smith of Newnham, B.
Snape, L.
Stansgate, V.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Taylor of Bolton, B.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Tomlinson, L.
Tope, L.
Triesman, L.
Truscott, L.
Tunnicliffe, L.
Twycross, B.
Uddin, B.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Warner, L.
Warwick of Undercliffe, B.
Watkins of Tavistock, B.
Watson of Invergowrie, L.
Watson of Wyre Forest, L.
Watts, L.
Weir of Ballyholme, L.
Wellington, D.
West of Spithead, L.
Wheeler, B. [Teller]
Whitaker, B.
Whitty, L.
Wigley, L.
Wilcox of Newport, B.
Winston, L.
Wrigglesworth, L.

NOT CONTENTS

Agnew of Oulton, L.
Ahmad of Wimbledon, L.
Altmann, B.
Altrincham, L.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Ashcombe, L.
Attlee, E.
Balfe, L.
Barran, B.
Bellamy, L.
Bellingham, L.
Benyon, L.
Berridge, B.
Bertin, B.
Bethell, L.
Bew, L.
Blackwell, L.
Blackwood of North Oxford, B.
Blencathra, L.
Borwick, L.
Bourne of Aberystwyth, L.
Bray of Coln, B.
Bridges of Headley, L.
Browning, B.
Buscombe, B.
Caine, L.
Caithness, E.
Callanan, L.
Camrose, V.
Carrington of Fulham, L.
Cathcart, E.
Chisholm of Owlpen, B.
Choudrey, L.
Colgrain, L.
Colville of Culross, V.
Courtown, E. [Teller]
Craigavon, V.
Crathorne, L.
Cruddas, L.
Dannatt, L.
Davies of Gower, L.
De Mauley, L.
Dobbs, L.
Duncan of Springbank, L.
Dunlop, L.
Eccles, V.
Effingham, E.
Evans of Bowes Park, B.
Evans of Rainow, L.
Fairfax of Cameron, L.
Fall, B.
Faulks, L.
Finn, B.
Fleet, B.
Fookes, B.
Forsyth of Drumlean, L.
Fraser of Craigmaddie, B.
Frost, L.
Geddes, L.
Gilbert of Panteg, L.
Godson, L.
Goldie, B.
Goodlad, L.
Grade of Yarmouth, L.
Greenhalgh, L.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hamilton of Epsom, L.
Hannan of Kingsclere, L.
Harding of Winscombe, B.
Harlech, L.
Harrington of Watford, L.
Haselhurst, L.
Hayward, L.
Helic, B.
Henley, L.
Herbert of South Downs, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Holmes of Richmond, L.
Hooper, B.
Horam, L.
Howard of Rising, L.
Howe, E.
Hunt of Wirral, L.
Jackson of Peterborough, L.
Jenkin of Kennington, B.
Johnson of Lainston, L.
Kamall, L.
Kirkhope of Harrogate, L.
Lamont of Lerwick, L.
Lampard, B.
Lancaster of Kimbolton, L.
Lawlor, B.
Lea of Lymm, B.
Leicester, E.
Leigh of Hurley, L.
Lexden, L.
Lilley, L.
Lindsay, E.
Lingfield, L.
Lucas, L.
Mancroft, L.
Manzoor, B.
Markham, L.
Maude of Horsham, L.
Mawson, L.
McInnes of Kilwinning, L.
McIntosh of Pickering, B.

Meyer, B.
Mobarik, B.
Morris of Bolton, B.
Morse, L.
Mott, L.
Moylan, L.
Moynihan, L.
Murray of Blidworth, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Nicholson of Winterbourne, B.
Norton of Louth, L.
Offord of Garvel, L.
O'Neill of Bexley, B.
Parkinson of Whitley Bay, L.
Patten of Barnes, L.
Penn, B.
Pidding, B.
Polak, L.
Popat, L.
Porter of Spalding, L.
Powell of Bayswater, L.
Randall of Uxbridge, L.
Rawlings, B.
Reay, L.
Redfern, B.
Remnant, L.
Risby, L.
Robathan, L.
Roberts of Belgravia, L.
Roborough, L.
Saatchi, L.
Sandhurst, L.
Sarfraz, L.
Sassoon, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, B.
Sewell of Sanderstead, L.
Sharpe of Epsom, L.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Shinkwin, L.
Smith of Hindhead, L.
Soames of Fletching, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stewart of Dirleton, L.
Stowell of Beeston, B.
Strathcarron, L.
Stroud, B.
Sugg, B.
Swinburne, B.
Swire, L.
Taylor of Holbeach, L.
Trefgarne, L.
Trenchard, V.
True, L.
Tugendhat, L.
Tyrie, L.
Udny-Lister, L.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Verma, B.
Warsi, B.
Wei, L.
Wharton of Yarm, L.
Wheatcroft, B.
Williams of Trafford, B. [Teller]
Wyld, B.
Young of Cookham, L.
Younger of Leckie, V.

4.39 pm

Clause 19: No immunity from prosecution for sexual offences

Amendment 67

Moved by ***Lord Caine***

67: Clause 19, leave out Clause 19

Member's explanatory statement

The provision made by Clause 19 is moved to the new Schedule (No immunity in certain circumstances).

Amendment 67 agreed.

Clause 20: Requests for immunity: procedural matters

Amendment 68

Moved by ***Lord Caine***

68: Clause 20, page 18, line 36, leave out subsection (1)

Member's explanatory statement

This amendment leaves out subsection (1) as corresponding provision is included in new Schedule (No immunity in certain circumstances) in Lord Caine's name.

Amendment 68 agreed.

Amendment 69 not moved.

Amendment 70

Moved by ***Lord Caine***

70: Clause 20, page 19, line 19, at end insert—

"(7A) If the Chief Commissioner is unable to exercise some or all of the immunity functions, generally or in particular circumstances, the Chief Commissioner may nominate another person—

(a) to temporarily exercise the immunity functions so far as the Chief Commissioner is unable to exercise them, and

(b) to be a temporary member of, and to temporarily chair, the immunity requests panel so far as those functions are panel functions.

(7B) But the Secretary of State may nominate a person under subsection (7A) if the Chief Commissioner is unable to make a nomination.

(7C) A person may not be nominated under subsection (7A) if the person—

(a) would be disqualified from appointment as a Commissioner by paragraph 7(2) of Schedule 1 (imprisonment, insolvency or disqualification from being a company director), or

(b) does not hold, and has not held, high judicial office (within the meaning of paragraph 7 of Schedule 1).

(7D) This Act is to apply to the exercise of immunity functions by a person appointed under subsection (7A) as if the functions were being exercised by the Chief Commissioner.

(7E) In this section—

"immunity functions" means—

(a) the function conferred by subsection (6), and

(b) panel functions;

"panel functions" means functions of the Chief Commissioner as a member or the chair of the immunity requests panel."

Member's explanatory statement

This amendment would allow a person to be nominated to act temporarily if the Chief Commissioner is unable to act, whether generally or in particular circumstances (eg. because of a potential conflict of interest), in relation to requests for immunity.

The Parliamentary Under-Secretary of State, Northern Ireland Office (Lord Caine) (Con): I beg to move.

Amendments 71 to 74 (to Amendment 70) not moved.

Amendment 70 agreed.

Amendment 75

Moved by ***Lord Caine***

75: Clause 20, page 19, line 23, leave out paragraphs (b) to (g)

Member's explanatory statement

This amendment is consequential on the amendment in Lord Caine's name to leave out subsection (1).

Amendment 75 agreed.

Clause 21: Determining a request for immunity

Amendments 76 to 83

Moved by ***Lord Caine***

76: Clause 21, page 20, line 3, at end insert—

"(1A) The ICRIR must take reasonable steps to obtain any information which the Commissioner for Investigations knows or believes is relevant to the question of the truth of P's account."

Member's explanatory statement

This amendment would require the ICRIR to take reasonable steps to obtain information in connection with determining the truth of P's account (see Clause 18(3)).

77: Clause 21, page 20, line 5, after "account" insert "any information obtained under subsection (1A) and"

Member's explanatory statement

This amendment is consequential on the insertion of the new subsection (1A) by the amendment in Lord Caine's name.

78: Clause 21, page 20, line 12, leave out subsection (4)

Member's explanatory statement

Subsection (4) needs to be removed in consequence of the insertion of the new subsection (1A) by the amendment in Lord Caine's name.

79: Clause 21, page 20, line 21, leave out from beginning to "about" in line 22 and insert "The Chief Commissioner must give guidance"

Member's explanatory statement

This would require (instead of allow) guidance to be given under subsection (6); and would require the guidance to be given by the Chief Commissioner (instead of the Secretary of State).

80: Clause 21, page 20, line 24, leave out "Secretary of State" and insert "Chief Commissioner"

Member's explanatory statement

This is consequential on the amendment of subsection (6) conferring the function of giving guidance on the Chief Commissioner (instead of the Secretary of State).

81: Clause 21, page 20, line 29, leave out from beginning to "in" in line 31 and insert "The Chief Commissioner must give guidance about—

(a) the making of decisions"

Member's explanatory statement

This would require (instead of allow) guidance to be given under subsection (7); and would require the guidance to be given by the Chief Commissioner (instead of the Secretary of State).

82: Clause 21, page 20, line 36, leave out "when determining the description" and insert "the determination of descriptions"

Member's explanatory statement

This is consequential on the other amendment of subsection (8) in Lord Caine's name.

83: Clause 21, page 20, line 40, at end insert—

"(8A) The immunity requests panel must take account of guidance given under subsection (6) or (8) when exercising functions to which it relates."

Member's explanatory statement

This is consequential on the other amendments of subsections (6) and (8) in Lord Caine's name.

Amendments 76 to 83 agreed.

Clause 22: The immunity requests panel

Amendment 84

Moved by ***Lord Caine***

84: Clause 22, page 21, line 11, at end insert—

"(3A) For provision about the nomination of a person to act temporarily instead of the Chief Commissioner, see section 20(7A)."

Member's explanatory statement

This amendment is consequential on the amendment in Lord Caine's name adding subsection (7A) to Clause 20.

Amendment 84 agreed.

Amendments 85 and 86

Moved by ***Lord Caine***

85: After Clause 22, insert the following new Clause—

"Personal statements by persons affected by deaths etc

(1) This section applies in relation to—

(a) each review of a death which the ICRIR carries out following a request made under section 9;

(b) each review of other harmful conduct which the ICRIR carries out following a request made under section 10;

(c) each request for immunity from prosecution that is made under section 18 (whether or not the ICRIR carries out a review following a decision made under section 12(2) or (3), and whether or not the ICRIR has made such a decision).

(2) The Chief Commissioner must give an eligible person an opportunity to provide a personal statement to the ICRIR.

(3) If an eligible person provides a personal statement, the Chief Commissioner must give that person an opportunity to supplement the statement.

(4) In this section "personal statement" means a statement by an eligible person about the way in which, and degree to which, the Troubles-related events have affected and continue to affect—

(a) that person, and

(b) other relevant persons (if, and to the extent that, the person providing the statement is aware of, and wishes the statement to deal with, the effect on those persons).

(5) The definitions in subsection (6) are to be used for the purposes of this section in cases where this section applies—

(a) in relation to a review of a death which the ICRIR carries out following a request made under section 9, or

(b) in relation to a request for immunity from prosecution that is made under section 18—

(i) where the ICRIR carries out a review of a death following a decision made under section 12(2), or

(ii) where, if the ICRIR were to carry out a review in connection with the request for immunity, it would be a review of a death following a decision made under section 12(2).

(6) In any of those cases—

"eligible person" means—

(a) each known close family member of the deceased (and Part 1 of Schedule 3 is to apply for the purpose of determining who is a close family member), or

(b) if there are no known close family members, each other known family member of the deceased to whom the Chief Commissioner considers it is appropriate to give an opportunity to provide a personal statement;

and here "known" means known to the ICRIR by virtue of any of its other functions;

"other relevant person" means—

(a) a member of the family of the person to whose death the review relates;

(b) a member of the family of any other person killed in the relevant event;

(c) a person who suffered serious physical or mental harm in the relevant event and has subsequently died;

(d) members of the family of a person falling within paragraph (c);

"Troubles-related events" means—

(a) the death to which the review relates, and

(b) the relevant event (which has the same meaning as in section 15(4)).

(7) The definitions in subsection (8) are to be used for the purposes of this section in cases where this section applies—

(a) in relation to a review of other harmful conduct which the ICRIR carries out following a request made under section 10, or

(b) in relation to a request for immunity from prosecution that is made under section 18—

(i) where the ICRIR carries out a review of other harmful conduct following a decision made under section 12(3), or

(ii) where, if the ICRIR were to carry out a review in connection with the request for immunity, it would be a review of other harmful conduct following a decision made under section 12(3).

(8) In any of those cases—

"eligible person" means—

(a) each known close family member of the injured person (and Part 1 of Schedule 3 is to apply for the purpose of determining who is a close family member), or

(b) if there are no known close family members, each other known family member of the injured person to whom the Chief Commissioner considers it is appropriate to give an opportunity to provide a personal statement;

and here "injured person" means the person who was caused the physical or mental harm by the other harmful conduct concerned; and "known" means known to the ICRIR by virtue of any of its other functions;

"other relevant person" means—

(a) a member of the family of any person killed in the relevant event;

(b) a person who suffered serious physical or mental harm in the relevant event and has subsequently died;

(c) members of the family of a person falling within paragraph (b);

"Troubles-related events" means—

(a) the other harmful conduct to which the review relates, and

(b) the relevant event (which has the same meaning as in section 15(5))."

Member's explanatory statement

This amendment requires the Chief Commissioner to give individuals affected by a death or other harmful conduct the opportunity to provide personal statements to the ICRIR about the effects of the Troubles-related conduct.

86: After Clause 22, insert the following new Clause—

"Publication of personal statements

(1) This section applies where—

(a) an eligible person provides a personal statement in accordance with section (Personal statements by persons affected by deaths etc), and

(b) the person notifies the Chief Commissioner that the person wishes the personal statement to be published by the Chief Commissioner.

(2) The Chief Commissioner must publish the personal statement.

(3) But that duty does not apply if publication of the personal statement—

(a) would breach section 4(1) or 26(2), or

(b) would, in the Chief Commissioner's view, be contrary to the public interest.

(4) If it is possible to do so, the Chief Commissioner must instead produce an edited version of the personal statement which can be published without—

(a) breaching section 4(1) or 26(2), or

(b) being, in the Chief Commissioner's view, contrary to the public interest.

(5) But the Chief Commissioner must not publish an edited version unless the person who provided the personal statement agrees to the publication of that version.

(6) The Chief Commissioner does not breach the duties imposed by subsections (2) and (4) if the Chief Commissioner—

(a) wishes to publish an edited version in accordance with subsection (4),

(b) is not able to obtain the agreement to publication of an edited version from the person who provided the personal statement, and

(c) accordingly does not publish the personal statement or any edited version.

(7) The duties imposed by subsections (2) and (4) do not apply if, and for as long as, section 17(2) or (3) has the effect of suspending the duty to publish any final report that is related to the personal statement.

(8) If the Chief Commissioner—

(a) intends to publish an edited version of the personal statement in accordance with subsection (4), or

(b) intends to publish neither—

(i) the personal statement because subsection (3) applies, nor

(ii) any edited version of the personal statement because it is not possible to do so in accordance with subsection (4),

the Chief Commissioner must give to the person who provided the personal statement the reasons for taking that course of action.

(9) A reference in this section—

(a) to a personal statement includes anything which supplements a personal statement;

(b) to an edited version of a personal statement includes a version of the statement which has been redacted.

(10) For the purposes of this section a final report is "related to" a personal statement if—

(a) the statement is provided in a case where section (Personal statements by persons affected by deaths etc) applies in relation to—

(i) a review which the ICRIR carries out following a request made under section 9 or 10, or

(ii) a request for immunity from prosecution where the ICRIR carries out a review following a decision made under section 12(2) or (3), and

(b) the final report is the final report of the findings of that review."

Member's explanatory statement

This amendment requires the Chief Commissioner to publish a personal statement provided under new Clause (Personal statements by persons affected by deaths etc).

Amendments 85 and 86 agreed.

Amendment 86A not moved.

Clause 23: Information for prosecutors

Amendments 87 and 88

Moved by ***Lord Caine***

87: Clause 23, page 21, line 32, leave out from beginning to end of line 38 and insert—

"(2) If the Commissioner for Investigations considers there is evidence that relevant conduct constitutes an offence under the law of Northern Ireland by an individual whose identity is known to the Commissioner, the Commissioner—

(a) may refer the conduct to the Director of Public Prosecutions for Northern Ireland, and

(b) if the conduct is referred, must notify that prosecutor of the offence concerned.

(2A) If the Commissioner for Investigations considers there is evidence that relevant conduct constitutes an offence under the law of England and Wales by an individual whose identity is known to the Commissioner, the Commissioner—

(a) may refer the conduct to the Director of Public Prosecutions (for England and Wales), and

(b) if the conduct is referred, must notify that prosecutor of the offence concerned.

(2B) If the Commissioner for Investigations considers there is evidence that relevant conduct constitutes an offence under the law of Scotland by an individual whose identity is known to the Commissioner, the Commissioner may—

(a) refer the conduct to the Lord Advocate, and

(b) notify that prosecutor of the offence concerned.

(2C) The Lord Advocate may direct the Commissioner for Investigations to exercise the power of referral and notification in accordance with subsection (2B); and the Commissioner must comply with any direction that is given unless the person concerned has been granted immunity from prosecution under section 18 for the offence concerned.

(2D) In any case where the Commissioner for Investigations refers conduct to a prosecutor under this section, the Commissioner—"

Member's explanatory statement

This amendment would enable the Lord Advocate to require the Commissioner for Investigations to refer relevant conduct to the Lord Advocate.

88: Clause 23, page 22, line 10, leave out from "or" to end of line 12 and insert "the other harmful conduct, to which the review relates (the "main conduct"), and—

(b) any other conduct that relates to, or is otherwise connected with, the main conduct;

and for this purpose other conduct is to be regarded as connected with the main conduct, in particular, if all of that conduct formed part of the same event."

Member's explanatory statement

This expands the kinds of conduct that can be referred to a prosecutor after an ICRIR review relating to a death or other harmful conduct. Other conduct related to or connected with the death or other harmful conduct can also be referred.

Amendments 87 and 88 agreed.

Amendment 89

Moved by ***Lord Caine***

89: After Clause 23, insert the following new Clause—

"Subsequent convictions: revocation of immunity

(1) If—

(a) a person is convicted of an offence under section (False statements: offence),

(b) that offence was committed in the course of requesting the ICRIR to grant the person immunity from prosecution under section 18, and

(c) the person was granted the immunity from prosecution,

the court which sentences the person for the offence must revoke that grant of immunity from prosecution.

(2) If—

(a) a person is convicted of a terrorist offence or an offence with a terrorist connection, and

(b) the person had been granted immunity from prosecution under section 18 before the offence was committed,

the court which sentences the person for that offence must revoke every grant of immunity from prosecution under section 18 given to the person before the offence was committed.

(3) For the purposes of subsection (2) a person is convicted of "a terrorist offence or an offence with a terrorist connection" if—

(a) the person is convicted of an offence by a court in Northern Ireland and either—

(i) the offence is listed in Schedule 1A to the Counter-Terrorism Act 2008, or

(ii) the court determines under section 30(2) of that Act that the offence has a terrorist connection;

(b) the person is convicted of an offence by a court in England and Wales and either—

(i) the offence is listed in Schedule A1 to the Sentencing Code, or

(ii) the court determines under section 69 of the Sentencing Code that the offence has a terrorist connection;

(c) the person is convicted of an offence by a court in Scotland and either—

(i) the offence is listed in Schedule 1A to the Counter-Terrorism Act 2008, or

(ii) section 31 of that Act applies to the offence (offences with a terrorist connection in Scotland).

(4) Where—

(a) an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, and

(b) a grant of immunity from prosecution is given at any time during that period,

that grant of immunity from prosecution is to be regarded for the purposes of subsection (2) as having been given before the offence was committed.

(5) A revocation of immunity under this section—

(a) has immediate effect;

(b) does not prevent a person making a further request for immunity under section 18 (but see Part 2 of Schedule (No immunity in certain circumstances) for provision about requests that overlap with revoked immunities)."

Member's explanatory statement

This amendment requires courts to revoke immunity granted under Clause 18 if a person is subsequently convicted of making a false statement in the course of applying for that immunity (see new clause (False statements: offence) or convicted of a terrorist offence or offence with a terrorist connection.

Amendment 89 agreed.

Amendment 89A not moved.

Amendment 90

Moved by ***Lord Caine***

90: After Clause 23, insert the following new Clause—

"False statements: offence

(1) A person commits an offence by making a false statement to the ICRIR in connection with any of its functions under sections 18 to 22.

(2) For the purposes of this section—

(a) a person makes a false statement by—

(i) making a statement which the person knows to be false in a material respect, or

(ii) recklessly making a statement which is false in a material respect;

(b) "making a statement" includes giving an account in connection with a request for immunity under section 18.

(3) A person guilty of an offence under this section is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both;

(b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both;

(c) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates' court or a fine or both;

(d) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum or both.

(4) Proceedings for an offence under this section may be instituted—

(a) in Northern Ireland, only by or with the consent of the Director of Public Prosecutions for Northern Ireland;

(b) in England and Wales, only by or with the consent of the Director of Public Prosecutions."

Member's explanatory statement

This amendment prohibits (knowingly or recklessly) providing a statement to the ICRIR that is materially false.

Amendment 90 agreed.

Clause 34: No criminal investigations except through ICRIR reviews

Amendments 91 and 92

Moved by ***Lord Caine***

91: Clause 34, page 28, line 12, leave out subsection (3)

Member's explanatory statement

This would remove the provision that allows reports or statements about criminal investigations to be produced for a limited period after Clause 34 comes into force. It is no longer needed in consequence of the amendment in Lord Caine's name providing for Clause 34 to come into force on 1 May 2024 (instead of two months after royal assent).

92: Clause 34, page 28, line 21, leave out subsection (6)

Member's explanatory statement

This is consequential on the other amendment of Clause 34 in Lord Caine's name.

Amendments 91 and 92 agreed.

Amendment 93 not moved.

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

Amendment 93A not moved.

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

Amendments 94 to 97

Moved by ***Lord Caine***

94: Clause 36, page 28, line 35, leave out "only"

Member's explanatory statement

This is consequential on the other amendment of Clause 36 in Lord Caine's name.

95: Clause 36, page 28, line 37, leave out "23(2)" and insert "23"

Member's explanatory statement

This amendment is consequential on the amendments to Clause 23 in Lord Caine's name.

96: Clause 36, page 29, line 2, leave out "23(3)(a)," and insert "23,"

Member's explanatory statement

This amendment is consequential on the amendments to Clause 23 in Lord Caine's name.

97: Clause 36, page 29, line 6, at end insert—

"(2A) An ICRIR officer, or another person acting in connection with the exercise of the ICRIR's functions, may arrest or otherwise detain P in connection with the offence by P.

(2B) An ICRIR officer, or another person acting in connection with the exercise of the ICRIR's functions, may charge P with the offence by P; and a prosecutor may conduct criminal proceedings arising from any such charge.

(2C) If subsection (2) becomes applicable to the offence by P, criminal enforcement action against P in respect of the offence may no longer be taken in accordance with subsection (2A) or (2B).

(2D) But that does not limit the criminal enforcement action that may be taken in accordance with subsection (2) after it becomes applicable (and, in particular, action previously taken in accordance with subsection (2A) or (2B) may be continued in accordance with subsection (2)).

(2E) Subsections (2), (2A) and (2B) only authorise a person to take criminal enforcement action by the exercise of powers which that person has otherwise than by virtue of this section."

Member's explanatory statement

This expands the criminal enforcement action that can be taken where immunity has not been granted and where a referral to a prosecutor has not been made. It allows P to be arrested, and preserves the possibility of the ICRIR charging P with an offence.

Amendments 94 to 97 agreed.

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

Amendment 98

Moved by ***Lord Caine***

98: Clause 38, page 29, line 27, leave out "P" and insert "a person"

Member's explanatory statement

This removes the use of "P" to refer to a person who is being prosecuted for an offence.

Amendment 98 agreed.

Amendment 98A

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

98A: Clause 38, page 29, line 30, at end insert—

"(3A) For the purposes of subsection (3), a criminal prosecution of P is to be treated as having begun when a file relating to the criminal investigation into P's conduct has already been submitted to the Public Prosecution Service for Northern Ireland on or before the day that section 33 comes into force.

(3B) But if no prosecution of P is directed on the basis of the file submitted to the Public Prosecution Service for Northern Ireland, the case relating to P must be returned to the ICRIR for investigation in accordance with this Part."

Member's explanatory statement

The purpose of this amendment is to treat a public prosecution as having begun when the file is passed to the Public Prosecution Service for Northern Ireland.

Lord Dodds of Duncairn (DUP): My Lords, the purpose of this amendment is to treat a public prosecution as having begun when a file is passed to the Public Prosecution Service for Northern Ireland. It is an important issue; it would allow work to continue in those cases which have already completed their police investigation. I wish to test the opinion of the House. I beg to move.

4.42 pm

Division on Amendment 98A

Contents 183; Not-Contents 191.

Amendment 98A disagreed.

Division No. 3

CONTENTS

Aberdare, L.
Addington, L.
Alderdice, L.
Allan of Hallam, L.
Alton of Liverpool, L.
Anderson of Ipswich, L.
Anderson of Stoke-on-Trent, B.
Anderson of Swansea, L.
Andrews, B.
Armstrong of Hill Top, B.
Bach, L.
Bakewell of Hardington Mandeville, B.
Bakewell, B.
Bassam of Brighton, L.
Beith, L.
Benjamin, B.
Bennett of Manor Castle, B.
Blackstone, B.
Blair of Boughton, L.
Blake of Leeds, B.
Blower, B.
Blunkett, L.
Bowles of Berkhamsted, B.
Bradley, L.
Brinton, B.
Brooke of Alverthorpe, L.
Browne of Belmont, L. [Teller]
Bruce of Bennachie, L.
Burt of Solihull, B.
Campbell-Savours, L.
Carter of Coles, L.
Cashman, L.
Chakrabarti, B.
Chandos, V.
Chapman of Darlington, B.
Chartres, L.
Clement-Jones, L.
Collins of Highbury, L.
Craig of Radley, L.
Crawley, B.
Cunningham of Felling, L.
Davies of Brixton, L.
Dholakia, L.
Dodds of Duncairn, L.
Donaghy, B.
Doocey, B.
Dubs, L.
Eames, L.
Falconer of Thoroton, L.
Faulkner of Worcester, L.
Finlay of Llandaff, B.
Foster of Bath, L.
Fox, L.
German, L.
Giddens, L.
Goddard of Stockport, L.
Golding, B.
Grender, B.
Griffiths of Burry Port, L.
Grocott, L.
Hacking, L.
Hamwee, B.
Hanworth, V.
Harries of Pentregarth, L.
Harris of Haringey, L.
Harris of Richmond, B.
Haskel, L.
Haworth, L.
Hay of Ballyore, L. [Teller]
Hayman of Ullock, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Hendy, L.
Henig, B.
Hoey, B.
Humphreys, B.
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Janke, B.
Jay of Paddington, B.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jones, L.
Kennedy of Southwark, L.
Knight of Weymouth, L.
Kramer, B.
Lawrence of Clarendon, B.
Layard, L.
Lennie, L.
Leong, L.
Levy, L.
Liddell of Coatdyke, B.
Lipsey, L.
Lister of Burtersett, B.
Livermore, L.
Loomba, L.
Mackenzie of Framwellgate, L.
Macpherson of Earl's Court, L.
Mair, L.
Mann, L.
McConnell of Glenscorrodale, L.
McCrea of Magherafelt and Cookstown, L.
McIntosh of Hudnall, B.
McNicol of West Kilbride, L.
Merron, B.
Mitchell, L.
Morgan, L.
Morris of Yardley, B.
Morrow, L.
Murphy of Torfaen, L.
Newby, L.
Northover, B.
Nye, B.
Oates, L.
O'Grady of Upper Holloway, B.
O'Loan, B.
O'Neill of Bengarve, B.
Osamor, B.
Paddick, L.
Palmer of Childs Hill, L.
Parminter, B.
Pinnock, B.
Ponsonby of Shulbrede, L.
Primarolo, B.
Prosser, B.
Purvis of Tweed, L.
Ramsay of Cartvale, B.
Randerson, B.
Razzall, L.
Rebuck, B.
Redesdale, L.
Reid of Cardowan, L.
Ritchie of Downpatrick, B.
Rooker, L.
Rowlands, L.
Royall of Blaisdon, B.
Russell, E.
Sahota, L.
Scott of Needham Market, B.
Sharkey, L.
Sheehan, B.
Sherlock, B.
Shipley, L.
Smith of Basildon, B.
Smith of Newnham, B.
Snape, L.
Stansgate, V.
Stone of Blackheath, L.
Stoneham of Droxford, L.
Storey, L.
Stunell, L.
Suttie, B.
Taylor of Bolton, B.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Tomlinson, L.
Tope, L.
Triesman, L.
Truscott, L.
Tunnicliffe, L.
Twycross, B.
Uddin, B.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Warner, L.
Warwick of Undercliffe, B.
Watkins of Tavistock, B.
Watson of Invergowrie, L.
Watson of Wyre Forest, L.
Watts, L.
Weir of Ballyholme, L.
Wellington, D.
West of Spithead, L.
Wheeler, B.
Whitaker, B.
Wilcox of Newport, B.
Winston, L.
Wrigglesworth, L.

NOT CONTENTS

Agnew of Oulton, L.
Ahmad of Wimbledon, L.
Altmann, B.
Altrincham, L.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Ashcombe, L.
Attlee, E.
Balfe, L.
Barran, B.
Bellamy, L.
Bellingham, L.
Benyon, L.
Berridge, B.
Bertin, B.
Bethell, L.
Bew, L.
Blackwell, L.

Blackwood of North Oxford, B.
Blencathra, L.
Borwick, L.
Bourne of Aberystwyth, L.
Bray of Coln, B.
Bridges of Headley, L.
Browning, B.
Buscombe, B.
Butler of Brockwell, L.
Caine, L.
Caithness, E.
Callanan, L.
Camrose, V.
Carrington of Fulham, L.
Cathcart, E.
Chisholm of Owlpen, B.
Choudrey, L.
Colgrain, L.
Courtown, E. [Teller]
Crathorne, L.
Cruddas, L.
Dannatt, L.
Davies of Gower, L.
De Mauley, L.
Dobbs, L.
Duncan of Springbank, L.
Dunlop, L.
Eccles, V.
Effingham, E.
Evans of Bowes Park, B.
Evans of Rainow, L.
Fairfax of Cameron, L.
Fall, B.
Faulks, L.
Finn, B.
Fleet, B.
Flight, L.
Fookes, B.
Forsyth of Drumlean, L.
Foster of Oxton, B.
Fraser of Craigmaddie, B.
Frost, L.
Geddes, L.
Gilbert of Panteg, L.
Godson, L.
Goldie, B.
Goodlad, L.
Grade of Yarmouth, L.
Greenhalgh, L.
Greenway, L.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hamilton of Epsom, L.
Hannan of Kingsclere, L.
Harding of Winscombe, B.
Harlech, L.
Harrington of Watford, L.
Haselhurst, L.
Hayward, L.
Helic, B.
Henley, L.
Herbert of South Downs, L.
Hodgson of Abinger, B.
Hogan-Howe, L.
Holmes of Richmond, L.
Hooper, B.
Horam, L.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
Jackson of Peterborough, L.
Jenkin of Kennington, B.
Johnson of Lainston, L.
Kamall, L.
Kirkhope of Harrogate, L.
Laming, L.
Lamont of Lerwick, L.
Lampard, B.
Lancaster of Kimbolton, L.
Lawlor, B.
Lea of Lymm, B.
Leicester, E.
Leigh of Hurley, L.
Lexden, L.
Lilley, L.
Lindsay, E.
Lingfield, L.
Lucas, L.
Mancroft, L.
Manzoor, B.
Markham, L.
Maude of Horsham, L.
McInnes of Kilwinning, L.
McIntosh of Pickering, B.
Meyer, B.
Mobarik, B.
Morris of Bolton, B.
Morrissey, B.
Morse, L.
Mott, L.
Moylan, L.
Moynihan, L.
Murray of Blidworth, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Nicholson of Winterbourne, B.
Norton of Louth, L.
Offord of Garvel, L.
O'Neill of Bexley, B.
Parkinson of Whitley Bay, L.
Patel, L.
Patten of Barnes, L.
Penn, B.
Pidding, B.
Polak, L.
Popat, L.
Porter of Spalding, L.
Randall of Uxbridge, L.
Rawlings, B.
Reay, L.
Redfern, B.
Remnant, L.
Risby, L.
Robathan, L.
Roberts of Belgravia, L.
Roborough, L.
Saatchi, L.
Sanderson of Welton, B.
Sandhurst, L.
Sarfraz, L.
Sassoon, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, B.
Sewell of Sanderstead, L.
Sharpe of Epsom, L.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Shinkwin, L.
Smith of Hindhead, L.
Soames of Fletching, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stewart of Dirleton, L.
Stowell of Beeston, B.
Strathcarron, L.
Stroud, B.
Sugg, B.
Swinburne, B.
Swire, L.
Taylor of Holbeach, L.
Trefgarne, L.
Trenchard, V.
True, L.
Tugendhat, L.
Tyrie, L.
Udny-Lister, L.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Verma, B.
Warsi, B.
Wei, L.
Wharton of Yarm, L.
Williams of Trafford, B. [Teller]
Wolfson of Tredegar, L.
Wyld, B.
Young of Cookham, L.
Younger of Leckie, V.

4.52 pm

Amendment 99

Moved by ***Lord Faulks***

99: 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): My Lords, this amendment, which is supported by the noble Lord, Lord Godson, and the noble Baroness, Lady Hoey, was debated in Committee. It concerns a judgment of the Supreme Court in a claim by Gerry Adams arising out of his internment in the 1970s and his escape from prison. The issue before the Supreme Court was whether his internment, or interim custody order as it was more formally known, was lawful in light of the fact that the Government could not prove that the ICO had been personally signed and approved by the then Secretary of State for Northern Ireland. The lower courts decided that it was, but the Supreme Court, in a single judgment from Lord Kerr, reached a conclusion, which surprised many commentators, that it was unlawful—thus leaving the door open for substantial claims by not only Gerry Adams but a number of others who could rely on the decision.

The most prominent critics of the decision were from Policy Exchange, which has consistently and cogently argued that the decision flew in the face of the well-established Carltona doctrine. This is embedded in government practice and can be found in the cautious guidance given to civil servants about "the judge over your shoulder". It means, for fairly obvious reasons, that such a decision can be taken by more junior

Ministers or civil servants and does not require the personal attention of the Secretary of State to render the decision lawful. This practice was spoken to in Committee by the noble Lords, Lord Butler, Lord Murphy, Lord Howell, Lord Macdonald of River Glaven and Lord Browne of Ladyton, among others.

Your Lordships' House is always slow to legislate contrary to a decision of the Supreme Court. Parliament affords our highest court great respect, and rightly so. When I had the privilege of chairing the Independent Review of Administrative Law, the committee received a number of submissions, including from Supreme Court judges, suggesting caution in our approach to the reform of judicial review, but it was always emphasised by them that Parliament had the right to legislate to reverse decisions of the court. My committee concluded that Parliament could and should do so, but only after very careful consideration of the arguments.

In advancing this amendment, I am considerably reassured by the criticism of the Supreme Court decision by the former Supreme Court judges Lord Sumption and Lord Brown of Eaton-under-Heywood, who last week had an article published on the subject by the *Daily Telegraph*. I will refer to the beginning of the article, although all of it bears close attention. He said:

"In the last few years, almost without exception, every judgment of the Supreme Court, certainly every unanimous one, has seemed to me to be plainly right, and certainly not plainly wrong. But the Court's unanimous 2020 decision in Adams is an exception. Importantly this has introduced needless legal doubt about one of the most important principles on which the everyday work of government depends. Parliament has an opportunity—with a proposed amendment to the Northern Ireland Troubles Bill, now before the Lords—to put this right. It should do so".

While on the subject of Lord Brown, noble Lords will probably have noticed that last week he formally retired from the House. I take this opportunity to pay tribute to his immense contribution to the work of this House. His voice has enriched so many debates. Many noble Lords will remember his sustained championing of the cause of IPP prisoners. His instincts were liberal, but he always understood the difficult choices that any Government have to make. It was not always easy to predict which side he would take in a debate, which made his views so well worth listening to. He also made an enormous number of friends right across the House, and we will miss him a great deal.

The Government understandably wanted time to consider their response to the amendment after it was debated in Committee. Their initial response, while not unsympathetic, was that there were legal impediments in the way of the amendment. I was not convinced by those arguments, despite having the opportunity generously afforded to me by the Minister to meet his officials. Policy Exchange, once more, stepped into the fray and published an article that provided a convincing counter to those arguments.

However, I am glad to say that the Government's position has changed. For this I am very grateful both to the Minister and to the Secretary of State, Chris Heaton-Harris. I am also grateful to all noble Lords who have lent their support to the amendment. I understand that the Government need a little more time but are proposing to bring forward an amendment at Third Reading that will reflect the concerns contained in this amendment. I have indicated to them that, if the amendment proposed by the Government does not meet the objectives contained in this amendment, we reserve the right to—and we will—vote at Third Reading. In the meantime, I thank them for their constructive approach. The Bill is about legacy. This amendment provides an opportunity to put an injustice right. It will provide legal certainty. What better legacy could there be? I beg to move.

Lord Butler of Brockwell (CB): My Lords, I support the amendment moved by the noble Lord, Lord Faulks. I also echo his remarks about Lord Brown of Eaton-under-Heywood, for many years my noble friend in this House and on the golf course. His wisdom and contribution have been tremendous. The very powerful article he wrote in the *Daily Telegraph* last week could have been the speech he would have made today.

I want to add two things. One is about public administration and the other is about the implications of not accepting this amendment.

5 pm

As regards public administration, your Lordships will be well aware that it is the convention in British statute that powers are conferred upon Secretaries of State. They are not conferred upon departments of state. It has been very long accepted that the powers devolved upon a Secretary of State are administered by the department. Now, in the case of the powers under the Detention of Terrorists (Northern Ireland) Order 1972, there was a little more precision. An internment order was to be signed by the Secretary of State, a Minister of State or an Under-Secretary. There was some definition. In the case of Mr Adams, the order was signed by the Minister of State—quite properly and consistent with the order. As I understand the appeal by Mr Adams and the judgment of the Supreme Court, what was said was that although the correct procedure was followed, the Secretary of State had not given this matter his personal attention. But if every power that was conferred by statute on a Secretary of State required in each individual case the Secretary of State's personal attention, administration and government would be utterly impossible.

That is the danger of this judgment of the Supreme Court. The consequences of it could be very considerable because others could follow the example. They could make appeals against orders which they feel have disadvantaged them in some way and ask for compensation because similarly it could not be established that the Secretary of State had given it his personal attention. We must maintain the Carltona principle, which has been accepted for so many years and has been thrown into doubt by this judgment of the Supreme Court.

The other point I want to make is as a taxpayer. We accept that there are cases when the taxpayer has to provide compensation for something that has been done wrong—but for an injustice. That has happened in the Windrush case, for example. But in the case of the detention of Mr Adams, nobody suggests that this was an injustice. All that happened was that the Supreme Court found that it was a procedural error. Those are not circumstances where a Government who are, quite

[Lord Butler of Brockwell]
rightly, very careful about how they spend public money should be providing compensation. Indeed, the Government did decline to provide compensation to Mr Adams. Mr Adams took it through the courts and the Supreme Court made this very extraordinary ruling.

There could be other consequences of it. Others who were detained under the Detention of Terrorists (Northern Ireland) Order 1972 could similarly follow Mr Adams and seek compensation, and there could be other matters where claimants could say that the Secretary of State did not give his personal attention to it. There could be no end of claims for compensation. That would be, in my view, an appalling use of taxpayers' money. The Government will be perfectly correct if they accept this amendment to protect the taxpayer against it.

For these two reasons, this is a very important amendment, and I am glad to hear that the Government are now sympathetic to its purpose.

Lord Howell of Guildford (Con): My Lords, I, too, support this amendment, so powerfully moved by the noble Lord, Lord Faulks, and supported by the noble Lord, Lord Butler. I realise that behind the amendment is the wider concern of protecting the Carltona principle from being undermined—and I shall come to that a bit more in a moment.

It may help your Lordships if I explain some of the detailed background of how we operated during this period in Northern Ireland and Belfast after the fall of Stormont in 1972. In doing so, I draw from extensive personal notes that I made of almost every occasion during the two or three years I served there, and what they emphasise and remind me of. I will share with the House a brief picture of how we worked and the plan that we had to devise in order to operate in a very violent, dangerous and fast-moving situation.

There was the Secretary of State, the late Lord Whitelaw, and three Ministers with him, of whom I was one, with about 12 or 13 departments that we had to take over between us in the Northern Ireland Government. We each had quite a lot of departments to cover. The plan was always to have one duty Minister at Stormont right through the weekend at all times. During the week, there was one Minister usually out in the field, visiting hospitals, victims, violent situations and communities, doing the work of their departments. We tried to keep one Minister at Westminster, constantly accountable and ready to meet Members of Parliament and Members of your Lordships' House, answer PNQs and so on.

This was a very dangerous moment; the violence was very great indeed, and people were being killed all the time. At all times, the four of us—the Secretary of State and the three Ministers—kept in very close contact with each other; my notes refer to a lot of telephone calls that we had with each other and our constant movements. One moment the Secretary of State would need to be in the Cabinet and the next moment he would have to fly back to Belfast—then the next moment he would be in his own constituency. The same applied to the two others of us as well. Of course, Lord Windlesham was a Member of this House at the time.

This is a recorded picture of an extraordinary situation, which I do not believe has ever been repeated, for British Ministers or a department of government. Just to give an example, I see that I noted in my memoirs that one week I crossed the Irish Sea five times—and I am sure that my fellow Ministers were having the same experience of constant movement, all the more so as the Government at the time had quite a narrow majority and the Whips were saying, "Why aren't you here instead of in Belfast?" You had to be in two places at once.

Throughout all of this, dependence on the Carltona principle and being able to conduct matters in accordance with that principle was absolute and unquestioned. We could not possibly have managed without that principle operating. It was for that reason—and this has possibly been missed by some commentators—that, when we put the provisions about Carltona in the Detention of Terrorists (Northern Ireland) Order 1972, we strengthened it—it is a strengthened principle there, because it limits the permission to sign to Ministers rather than to officials, referring specifically to Ministers and Under-Secretaries of State. The provision is absolutely crystal clear; it is in print and a parliamentary clear wish, passed without any opposition at all and applied in good faith, because we knew that that was the law and the wish of Parliament.

I have no doubt, as the noble Lord, Lord Butler, has wisely reminded us, that, if the judgment is allowed to stand unreversed, it would severely constrain normal government operations. Looking backwards in the rear-view mirror, as it were, it would have made our work in Northern Ireland absolutely impossible, as we moved towards the power-sharing agreement of 1973, which is said to have been the foundation for the Good Friday agreement some 20 years later. We could not have conducted affairs in that atmosphere of violence and killing—indeed, the IRA called it a war, although we did not—without the Carltona principle being applied. Of course, the judgment opens the door to all sorts of meritless litigation and unreserved compensation, which would be completely wrong.

I am astonished, frankly, that such a legal error could have been made. If the Government are not able to meet this—as I hope that they are, from indications by the noble Lord, Lord Faulks—and are not able to respond in a positive way, I shall be even more astonished that such an error could be perpetuated.

Baroness Hoey (Non-Afl): My Lords, when I asked a question about this some six months ago I was assured that something would be done to sort it—I think that was the word used—so I am very pleased to support the amendment in the name of the noble Lords, Lord Faulks and Lord Godson. I am pleased and waiting to hear what the Minister will say, because I am very hopeful now that this will get sorted and that we will not have to have a vote on it. It would be good if he were able to make it very clear that the legislation will definitely be amended, so that we get the result before Third Reading. I think it is useful to remind noble Lords; the noble Lord, Lord Howell, gave a very clear view of what things were like back in 1972.

In the judgment, Lord Kerr said that the law said that it had "to appear" to the Secretary of State that the person in question was suspected of organising terrorism. Ironically, the case of Gerry Adams was one where it could unquestionably have appeared to Mr Whitelaw that a custody order was appropriate; his personal consideration was just not recorded in the archives. I am sure that the Secretary of State knew, rather than suspected, that Adams was a key figure, because he had him flown over for negotiations with the IRA at Cheyne Walk in 1972, a year earlier. Lord Kerr also said that Mr Whitelaw should have been able to sign all such custody orders, as

"there was no evidence that this would place an impossible burden"

on him or be "unduly onerous", given that Merlyn Rees, his Labour successor from March 1974, managed to.

I think this is a reflection of an unhistoric assertion lacking context, given the terrible violence outlined by the noble Lord, Lord Howell, of 1972 and 1973, let alone the logistics involving Ministers, one of whom had to be in England and one in Belfast. Furthermore, it took no account of the differing political circumstances involving Secretary of State Merlyn Rees, who was very keen to end internment and sought to minimise the number of orders being placed in front of him. In fact, internment ended a year later.

Noble Lords should also remember that the Supreme Court President, Lord Reed of Allermuir, in effect supported a correction when he spoke to the House's Constitution Committee in March 2021. There he said, in response to the noble Lord, Lord Howell:

"I cannot say very much about the particular case because I did not sit on it myself. Lord Kerr wrote the judgment. The Lord Chief Justice and some other justices were sitting with him. I am well aware that it is a controversial judgment ... I really cannot remember the details of the case. From what you say, it sounds like a wayward judgment, in which case it will be put right in another case".

I believe that this amendment and what the Government are now going to do are a valuable substitute for such another case at the Supreme Court, which could otherwise take years to appear.

Baroness Suttie (LD): My Lords, when this amendment was introduced at a very late stage in Committee, I expressed concern that this is a complicated matter and should be examined in greater detail. While the amendment is focused on the specifics of the Supreme Court case in 2020, it is clear that the judgment might well have wider implications for the Carltona principle and therefore also for wider government.

I remain firmly of the view that this important matter requires deep and careful consideration; indeed, longer consideration than we have had between Committee and now. I think that is what the Minister said in his earlier meetings with the noble Lord, Lord Faulks. Will the Minister commit to taking this matter away for further discussions within and across government? Perhaps most importantly, will he endeavour to update this House on the decision well in advance of Third Reading?

5.15 pm

Lord Murphy of Torfaen (Lab): My Lords, this has been an interesting debate. I begin my brief remarks by paying tribute to Lord Brown; he was a great influence on me when I first entered this House and I always enjoyed listening to what he had to say. He was a fine lawyer.

I have looked at the legal arguments put forward by Policy Exchange on this amendment. I cannot say that I understood every word of them, but they looked impressive to me. However, from my experience, the practicalities of the situation indicate that something must be done.

The noble Lord, Lord Howell, quite rightly reminded us what the situation was like back in the 1970s. I assure him and your Lordships that, 25 years later when I was doing the same job, it had not changed all that much in terms of signing warrants. When I was the Minister of State in Northern Ireland, I knew that Mo Mowlam, who was Secretary of State at the time, was aware that I was signing these warrants on her behalf. Similarly, three years later when the roles were reversed and I became Secretary of State, I realised that the Minister of State signing those warrants on my behalf was doing so absolutely properly and within the law.

I have no doubt that everybody signing these warrants in Northern Ireland over all these years believed that they were doing the right thing—and I am sure that they were—but there is clearly a problem because of the Supreme Court ruling. I look forward to the Minister telling us how he will change this situation and make things better.

Lord Caine: My Lords, I am very grateful, as always, to noble Lords who have spoken in this short but very important debate led by the noble Lord, Lord Faulks, to whom I am very grateful for the constructive engagement and discussions we have had over the past few days. This has been an excellent debate. I join in the tributes to Lord Brown of Eaton-under-Heywood, whose contribution to this House over many years has been immense.

The Government are extremely sympathetic to the aims of this amendment. It aligns with our desired policy aim to reduce pressure on the civil courts in Northern Ireland, which currently have a considerable case load. In our view, it would not be appropriate for the Government to give an opinion on the judgment of the Supreme Court in R v Adams, but we are of the view that this judgment, which was unexpected, has led to a degree of confusion in our law that merits clarification in some way. If I may go slightly further than my brief, when the judgment appeared some of us were—to put it mildly—somewhat baffled by its content.

On the numbers of cases in scope, we are aware of around 300 to 400 civil claims being brought on a similar basis to the Adams case, including those at pre-action stage, with 40 writs filed before First Reading of this Bill. It is therefore likely that a number of Adams-type cases will be allowed to continue in spite of the prohibition on civil claims in Clause 39 of the Bill. We are aware that this amendment has a wider

[Lord Caine]
application than just civil damages claims, which are otherwise within the scope of Clause 39, but the numbers of other types of cases in scope are limited.

The Government also understand that the amendment covers applications for compensation for miscarriages of justice under the statutory scheme established by Section 133 of the Criminal Justice Act 1988, following the reversal, as a result of the Adams judgment, of convictions for escaping or attempting to escape from internment facilities. The Government anticipate that it is unlikely that many more cases could in theory be brought along these lines; based on the numbers of escapees, this is unlikely to be more than around 30 and could be substantially less.

Claims brought as a result of the Supreme Court judgment in Adams are claims for compensation that are not based on any allegation against the state of mistreatment or misfeasance in public office, as other claims in this area are, but on a technical point regarding the signing of interim custody orders, as the noble Lord, Lord Butler of Brockwell, made absolutely clear. At the time of their detention and conviction for escape-related offences, and for decades afterwards, these individuals could not have expected the Supreme Court to find as it did.

The Government have always acted on the understanding that those interim custody orders made by Ministers of the Crown, under powers conferred on the Secretary of State, were perfectly valid on the basis of the well-established and understood Carltona principle. This is a clarification that needs to be made, in our view, to restore legal certainty around this crucially important element of the way in which government works in this country.

I listened with great interest to my noble friend Lord Howell of Guildford, who is the surviving member of the Northern Ireland Office from 1972 as Minister of State. He gave a very vivid and accurate description of just how difficult life was at the time, and how dangerous and fast-moving the situation was.

I agree with the noble Lord, Lord Murphy of Torfaen, in his description of how the warrant system works in Northern Ireland. As many Members know, I have worked for a number of Secretaries of State, and the signing of warrants is something all of them have taken a huge amount of care over to ensure that they are done properly and within the law.

In response to the noble Baroness, we are not far away from Third Reading, as she will be aware, but I will endeavour to consult with interested parties between now and then.

On this basis, as the noble Lord, Lord Faulks, indicated, I will commit to bringing forward an amendment at Third Reading next week, following consideration by officials and lawyers, that addresses these matters. In return, I ask that the noble Lord and my noble friend Lord Godson withdraw their amendment, subject to the caveat that the noble Lord, Lord Faulks, made in his remarks.

Lord Faulks (Non-Afl): My Lords, I am very grateful to all those who have taken part in this debate, and I am grateful to the Minister for his remarks. I am sure the House is grateful for all those who associated themselves with the comments I made about the noble and learned Lord, Lord Brown of Eaton-under-Heywood.

The Minister said with his usual understatement that many were somewhat baffled by the decision of the Supreme Court. The bafflement was widespread, I can assure the House, and the notion that we should wait until another case comes along was never a convincing argument in favour of Parliament not acting to put right this injustice. As the Minister rightly said, Clause 39 of the Bill will not deal with this essential unsatisfactory aspect of the judgment, and there could be many cases arising out of the error made by the Supreme Court.

Of course courts make mistakes from time to time; the whole basis of an appeal from one judgment to another is predicated on the fact that they do. The Supreme Court rarely makes mistakes, but Parliament puts them right when it does. Parliament also makes mistakes, and would then reverse those mistakes. There is nothing in this amendment which shows a lack of respect for the Supreme Court or its decisions in any way.

I look forward very much to meeting the Minister and his officials, to help, I hope, provide an amendment which reflects what is in our amendment—government amendments are always better than amendments put forward by Back-Benchers. Provided it does what this amendment was intended to do, that would be satisfactory.

I need not weary the House any longer at this stage. I have repeated that we will bring back the matter at Third Reading if, sadly, we are unable to find a satisfactory way through. In the meantime, I thank all noble Lords and beg leave to withdraw the amendment.

Amendment 99 withdrawn.

Clause 39: Tort, delict and fatal accident actions

Amendments 100 to 104 not moved.

Amendment 105 not moved.

Clause 40: Inquests, investigations and inquiries

Amendments 106 to 109

Moved by ***Lord Caine***

106: Clause 40, page 31, line 32, leave out from "before" to end of line 33 and insert "1 May 2024 unless, on that day, the only part of the inquest that remains to be carried out is the coroner or any jury making or giving the final determination, verdict or findings, or something subsequent to that."

Member's explanatory statement

This would require any inquest initiated before the commencement of Clause 40 to be discontinued on the commencement of that Clause, unless the inquest is at its very final stage (the determination, verdict or findings).

107: Clause 40, page 31, line 41, leave out from beginning to end of line 12 on page 32

Member's explanatory statement

This would remove new section 16B, which allows a pre-commencement inquest to continue if it is at an advanced stage. A pre-commencement inquest will now be able to continue if it is at its very final stage (the determination or verdict) as it will be outside the scope of the amended new section 16A.

108: Clause 40, page 32, leave out lines 34 to 37

Member's explanatory statement

This is consequential on the amendments in Lord Caine's name relating to new sections 16A and 16B.

109: Clause 40, page 32, line 42, leave out from beginning to end of line 1 on page 33

Member's explanatory statement

This is consequential on the amendments in Lord Caine's name relating to new sections 16A and 16B.

Amendments 106 to 109 agreed.

Amendment 110

Moved by ***Baroness O'Loan***

110: Clause 40, leave out Clause 40

Member's explanatory statement

This amendment would delete the Clause that prohibits all existing and future inquests, investigations and inquiries into the deaths resulting directly from The Troubles.

Baroness O'Loan (CB): My Lords, this amendment would delete the prohibition on inquests, which are an ancient part of our legal history. I wish to test the opinion of the House.

5.25 pm

Division on Amendment 110

Contents 181; Not-Contents 197.

Amendment 110 disagreed.

Division No. 4

CONTENTS

Aberdare, L.
Addington, L.
Alderdice, L.
Allan of Hallam, L.
Alton of Liverpool, L.
Anderson of Ipswich, L.
Anderson of Stoke-on-Trent, B.
Anderson of Swansea, L.
Andrews, B.
Armstrong of Hill Top, B.
Bakewell of Hardington Mandeville, B.
Bakewell, B.
Barker, B.
Bassam of Brighton, L.
Beith, L.
Benjamin, B.
Bennett of Manor Castle, B.
Blackstone, B.
Blair of Boughton, L.
Blake of Leeds, B.
Blower, B.
Blunkett, L.
Bonham-Carter of Yarnbury, B.
Bowles of Berkhamsted, B.
Bradley, L.
Brinton, B.
Brooke of Alverthorpe, L.
Bruce of Bennachie, L.
Burt of Solihull, B.
Butler of Brockwell, L.
Campbell-Savours, L.
Carter of Coles, L.
Cashman, L.
Chakrabarti, B.
Chandos, V.
Chapman of Darlington, B.
Chartres, L.
Clement-Jones, L.
Collins of Highbury, L.
Craig of Radley, L.
Crawley, B.
Dannatt, L.
Davies of Brixton, L.
Dholakia, L.
Donaghy, B.
Donoughue, L.
Doocey, B.
D'Souza, B.
Dubs, L.
Eames, L.
Eatwell, L.
Falconer of Thoroton, L.
Faulkner of Worcester, L.
Finlay of Llandaff, B.
Foulkes of Cumnock, L.
Fox of Buckley, B.
Fox, L.
Garden of Frognal, B.
German, L.
Glasman, L.
Goddard of Stockport, L.
Golding, B.
Green of Hurstpierpoint, L.
Grender, B.
Griffiths of Burry Port, L.
Grocott, L.
Hacking, L.
Hamwee, B.
Hanworth, V.
Harris of Haringey, L.
Harris of Richmond, B.
Haskel, L.
Haworth, L.
Hayman of Ullock, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Hendy, L.
Henig, B.
Howarth of Newport, L.
Humphreys, B.
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Janke, B.
Jay of Paddington, B.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jones, L.
Kennedy of Southwark, L.
Knight of Weymouth, L.
Kramer, B.
Lawrence of Clarendon, B.
Layard, L.
Lee of Trafford, L.
Lennie, L.
Leong, L.
Levy, L.
Liddell of Coatdyke, B.
Lister of Burtersett, B.
Livermore, L.
Macpherson of Earl's Court, L.
Mann, L.
McIntosh of Hudnall, B.
McNicol of West Kilbride, L.
Merron, B.
Morgan, L.
Morris of Yardley, B.
Murphy of Torfaen, L.
Newby, L.
Northover, B.
Nye, B.
Oates, L.
O'Grady of Upper Holloway, B.
O'Loan, B. [Teller]
O'Neill of Bengarve, B.
Paddick, L.
Palmer of Childs Hill, L.
Parminter, B.
Patel, L.
Pinnock, B.
Pitkeathley, B.
Ponsonby of Shulbrede, L.
Primarolo, B.
Prosser, B.
Purvis of Tweed, L.
Ramsay of Cartvale, B.
Randerson, B.
Razzall, L.
Rebuck, B.
Redesdale, L.
Ritchie of Downpatrick, B.
Rooker, L.
Rowlands, L.
Royall of Blaisdon, B.
Russell of Liverpool, L.
Russell, E.
Sahota, L.
Scott of Needham Market, B.
Sharkey, L.
Sheehan, B.
Sherlock, B.
Shipley, L.
Smith of Basildon, B.
Smith of Newnham, B.
Snape, L.
Stansgate, V.
Stone of Blackheath, L.
Storey, L.
Strasburger, L.
Stunell, L.
Suttie, B. [Teller]
Taylor of Bolton, B.
Teverson, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Tomlinson, L.
Tope, L.
Triesman, L.
Tunnicliffe, L.
Twycross, B.
Uddin, B.
Wallace of Saltaire, L.
Wallace of Tankerness, L.
Walmsley, B.
Warwick of Undercliffe, B.
Watkins of Tavistock, B.
Watson of Invergowrie, L.
Watson of Wyre Forest, L.
Watts, L.
Wellington, D.
West of Spithead, L.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wilcox of Newport, B.
Winston, L.
Wood of Anfield, L.
Wrigglesworth, L.
Young of Norwood Green, L.

NOT CONTENTS

Agnew of Oulton, L.
Ahmad of Wimbledon, L.
Altmann, B.
Altrincham, L.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Ashcombe, L.
Attlee, E.
Balfe, L.
Barran, B.
Bellamy, L.
Bellingham, L.
Benyon, L.
Berridge, B.
Bertin, B.
Bethell, L.
Bew, L.
Blackwood of North Oxford, B.
Blencathra, L.
Borwick, L.
Bottomley of Nettlestone, B.
Bourne of Aberystwyth, L.
Bray of Coln, B.
Bridges of Headley, L.
Browne of Belmont, L.
Browning, B.
Buscombe, B.
Caine, L.
Caithness, E.
Callanan, L.
Camrose, V.

Carrington of Fulham, L.
Cathcart, E.
Chisholm of Owlpen, B.
Choudrey, L.
Colgrain, L.
Colville of Culross, V.
Courtown, E. [Teller]
Craigavon, V.
Crathorne, L.
Cruddas, L.
Davies of Gower, L.
De Mauley, L.
Deben, L.
Dobbs, L.
Dodds of Duncairn, L.
Duncan of Springbank, L.
Dunlop, L.
Eccles, V.
Effingham, E.
Evans of Bowes Park, B.
Evans of Rainow, L.
Fairfax of Cameron, L.
Fall, B.
Farmer, L.
Faulks, L.
Finn, B.
Fleet, B.
Flight, L.
Fookes, B.
Forsyth of Drumlean, L.
Foster of Oxton, B.
Fraser of Craigmaddie, B.
Frost, L.
Geddes, L.
Godson, L.
Goldie, B.
Goodlad, L.
Grade of Yarmouth, L.
Greenhalgh, L.
Greenway, L.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hamilton of Epsom, L.
Harding of Winscombe, B.
Harlech, L.
Harrington of Watford, L.
Haselhurst, L.
Hay of Ballyore, L.
Hayward, L.
Helic, B.
Henley, L.
Herbert of South Downs, L.
Hodgson of Abinger, B.
Hoey, B.
Holmes of Richmond, L.
Hooper, B.
Horam, L.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
Jackson of Peterborough, L.
Jenkin of Kennington, B.
Johnson of Lainston, L.
Kamall, L.
Kirkhope of Harrogate, L.
Lampard, B.
Lawlor, B.
Lea of Lymm, B.
Leicester, E.
Leigh of Hurley, L.
Lexden, L.
Lilley, L.
Lindsay, E.
Lingfield, L.
Lucas, L.
Mancroft, L.
Manzoor, B.
Markham, L.
Maude of Horsham, L.
Mawson, L.
McCrea of Magherafelt and Cookstown, L.
McInnes of Kilwinning, L.
McIntosh of Pickering, B.
Meyer, B.
Mobarik, B.
Morgan of Cotes, B.
Morris of Bolton, B.
Morrissey, B.
Morrow, L.
Morse, L.
Mott, L.
Moylan, L.
Moynihan, L.
Murray of Blidworth, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Nicholson of Winterbourne, B.
Norton of Louth, L.
Offord of Garvel, L.
O'Neill of Bexley, B.
Parkinson of Whitley Bay, L.
Patten of Barnes, L.
Penn, B.
Pidding, B.
Polak, L.
Popat, L.
Porter of Spalding, L.
Randall of Uxbridge, L.
Ranger, L.
Rawlings, B.
Reay, L.
Redfern, B.
Remnant, L.
Risby, L.
Robathan, L.
Roberts of Belgravia, L.
Roborough, L.
Rogan, L.
Saatchi, L.
Sanderson of Welton, B.
Sandhurst, L.
Sarfraz, L.
Sassoon, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, B.
Selkirk of Douglas, L.
Sewell of Sanderstead, L.
Sharpe of Epsom, L.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Shinkwin, L.
Smith of Hindhead, L.
Soames of Fletching, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stewart of Dirleton, L.
Stowell of Beeston, B.
Strathcarron, L.
Stroud, B.
Sugg, B.
Swinburne, B.
Swire, L.
Taylor of Holbeach, L.
Trenchard, V.
True, L.
Tugendhat, L.
Udny-Lister, L.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Verma, B.
Warsi, B.
Wei, L.
Weir of Ballyholme, L.
Wharton of Yarm, L.
Wheatcroft, B.
Williams of Trafford, B. [Teller]
Wolfson of Tredegar, L.
Wyld, B.
Young of Cookham, L.
Younger of Leckie, V.

5.36 pm

Clause 41: Police complaints

Amendments 111 to 114

Moved by ***Lord Caine***

111: Clause 41, page 33, line 18, at end insert—

"(2A) On and after the day on which section 41 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 comes into force, the Ombudsman—

(a) is not to begin any formal investigation of a matter, and

(b) is to cease any formal investigation of a matter begun before that day,

insofar as the matter relates to conduct forming part of the Troubles."

Member's explanatory statement

This prevents the Police Ombudsman for Northern Ireland from beginning, or continuing, to investigate matters that relate to conduct forming part of the Troubles. That power of investigation is in addition to the power to deal with complaints (already covered by Clause 41).

112: Clause 41, page 33, line 18, at end insert—

"(2B) This section does not prevent the Ombudsman from carrying out a criminal investigation of a Troubles-related offence if—

(a) a public prosecution of a person for the offence had been begun before the day on which section 34 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 comes into force, and

(b) the criminal investigation is carried out for the purposes of that prosecution.

(2C) For the purposes of subsection (2B)—

(a) "public prosecution" means any prosecution other than a private prosecution;

(b) a public prosecution of a person for an offence is "begun" when a prosecutor makes the decision to prosecute that person for that offence."

Member's explanatory statement

This ensures that activity of the Ombudsman which constitutes a criminal investigation can continue where a prosecution of a person has begun before commencement.(This exception from the effect of Clause 41 is the same as the exception from the effect of Clause 34 set out in Clause 38(3).)

113: Clause 41, page 33, line 21, at end insert—

""formal investigation" means an investigation under section 56 (whether resulting from a referral to the Ombudsman, or a decision by the Ombudsman, under section 55).""

Member's explanatory statement

This is consequential on the amendment in Lord Caine's name which prevents the Police Ombudsman for Northern Ireland from beginning, or continuing, to investigate matters that relate to conduct forming part of the Troubles.

114: Clause 41, page 33, line 21, at end insert—

"(2) In section 28A of the Police Reform Act 2002 (application of complaints and misconduct provisions to matters occurring before 1 April 2004), after subsection (6) insert—

"(6A) On and after the day on which section 41 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 comes into force, this section—

(a) ceases to apply to a pre-commencement matter or a matter to which subsection (5) applies (if the direction under subsection (1) or (4) relating to the matter was given before that day), or

(b) does not apply to a pre-commencement matter or matter to which subsection (5) applies (if the direction under subsection (1) or (4) relating to the matter is given on or after that day),

insofar as the matter relates to conduct forming part of the Troubles.

(6B) In subsection (6A) "conduct forming part of the Troubles" has the same meaning as in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (see section 1 of that Act)."

(3) After section 47 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 insert—

"47A Complaint or investigation relating to Northern Ireland Troubles

(1) On and after the day on which section 41 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 comes into force, this Part—

(a) ceases to apply to a complaint or investigation (if the complaint was made, or investigation was begun, before that day), or

(b) does not apply to a complaint or investigation (if the complaint is made, or investigation is to begin, on or after that day),

insofar as the complaint or investigation relates to conduct forming part of the Troubles.

(2) In this section "conduct forming part of the Troubles" has the same meaning as in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (see section 1 of that Act).""

Member's explanatory statement

This extends Clause 41 so that the legislation dealing with police complaints in England, Wales and Scotland also does not apply to complaints relating to the Troubles.

Amendments 111 to 114 agreed.

Clause 44: The memorialisation strategy

Amendment 114A

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

114A: 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, we now come to this group of amendments on memorialisation. This is a very difficult and complex area that we have to wrestle with, both in this Bill and more widely in Northern Ireland. The purpose of Amendments 114A and 114B in my name and those of my noble friends is to ensure that memorialisation activities in no way end up glorifying, eulogising or defending terrorism in any form, whatever side of the community it comes from.

Sadly, as we have said in previous debates on this Bill, it appears there has been an increase in the carrying out of commemorations and eulogies for terrorists by elected representatives including Members of Parliament, Members of the Northern Ireland Assembly, a person who would seek to be the First Minister of Northern Ireland, academics and others. They have all commemorated the activities of criminals and murderers in the IRA. It is important that in this Bill—certainly, I will seek reassurances from the Minister on this issue—that we make it clear that that type of eulogy, commemoration or glorification is not acceptable. For the victims, this is an extremely important issue.

Time and again when you meet victims of the terrorist criminal gangs who carried out so much violence in Northern Ireland, the issue they raise is the continued trauma that they have to endure as a result of such celebrations and commemorations. They feel that their trauma, hurt and pain are sidelined while those criminals who carried out this type of heinous activity are elevated.

The purpose of Amendment 114A is

"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 tells us that designated persons carrying out Troubles-related work must have due regard

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

Those responsible for drafting the memorialisation strategy are bound by this duty under Clause 51(1).

This focus on representativeness can be problematic, given that there are, as I have outlined, sections of our community, including those in high places and political life, who not only refuse to disavow violence but actually express the view that glorifying terrorism via parades, vigils, rallies and so on is a perfectly legitimate memorialisation activity when it is patently not. The Government propose to require the Troubles work programme to promote reconciliation, anti-sectarianism and non-recurrence of political and sectarian hostility between people in Northern Ireland. However, none of these terms are defined. It should be made clear in the Bill that designated persons are not permitted to recommend activities that a reasonable person in Northern Ireland would regard as glorifying past terrorism—in fact, they should be under a duty to prevent this. Memorialisation should not open the door to revisionism and the rule of law must be respected.

Amendment 114B is intended to ensure that only innocent victims are included as victims in the memorialisation strategy. It is critical that the law in this respect is in line with the line that the Government took in relation to the payment of compensation to victims of the Troubles in the Troubles permanent disablement payment scheme and Regulation 6 of the Victims' Payments Regulations 2020, in which it was made clear, rightly, that someone who had injured themselves as a result of their own actions by being engaged in terrorism would not be eligible under the scheme. There was a difference between those who

[Lord Dodds of Duncairn]
were injured in innocent circumstances as a result of terrorism carried out by others and those who were injured by their own hand.

We believe it is important for the sake of the victims and respect for the rule of law that a memorialisation strategy does not give credence to terrorists injured or killed by their own hands. They should not be considered victims for the purposes of consultation under this section.

It is regrettable that we have to even raise these issues and put them on the record in the House. However, sadly, as time moves on, the years pass and we move further away from the crimes that were carried out in the names of paramilitaries in Northern Ireland—IRA and loyalist alike—there is a tendency among those in Sinn Féin to ensure that the history of the past is rewritten.

I have a recent example. Someone who was described as a commentator but who was actually a teacher in a secondary school came on to say, "Well, you know, if people are engaging in memorial activities for the military, such as acts of remembrance in November, it's perfectly acceptable for republicans to remember their dead". In other words, they were suggesting equivalence between members of the security forces and terrorists who set out with murder and mayhem in their hearts and as the purpose of their activities.

There is no, and can never be, equivalence between members of the security forces in Northern Ireland—Army, Ulster Defence Regiment, Royal Ulster Constabulary, PSNI—and those who, by contrast, came as terrorists to carry out bloodshed against the rule of law. It is important to put that firmly on the record in this debate.

I would like the Minister to consider very carefully the purpose behind these amendments and to reassure us that the memorialisation strategy will indeed reflect the rule of law and will not end up glorifying or eulogising terrorism in any form.

Baroness Ritchie of Downpatrick (Lab): My Lords, I have a certain sympathy with Amendment 114A in the names of the noble Lords, Lord Dodds, Lord Weir and Lord Morrow, because, like the noble Lord, Lord Dodds, I have seen so much revisionism over the last number of years. We have seen revisionism from paramilitary forces in order to justify their campaign of terror and to forget about the real victims, who were never involved in perpetrating acts of violence but were simply in the wrong place at the wrong time.

5.45 pm

I remind your Lordships' House that there has been a constant and unbending democratic resistance among the people of Ireland, both north and south, at the ballot box to state and paramilitary terror. The Minister will be aware of that, but that rewriting of history—of the facts and what happened over the last 50 years, in which people needlessly lost their lives—is offensive to those who lived in that time, who lost loved ones and who followed the path of peace.

That rewriting is also dangerous. It creates false narratives for new generations. At times, the memorialisation is more about triumphalism and justification—be it an FRU trophy photo or applauding IRA killers of civilians in no-warning bombs in crowded places in the middle of the day. We can all cast our minds back to those instances over the last 50 years.

Your Lordships should be in no doubt that respecting those you loved and lost is right, but this aggressive practice is wrong. I will remember sad graveyards and the pain of families—that is remembrance with dignity, with private pain and tears. As a Greek scholar said, the remarkable resilience and inspiration of so many shows how:

"In our sleep, pain which cannot forget falls drop by drop upon the heart until … against our will",

in its own time,

"comes wisdom through the awful grace of God".

We have to try to prevent glorification of what happened in the past, because what happened in the past was wrong. It caused mayhem, destruction and murder, and it robbed many families of their loved ones. In supporting Amendment 114A, I urge noble Lords to consider that there are paramilitary forces out there—and a certain political party—that are involved in deep levels of revisionism at this moment in time.

Lord McCrea of Magherafelt and Cookstown (DUP): My Lords, I join my noble friend Lord Dodds and the noble Baroness, Lady Ritchie, in supporting Amendments 114A and 114B in the names of my noble friends Lord Dodds, Lord Weir and Lord Morrow.

Recently, the absentee MP for North Belfast, John Finucane, was the main speaker at what was billed a "South Armagh Volunteers commemoration and fun day". Let me remind noble Lords of just one action of these South Armagh IRA terrorists—there is certainly no reason to celebrate it, or even commemorate it. I want noble Lords to imagine a young husband leaving home and going to work as usual. His family hear later on that their loved one has gone missing; his young wife is pregnant and has three young children already. Think of the agony this family circle is going through as it becomes clear that the IRA have abducted this young man. Think of the absolute terror he is feeling as he is hooded and taken captive by IRA terrorists.

Then there comes that—in many ways inevitable—phone call that tells the family that that young man has been found dead. However, that call also tells them that his body cannot be recovered, even though it is seen lying in a field in south Armagh, because it is surrounded by Claymore mines. Yes, that body is booby-trapped to explode if moved. A huge, 500-pound bomb is attached to him in milk churns, with command wires leading across the border. Any attempt to move him will blow his corpse to pieces, along with anyone attempting to retrieve him. The authorities have to let him lie there, dead, covered in blood and mud, naked except for his pants and on display for all to see, until the explosives are defused by the bomb squad. Can anyone with a heart have any idea what that dear wife, her three young children and the family circle have to go through as they wait and wait?

In another place, a Member of Parliament at that time said:

"One of his relatives said that they were horrified at the look of torture and agony … on the face. The fingers of both hands were blackened to the knuckles and holes were punched in the

finger tips. Handfuls of grass and earth were clutched in the hands. One side of the face was smashed … to the extent that the nose was broken and displaced to one side. Both arms seemed limp and the genitals had been kicked until swollen out of all proportion. The teeth were smashed, he was shot through the wrists, the mouth, the neck, the throat and several times in the chest".—[*Official Report*, Commons, 25/5/72; col. 1788.].

What was his crime? His crime was that he was a part-time UDR corporal. Of course, Sinn Féin said that he was therefore a legitimate target; he was a part of the British war machine, simply because he wore the uniform and tried to keep people safe from those who so cowardly and viciously ended his life. Sinn Féin's Michelle O'Neill has claimed that there was no alternative to such IRA activity and yet, amazingly, she is lauded and applauded by Presidents and Secretaries of State, and John Finucane thinks such deserve to be commemorated—actually, their names written on a marble scroll as if they were heroes and then celebrated with a family fun day.

I ask you: what sort of persons could be so evil as to commit such torture on another human being? What sort of mentality justifies this in any shape or form? Nobody has ever been charged or convicted of this murder, this torture, and those who directed it are equally guilty. The so-called IRA Army Council has not been brought before the International Court of Justice. Rather, some of its leaders are lauded and applauded too. The Sinn Féin leaders and John Finucane talk much about and demand inquiries, they pontificate about human rights, equality and justice, but they do not want justice for them. They do not want inquiries into their leadership role in some of the most vile atrocities ever carried out against mankind. All they want is to blame the police, the Army and the part-time soldiers—indeed, everyone who stood against their 30-year campaign of slaughter and murder in their quest for their dream of a united Ireland. Sadly, on many occasions, successive Governments rolled over to Sinn Féin demands and granted it concession after concession. Even just over a week ago, we found that the chief constable apologised to those who were called the hooded men. I ask the Minister: does this legislation stop the memorialisation and glorification of those terrorists across our community?

I finish by saying that every year, in January, I gather with others at the side of a road outside Cookstown, the Teebane. The men there were returning from doing an honest day's work, but they were murdered, slaughtered, on their way home. We stand at a roadside. Yes, there is a stone there with the names of those lads on it: not to glorify but to humbly remember that they were cruelly done to death along that road.

We cannot have the glorification of terrorist acts. They are to be condemned. While many tell us that everyone, every political party in Northern Ireland, is against this legislation, let me make it clear that the party which I belong to is not to be equated with Sinn Féin/IRA, because its objection to the legislation is that it does not want its comrades to be prosecuted, but it wants the security forces to be persecuted. I will not lend my hand to that.

Baroness Hoey (Non-Afl): My Lords, I speak to support Amendments 117 and 118 in my name but agree with the amendment from the noble Lord, Lord Dodds, as well.

I want to look at the academic research clause, because it addresses a problem with the Government's funding body, UK Research and Innovation and its councils. Many of us interested in legacy are genuinely concerned about what seems to be the one-sided nature of much of the academic research into our past and the way that the funding has been monopolised by what could be seen as a single legal view that is radical and investigates only faults with the UK state and its security responses during the Troubles.

I need to refer to the Queen's University Belfast's transitional justice department, which produced the model legacy Bill and many briefings that Opposition and Cross-Bench Peers will have been provided with. That department alone has received the huge amount of £4 million in funding for legacy research—nobody else has. The transitional justice department works in open conjunction with the Committee on the Administration of Justice, the CAJ, which is a largely anti-state nationalist body in Belfast that encourages legacy litigation. Indeed, it is leading efforts to get the Dublin Government to take an inter-state case against the United Kingdom at the European Court of Human Rights over this very Bill once it receives Royal Assent.

6 pm

The CAJ has already had success, in that Taoiseach Varadkar announced last week in the Dáil, in response to the Sinn Féin leader, that he would indeed

"give consideration to whether an interstate case is appropriate"

at Strasbourg. The last attempt, in 2014, to reopen a judgment relating to internment in 1971 which the Strasbourg court decided in 1978 was inhuman treatment and not torture, was lost in 2018 by seven votes to one. The United Kingdom already appears before the Council of Europe's Committee of Ministers every quarter on legacy and regularly gets beaten up by the Secretariat on a batch of cases, including those of the McKerr group, involving the deaths of IRA men and Pat Finucane, that go back as far as 1982.

What I want to see today is a recognition by the Minister that, when the Government are looking at how this money is being allocated, there will be an attempt to be much more even-handed. Just recently, the Queen's University transitional justice department had seminars during the April celebration of the Belfast Agreement's 25th anniversary, and they were drawn from only one outlook. Any other university would have been embarrassed at such shameless bias. The Minister will know what I mean in relation to being put on the naughty step during those kinds of meetings.

The exact wording of my amendment stems from an Answer I received on 8 November last year from the noble Lord, Lord Callanan. He said that:

"UK Research and Innovation (UKRI) funding is allocated according to research excellence as assessed by independent peer review".

But we are all aware that peer reviews, as I mentioned in Committee, can often become chum reviews, even self-generated assessments, especially when few other

[Baroness Hoey]
academics work in the same field. One academic who does speak out, 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".

This lack of balance in legacy and justice at Queen's University makes it essential that the Bill has extra safeguards on academic diversity and fair funding. I really hope that the Minister will tell us how he is going to ensure that this will happen, and that he will be as positive as his own amendments—Amendments 115, 119 and 121, introducing the concept of anti-sectarianism into the Bill regarding Troubles research. I do not intend to move a Division on this amendment, but I really hope that the Minister, and those listening to this debate behind the scenes, will recognise that there is bias and that it needs to be addressed.

My Amendment 118, which we also discussed in Committee, refers to the Bill's required production of an analysis of patterns and themes in events during the Troubles. It would add to the specific mention of women and girls words concerning research on the experience of the gay and lesbian community. This is a small minority—just 2% of Northern Ireland's people according to the recent census—but this community has figured centrally in disputes and debates throughout the decades, perhaps more so than any other group outside the two main communities. We all know that the process from decriminalisation to gay equality was effected in a long series of legislative steps. As I mentioned in Committee, I played a small part in that in 1994, with an amendment to keep Northern Ireland in line with the rest of Britain on the gay age of consent. I was helped by the then shadow Home Secretary Tony Blair, who helped me whip sufficient support from MPs across the parties, enabling my amendment to win by 254 votes to 141.

The particular reason that the experience of the gay community needs addressing and memorialising is that it suffered, as we all did, from death and injury through killings, bombings and shootings by illegal organisations. But it then, separately, had to face those organisations that brought further death and destruction specifically to the gay community. That occurred even after the 1995 ceasefires. Various people were killed, such as the police officer murdered by INLA in 1997 and the Reverend David Templeton murdered by the UVF in 1997. There was a series of bombings of gay venues over 30 years by the IRA and loyalist paramilitaries, and the murders of gay men, often picked off the street, especially in the darkest days of the 1970s. I note, for the record, that Strasbourg is not calling for reinvestigations into any of these cases.

Academic research can provide not just a record of those events but a valuable analysis of how life amid death was experienced. I really hope that the Minister has thought about this since Committee and will look favourably on the matter and provide more reassurance than when he said in Committee:

"The provisions of the Bill as drafted would not preclude relevant research into LGBT experiences".—[*Official Report*, 11/5/23; col. 1993.]

I am afraid that inclusion of such research is needed, not a lack of precluding such research. Indeed, if the Northern Ireland Office is requiring in draft regulations, as it is this month, that our schools update their teaching on sexuality, it would seem very strange that it cannot allow this to happen and be put into this Bill.

I said earlier that I was involved with whipping back in the 1994 amendment. I would like to press this vote today if the Minister does not accept it, but I have not actually got round to the whipping and asked anyone to join me. I will wait to hear how the Minister responds before deciding whether to press the vote.

Lord Weir of Ballyholme (DUP): My Lords, within any democracy it is healthy and appropriate that people have a battle of ideas and their own thoughts and opinions. People are perfectly entitled to their own allegiances and opinions. What people are not entitled to is their own truths and their own facts. Sadly, when it comes to the Northern Ireland Troubles, we have seen a perverse and dangerous attempt to rewrite history to pervert the truth and the facts of what happened. In the spirit of ensuring that facts remain, let me highlight four universal facts and truths that I believe everyone in this House could unite around.

First, terrorism was and is wrong. There was never an excuse for terrorism, be it republican or loyalist—I treat both the same. There was never, ever any excuse for violence. Secondly, it therefore flows that memorialisation of that terrorism in present-day circumstances is equally wrong. Whether it is a shrine, a commemoration or the perversity of the equivalent of bouncy castles for a family fun day to commemorate those who carried out the most heinous acts within our society—again, irrespective of the source—that is fundamentally wrong.

Thirdly, we need to nail the lie that there was no alternative to violence. There are many within this Chamber, from all sections of our community, who put their head above the parapet, stood for election in Northern Ireland and used democracy to pursue often competing aims. There was always democracy within Northern Ireland; there was always the opportunity for democratic arguments to be moved forward.

Fourthly, as highlighted by the noble Baroness, Lady Ritchie, there was never a democratic mandate for violence. Violence was never the majority opinion within unionism, it was never the majority opinion within nationalism, and it was never the majority opinion among those who did not identify with either. Similarly, for those who would pursue a particular Irish republican view on it, it was never a majority opinion within any section of the island, north or south.

It is upon those fundamental truths of history and the present-day situation that we must rest where we are. Any attempt to unpick those truths—and the memorialisation of terrorism goes to the heart of that—is deeply dangerous.

Unlike others in this House perhaps, although my entire childhood and much of my adult life was lived through the Troubles, I did not have any personal examples of suffering at the hands of the Troubles directly. I was very fortunate. There was never an attempt on my life or the life of a close family member.

I did not lose anybody. There are others in this House who bear much greater burdens than that, and beyond. I cannot even place myself in the shoes of those innocent victims and their families, who suffered at the heart of terrorism throughout the Troubles. It is right that we commemorate innocent victims of the past, and it besmirches their name to create a level of equivalence between them and those who carried out violence. The commemoration and memorialisation, from whatever side, of those who committed those heinous crimes is deeply injurious to the memories of those victims.

This is partly about the past; it is also about the present. For those relatives to have to suffer commemoration and potential memorialisation of those who inflicted that on their families is wholly unacceptable. Even if those were the only reasons, we should be rejecting the idea of memorialisation of terrorism, but it is also, pertinently, about the future. We have seen too many examples of late of the glorification of terrorism resonating among wider society, particularly among younger people who have no collective memory of what happened in the past, be that from circumstances in which there is chanting for terrorist organisations to a recent situation which is not just anecdotal but can be looked up on social media—when the police came to arrest a suspect in relation to the attempted murder of the police officer in Omagh, the suspect was cheered by people within that neighbourhood.

It is deeply worrying that, even today, we see dissident republicans putting up posters against the PSNI and making threats against recruitment of the police and the Prison Service. That rightly drew the ire of political parties, and a joint letter condemning that was signed by four of the five major parties in Northern Ireland—my party, the Ulster Unionist Party, the Alliance Party and the SDLP. Shamefully, to date no representative of Sinn Féin has signed that letter condemning those activities. That is deeply unacceptable. A situation in which hatred and violence are stoked up by a glorification of a violent terrorist past is deeply worrying because it runs the risk of dragging young people into repeating that evil. That is why memorialisation is not simply about the issue of the past or the present but about what future Northern Ireland has.

I await the remarks of the Minister and know that the Government will say that they have no intention of allowing memorialisation. I am sure that is their intention, but in terms of this legislation and why we have put down these amendments we must, as a House and a legislature, be absolutely clear that memorialisation of terrorism in any shape or form is to be prevented. If that means that we have to go the extra mile and put the belt and braces on, beyond what is there at present, let us not be afraid of doing so. Let us ensure that the evils of the past are not repeated in the present or the future.

Lord Morgan (Lab): My Lords, I intervene not as an Irish person but as someone who comes from another Celtic country, which has found another way of dealing with potential and actual terrorism, and that is called political democracy. It has been a terrible thing that, throughout so much of modern Irish history, the tendency has been to equate democratic practices and human rights with one side and not with another.

6.15 pm

I was much minded by the wonderful speech of a great man, Arthur Griffith, in passing the Irish Free State treaty of 1922. There did not seem to him to be a living Ireland. There was the "dead past" and the "prophetic future", both of which were shrouded in unreality, even though the reality was the terrible atrocities of which we have heard.

With deep respect and sympathy for colleagues from Northern Ireland, I would say that we ought not to equate terrorism with one set of values, very commonly the nationalist set of values. We should seek a democratic political solution, as we have in Wales and, with certain difficulties that we are all aware of, in Scotland. In my view, it would be truer to the aspirations of the one-time leader of Sinn Féin, Arthur Griffith, if one conducted affairs in that peaceful, tolerant and open-minded way.

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

It is right that no memorialisation activities glorify the commission or preparation-of Troubles-related offences. Yet every day as I drive around Northern Ireland at this time of year, I see the flags erected—the flags which tell me that, as a Catholic, I am not welcome. In today's *Irish News* we have an article about one of the Shankill butchers, a gang which went around killing Catholics simply because they were Catholics. This man served life. He is pictured erecting UVF flags commemorating the activities of the organisation to which he belonged.

Terrorism occurred right across our community. It occurred and was perpetrated by members of illegal organisations such as the UVF, the UDA, the IRA et cetera. However, there were also members of the security forces—both the police and the Army—who engaged with those groups. We cannot deny this; it has been proved. Most police officers served with honour. Most acted to protect us, as they acted to protect my family one night, when we were under attack, but that was not always the case. There were those who did such terribly wrong things. I think about the Glenanne gang, who for years terrorised south Armagh, killing some 127 Catholics. This is the subject of the present Operation Denton review.

Just a mile down the road from where I live was a young Catholic man who ran a little shop. One night, at two o'clock in the morning, two men came to the door, knocked, and said, "We have a sick child: we need medicine". The shopkeeper, William Strathearn, got up. His wife and children were sleeping upstairs. He went down, opened the door, and was murdered. The two people who were convicted of his murder were serving members of the Royal Ulster Constabulary.

So it ran from the earliest days of the Troubles, and ran right through after the Good Friday agreement. I think of my own work investigating the UVF in north Belfast. The UVF murdered Catholics until 1994 and then, once the IRA declared a ceasefire, went on to murder indiscriminately both Catholics and Protestants.

[Baroness O'Loan]

Regrettably, we still see, at regular intervals, events from different sections of the community which glorify individuals who contributed to atrocities and occasions which cause immense pain to so many of us, but particularly to those whose loved ones died or were permanently maimed in the attack being celebrated. Those events cause great pain. They reignite the terrors and agonies 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.

The fact remains that, apart from all those who died and were maimed in the Troubles, so many families lived in terror and fear. I remember watching my husband driving out every day with our five sons in the car, and every day I prayed that there would not be a bomb under our car. He was a serving member of the Social Democratic and Labour Party—the party of the noble Baroness, Lady Ritchie—and for years we lived with terror because of that, and because of my role as police ombudsman. I have no difficulty in supporting any measure which can prevent the glorification of terrorism.

I find myself unable to support Amendment 118A, in the name of the noble Lord, Lord Godson. It requires that within three and a half years, a definitive public history of the Troubles, commissioned by the Secretary of State for Northern Ireland, should be completed. I have a number of difficulties with this proposal. Until the work of the ICRIR is completed, it will be a work in progress in establishing, as far as possible, what happened during the Troubles. Therefore, to attempt to write any history of the Troubles would be premature. To attempt to write an official history of the Troubles while the representatives and organs of government are conducting reviews would definitely be premature. In addition to this, and as Sir Joe Pilling's April 2009 report on the official history programme indicates, there would be minimum government requirements relating to access to papers and clearance of the draft report.

Our history has been the cause of so much division. For the state to commission a history of the Troubles would immediately arouse suspicion in some parts of the community. People have watched over the years as those with control over materials relating to the Troubles have done all they can to ensure that, in respect of so many critical incidents, the truth has not emerged because of the refusal to disclose the relevant documents, until case after case has been the subject of judicial review and judges' and coroners' orders. This has happened from the Bloody Sunday Widgery report in 1971 right through to, most recently, the findings of the inquest in relation to the Ballymurphy shootings. No matter how noble and well-intentioned any historian designated to do this work might be, in Northern Ireland there would be suspicions and assumptions that such a history would not be free from bias. It would be most unlikely to secure public confidence.

One of the things I learned when I investigated police collusion with the UVF was that the loyalist and Protestant community felt very betrayed by the activities of those members of the security forces who colluded with loyalist paramilitary organisations. To impose a duty on the Secretary of State to commission such a history would be to introduce further cause for concern, suspicion and dissension in the communities in Northern Ireland. It would be better that history, in so far as it can be established, should be established by derivation from the findings of inquests, civil actions and criminal prosecutions.

As Maya Angelou said:

"History, despite its wrenching pain, cannot be unlived, but if faced with courage, need not be lived again".

That is why this Bill is so misconceived: normal processes under the rule of law are to be abandoned, despite the objections of all the political parties, victims and the people of Northern Ireland. The Secretary of State's power is woven throughout the new procedures in a way which means that, notwithstanding the integrity of any individual involved, all that will happen if there is an attempt to commission such a history is that it will divide, rather than create reconciliation. We cannot afford further community tensions, such as would emerge in attempts to write an official history of the Troubles.

Lord Eames (CB): My Lords, I have frequently felt moved to speak in this House about the suffering that has been endured across Northern Ireland and which is obviously the centre of the approach of this legislation. However, we have also had occasions to be reminded that so little of our society finds, in this proposed legislation, anything that they can have confidence in.

On one occasion in Committee, I centred on the use of the word "reconciliation" in the title of the Bill. The speeches we have heard tonight come from the heart of people who have intimate knowledge of what they are talking about—people who have carried, and through their families have carried, scars over the years. For myself, there are numerous occasions upon which I have tried to bring comfort and reconciliation, in ordinary terms, to people. In the rawness of what we have heard tonight, this is really taking us now to the centre. We are not dealing with the niceties of this legislation. We are being reminded that the rawness of the suffering of ordinary people has brought us to this point.

I have no hesitation in saying that I have total dismay when I look at this legislation. So much could have been achieved. So much was expected, when we were told it was coming, and so little has been achieved, in what we have listened to and discussed. Now we are talking about how future generations will be told about our Troubles. We are told of the need to have an official history. My heavens, do we understand the first fact of what we are talking about when we refer to an "official history" of the Troubles? I venture to suggest it is an impossibility. The history of the Troubles is the photograph on the mantelpiece; the insertion on an anniversary; the plaque on a wall of the church, or a memorial window. The history of the Troubles is when a mother says, "Please, let me know the truth, before I die, of what happened". And we turn around and produce ways of limiting inquiries, investigations, and questioning—not in the purely legal sense, but in the sense in which normal suffering people are crying out for answers. We have fallen so far short in this legislation of doing that.

6.30 pm

I do not want to add to the agony that we have listened to this evening, but I would be failing all I have tried to stand for and what I have tried to achieve over my adult life if I did not say these things at this point. I say to the Minister that I have the utmost respect and admiration for the way in which he has tried to grapple over the months of discussions and analysis that have gone into our proceedings. I have nothing but admiration for him as a person, but I also recognise that he is trapped. He is trapped because the purpose of this legislation was to try to draw a line at last under the agony of Northern Ireland—to say at last, "That's it; we can say it's over. It will be wonderful; we've got this legislation. It deals with ABCD and it even proposes an official history of the Troubles of Northern Ireland".

When I meet, as I still do, widows or children then, who are now adults, who will never see their father come home again—either because he wore a uniform or because he was in the wrong place at the wrong time as a civilian—whether they were Roman Catholic or Protestant, it does not matter; it is irrelevant, because the raw truth of the Troubles is that it was evil. It was the failure of society to grapple with its own past that allowed these things to happen.

I am not going to give a sermon but I will say that I have seen faith, courage and strength over the years which are truly remarkable, and I have seen the depths to which others have sunk. So, at this stage, as I wait to hear the response of the Minister once more to what he has had to listen to on the Floor of the House, my plea is simply this: let us be realistic, let us be honest and, when we talk about such things as the official history of all this agony, let us recognise what in fact we are asking for. The memory that I believe Northern Ireland society needs more than any other memory at the moment is the recognition of the human suffering of so many.

Lord Patten of Barnes (Con): My Lords, I did not intend to contribute to this debate, but sitting here listening to some of the speeches, not least the wonderful remarks we have just heard, reminded me of what I think was the most difficult period of my life, when I was responsible for the committee that, after the Good Friday agreement, reorganised the police service in Northern Ireland. With my colleagues—people such as the late Maurice Hayes, Peter Smith and others—we thought we needed to have public meetings around Northern Ireland. When we suggested this, people said, "But nobody'll come, nobody goes to public meetings now". But come they did; to 40 meetings, probably 40,000 people came, and each of those meetings was a reminder not just of exactly what has just been said, the horror of the violence, but of the intimacy of the violence.

I think people who have not lived or been very much to Northern Ireland simply never comprehend how awful the intimacy of that violence is. I remember one evening having a public meeting in a rather raw little town in Northern Ireland—I had better not mention which one—and it was pretty difficult. A terrorist from the borders, Slab Murphy, had come down with some of his colleagues and we were quite worried that there would be violence. I undertook all those public meetings without police protection because you could not examine the record of the police and have yourself guarded by policemen. We got out of the meeting in one piece—I think it was Maurice Hayes and myself—largely because of the extremely sensitive and sensible chairmanship of a solicitor who had made her reputation invariably defending republicans who were accused of violence.

From Portadown we then went to a meeting in Craigavon and the first three questions I had were from the widows of police officers. The man accused in the case of the husband of the last of these had been got off on a technicality in his trial, with the solicitor working for him being the same woman who had kept the peace in the meeting I had just come from.

I think going through all those horror stories, trying to be objective and balance one bit of horror against another, is a less than useful idea. I think I am right in saying that it was the episcopal father of Louis MacNeice who said in a famous sermon words to the effect that we should remember the past the better to forget it. Northern Ireland remembers the past too much and does not spend enough time building a better present and a better future, even today; even today that is the situation.

The very last public meeting that we had in Northern Ireland was in a little fishing village. It was a difficult meeting; three of us were sat up on a stage like that in "Cinema Paradiso", and, as the meeting went on and on, the thought of getting back to Hillsborough for a glass of whiskey became more and more enticing. Eventually, we brought the meeting to a close and got up ready to leave, and I made a little speech about reconciliation, healing and hope. A little lady at the back of the room stood up and said, "Mr Patten, before you go off, before you go back to London, before you make any more speeches about reconciliation, healing and hope, and all of us getting on with one another, I would like you to know that this man here"—and she put a hand on the shoulder of the man in front of her—"killed my son". It was true. He had been one of those let out as part of the Good Friday agreement. We forget sometimes, standing in a queue in Morrisons, how it would be seeing in the next queue somebody who killed your uncle or tried to kill you. I have never believed that you actually deal with that problem by going over again and again who was right and who was wrong about that particular barbarity—the sort of barbarity that was mentioned earlier.

The best book I have read on Northern Ireland was Seamus Mallon's memoir. I think Seamus Mallon is one of the great, largely unsung heroes of the attempt to produce decency in Northern Ireland. I recall from that extraordinary book how he went again and again to the funeral or wake of anybody in his constituency who had been killed. It was difficult. Sometimes he had a problem getting out without being beaten up by people who did not want to see him there because he was from the wrong side. On one occasion, he is at a wake and they do not want him there. He is helped to leave safely through the intervention of a man who is a part-time—a reservist—police officer. Two days later, on his way to the pharmacy in the local village, Seamus sees the same man gunned down by republicans. Seamus

[Lord Patten of Barnes]
has to spend the man's last moments with him, under a lorry leaking animal urine, as they lie there saying the Lord's Prayer.

As I say, I do not see how you deal with those sorts of memories by going through the catalogue of who did what to whom and whether one horror was greater than another. I think it is the case that good sermons are likely to make more of an impact than endless historical reconstruction.

When it comes to that, I will say what I have never said before: I am not sure that the Church of which I am a member has been wise in the view that it has taken over the years about segregated education. If we want kids to learn the sort of history that we would like them to, you do not slant it and insist that, in order to listen to your version, they must go to one of your schools otherwise they cannot get confirmed, which was the situation when I was a Minister in Northern Ireland for years.

I had not meant to say any of this. When it comes to history, however brilliant the historians and however balanced they try to be, we have difficulty even in producing official histories of our relationship with the EU, so producing a balanced history of what has happened in Northern Ireland would be very difficult. We should try to understand what has happened, of course, but—I sound like a bishop now—we should build on the decencies that have ensured that, despite all the trouble and the extremism, Northern Ireland still exists as, in many respects, a thoroughly decent community.

The people who I remember when I look back are the heroes. Some of the civil servants and public servants that I had, people such as Norman Dugdale and Maurice Hayes, were great human beings who gave their lives to the attempt to produce decency, prosperity and peace in Northern Ireland. But, please—no official history.

Lord Murphy of Torfaen (Lab): This has been a powerful debate in many ways. I suppose it should be, bearing in mind what has happened in Northern Ireland over 40 years. This part of the Bill was meant to be the easy bit but it is not; as noble Lords have heard over the past hour or so, it is possibly even more difficult than the rest of this legislation.

I remember vividly going to Northern Ireland to help chair the talks on the Good Friday agreement, back in 1997. About 10 months in, I was chairing strand 1 of the talks and I had had enough of history by then. I told the people at the talks that I had spent 17 years of my life before I became an MP teaching history but had had enough of it, 10 months into the talks. I suddenly realised that it was a bit daft to say that because the people in those talks were revealing their past in a very special way. Looking back, I can see that there were not just one or two but even more versions of the same history, in exactly the same place, and we have heard a bit about that in today's debate. That is not easy.

6.45 pm

The noble Lord, Lord Patten, mentioned the word "intimacy". In all the contributions that we have heard—for example, from the noble and right reverend Lord, Lord Eames—it is about individual human beings and what they have suffered. It struck me within days when I went to Northern Ireland that every single family I met had a story to tell, and usually a terrible story about someone being killed or injured. When you look at the figures of 3,500 people killed over 30 years in a very small place, and perhaps 50,000 injured, you realise how tremendously difficult it was.

They sent me to South Africa some years later to see the South African peace and reconciliation process. I quickly came to the conclusion that that was not going to work in Northern Ireland. South Africa is a huge continent of a country; Northern Ireland is a place with just over 1.5 million people, where everyone knows everyone else. As a consequence, we have to look at these issues differently. I do not think for one second that we should not try to tackle them, but neither should we pretend that it is easy. Frankly, I am not sure that legislation is the answer. Yes, we should remember and perhaps we should memorialise, but we should never memorialise violence, death, misery and mayhem; that is terrible and you can never justify it. You can perhaps understand why people do it but never justify it.

I look forward to what the Minister has to say. Everything in the Bill, all the time, should be underpinned by reconciliation. Whatever happens regarding memorialisation and history telling, that ultimately should be the final aim.

Lord Caine (Con): My Lords, I am grateful as always to those who have contributed to this debate, which was lengthier than some of us had perhaps anticipated. We went over many of these issues extensively in Committee only a few weeks ago. I will therefore try to be as brief as possible and address my remarks in large part to the amendments.

Obviously I am aware that there have been a number of powerful and deeply moving contributions today that reflect the experiences of individual Members of your Lordships' House who have suffered at the hands of terrorism and violence in Northern Ireland over many decades. I refer in particular to the comments of the noble Lord, Lord McCrea of Magherafelt and Cookstown, and the noble Baroness, Lady O'Loan, who shared some of her personal experiences. The House cannot fail to be moved by some of the remarks and reflections, including also those of the noble Baroness, Lady Ritchie of Downpatrick, that we have heard today.

As I have said many times, we are never going to agree on a common narrative about the past in Northern Ireland, but we can seek to put in place structures that will help all in society, including future generations, to have a better understanding of the past, with the overarching aim of enabling people in Northern Ireland to move forward, on which I agree wholeheartedly with the comments of my noble friend Lord Patten of Barnes.

I turn first to the memorialisation strategy, which will seek to build consensus around new structures and initiatives to commemorate those lost during the Troubles and to seek to ensure that the lessons of the past are not forgotten. The noble Lord, Lord Dodds of Duncairn, highlighted with his Amendments 114A

and 114B that this objective would be fundamentally compromised if it allowed for the glorification of acts of terrorism. I am on record many times in this House as saying that politically-motivated violence on all sides, whether republican or loyalist, was never justified in Northern Ireland, and I agree completely with the words of the noble Lords, Lord Dodds, Lord McCrea of Magherafelt and Cookstown and Lord Weir of Ballyholme, and others on that. The Government will never accept any suggestion that there was, to use the quote, "no alternative", which is peddled by those with a political motivation to rewrite history in order to denigrate the actions of the state along with the Royal Ulster Constabulary and the Armed Forces.

I take on board some of the comments of the noble Baroness, Lady O'Loan. There are of course examples where members of the security forces have fallen short of the highest standards, but I maintain that the vast majority of those who served in Northern Ireland did so with great courage, professionalism and integrity, while defending democracy and the rule of law. Without their service and sacrifice, there would have been no peace process; we owe them an enormous debt of gratitude. The noble Lord, Lord Dodds of Duncairn, can be assured that this Government will never accept any moral equivalence between those who defended democracy and the rule of law and those who sought to destroy both.

Having listened to the strength of feeling on this issue, the Government have tabled an amendment to Clause 48, adding an overarching duty that would require the designated persons to have regard to the need to promote

"reconciliation … anti-sectarianism, and … non-recurrence of political and sectarian hostility".

In the Government's view, this goes further than the amendments of the noble Lord, Lord Dodds, in that the overarching duty would apply to all the measures in Part 4, not only to the memorialisation strategy set out in Clause 44. Any attempt to glorify terrorism, or to revise or rewrite history in ways that justify it, would be fundamentally incompatible with this new overarching duty. Non-recurrence speaks to the avoidance of future political violence, which necessarily includes ensuring that no memorialisation activities glorify the commission or preparation of Troubles-related offences. The Government will also ensure that this understanding is reflected in any guidance documents or terms of reference.

Further amendments tabled by the Government commit the Secretary of State to consulting organisations with experience and expertise in promoting reconciliation and anti-sectarianism between communities in Northern Ireland before designating the delivery organisations and, crucially, before responding to each of the

"recommendations made in the memorialisation strategy".

I hope that the Government's amendments here address some of the noble Lord's concerns around glorification, which I know are shared across the House, as has been so vividly set out this evening. Indeed, a core objective of the strategy, along with other measures in Part 4, is to confront the glorification of terrorism.

Amendments 117 and 118 are in the name of the noble Baroness, Lady Hoey. As I said during Committee, I fully support the sentiment behind these amendments, which seek to ensure that any Troubles-related academic research is suitably diverse and not, as the noble Baroness said, monopolised by a single view. But while she rightly highlighted that funding applications are assessed based on the past record of those applying, that is not the sole criterion used by research councils: for example, research impact, value for money and public engagement are a few of the other criteria used. As such, the wording of this amendment would have little practical effect. Going further, Clause 48 specifically requires that the designated persons, in delivering this work, ensure that a variety of views of the Troubles are taken into account. However, I take on board the noble Baroness's comments about even-handedness.

On Amendment 118, as I said in Committee, nothing in the provisions of the Bill would preclude research into LGBT experiences during the Troubles, should the academic community feel that there is a particular need. I am sure noble Lords will agree that if we were to debate the inclusion of every theme relating to the Troubles, or themes which occurred during the same period, we would be here for a very long time.

The noble Baroness, Lady Hoey, referred to the clauses that deal with the role of women. There are international precedents and standards affirming the important role of women in the resolution of conflicts, in peace negotiations and in reconstruction. I visited an exhibition dealing with those issues at Ulster Museum only a couple of weeks ago. I would therefore respectfully maintain our position that these amendments are not required, but I am grateful to the noble Baroness, along with Jeff Dudgeon and the Malone House Group in Northern Ireland, for their ongoing constructive engagement on these matters. I think the noble Baroness will be aware that I had a useful meeting with the Malone House Group in the last two weeks.

Touching briefly on the advisory forum under Clause 49, I think noble Lords are understandably concerned with ensuring that the advisory panel overseeing the measures in Part 4 is not politically biased in its composition. As I said in Committee, I respectfully suggest that this amendment is not expressly necessary. Clause 49(2)(b) already states that, in establishing an advisory forum, due regard must be given to the need for the forum to have a balance in terms of members who are associated with different parts of the community in Northern Ireland—"different communities" being defined in the Bill as those which have differing views on the constitutional status of Northern Ireland.

Lastly, Amendment 118A in the name of my noble friend Lord Godson would enshrine in legislation the Government's commitment to commissioning an independent public history relating to the Troubles. The term used throughout the debate this evening was "an official history"; the updated term, following the Pilling review, is a "public history". Noble Lords will recall the fairly recent debate on this amendment during Committee, when noble Lords had an opportunity to discuss these proposals. From those who contributed on that occasion, there was certainly support in Committee for this project in principle.

It is clear that the main practical concern is around the extent to which the Government's official history programme, which has been in hiatus since 2008, is a

[Lord Caine]
suitable delivery vehicle for a historical project of this scale and importance. Let me therefore clarify to noble Lords that, while this project would be akin to the official history programme for the purpose of using long-standing protocols to grant the necessary access to archival material, it will be driven forward separately by the Northern Ireland Office, consistent with subsection (5) of my noble friend's proposed new clause.

I turn briefly to the points raised by the noble Baroness, Lady O'Loan, the noble and right reverend Lord, Lord Eames—whom I have always listened to with huge admiration and respect, even when we may occasionally disagree slightly—and my noble friend Lord Patten of Barnes. It was in recognition of some of the difficulties that all three of them raised in their comments that the former Secretary of State specified in moving this project forward that, in keeping with previous official histories commissioned by the Government, this official history would focus primarily on the UK Government's policy towards Northern Ireland during the Troubles, rather than attempting to write a general history of the Troubles themselves.

Returning to my noble friend Lord Godson's amendment, in respect of funding, I can confirm that the project will be fully funded from the £250 million pot that the Government set aside for the establishment of legacy mechanisms as part of the Stormont House and *New Decade, New Approach* agreements. Having written to my noble friend, I hope that the update and clarifications have gone some way to providing assurances on the concerns which may have prompted his amendment, and otherwise demonstrated the seriousness with which the Government are approaching this endeavour, so I would respectfully suggest that he does not press his amendment. I am of course happy to engage with him further in advance of Third Reading, recognising his strong interest in this matter and his expert advice, which I warmly welcome.

On that basis, I urge noble Lords to withdraw or not to press these amendments.

Lord Godson (Con): My Lords, I will be happy not to press my amendment.

Lord Dodds of Duncairn (DUP): My Lords, this has been a very powerful debate, with powerful contributions from all sides of your Lordships' House. What is clear from everyone who has spoken is the recognition that all terrorism, from whatever side it comes, is wrong. It is not a question of pitting one atrocity against another or of identifying terrorism with one community. I remember that, during the Troubles, some of the most powerful voices against republican terrorism were in the nationalist community. There were people such as John Hume, who spoke out against terrorism relentlessly. Sadly, what is happening today in Northern Ireland is that that history is being rewritten and there is a revision of the past.

7 pm

Now the main party representing nationalists and republicans in Northern Ireland goes out of its way to eulogise terrorism. That is why this issue is so important and why, when we put provisions into legislation, we must get them right. We must not allow that warped, perverse narrative to gain ground for the sake of future generations: so that they do not believe that somehow this activity resulted in progress, when it held Northern Ireland back in a terrible way, at the cost of thousands of lives, and heartbreak, for so many years.

I have listened to what the Minister said about the purpose of his amendments. We will obviously closely monitor this in the months and years ahead. I trust that what he says will come to fruition. Clearly, if it does not, we will have to return to these matters. With that, I beg leave to withdraw my amendment.

Amendment 114A withdrawn.

Amendment 114B not moved.

Clause 45: Response to the memorialisation strategy

Amendments 115 and 116

Moved by ***Lord Caine***

115: Clause 45, page 36, line 20, at end insert—

"(aa) consult relevant organisations in the course of considering each recommendation, and"

Member's explanatory statement

This requires the Secretary of State, when considering recommendations made in the memorialisation strategy, to consult organisations with expertise in reconciliation or anti-sectarianism.

116: Clause 45, page 36, line 21, leave out "the First Minister and deputy First Minister" and insert "such Northern Ireland departments as the Secretary of State considers appropriate"

Member's explanatory statement

This provides for the Secretary of State to consult on the proposed response to the memorialisation strategy with appropriate Northern Ireland departments.

Amendments 115 and 116 agreed.

Clause 46: Academic research

Amendments 117 and 118 not moved.

Amendment 118A not moved.

Clause 48: Carrying out the Troubles-related work programme

Amendment 119

Moved by ***Lord Caine***

119: Clause 48, page 38, line 17, at end insert—

"(c) that programme is carried out in a way that promotes—

(i) reconciliation,

(ii) anti-sectarianism, and

(iii) non-recurrence of political and sectarian hostility between people in Northern Ireland."

Member's explanatory statement

This requires designated persons to have regard to certain (additional) matters when carrying out the Troubles-related work programme.

Amendment 119 agreed.

Clause 49: The advisory forum

Amendment 120 not moved.

Clause 50: Designated persons and funding

Amendment 121

Moved by ***Lord Caine***

121: Clause 50, page 39, line 16, at end insert ", and

(b) consult relevant organisations about the proposed designation."

Member's explanatory statement

This requires the Secretary of State, before designating a person under Clause 50 in relation to the Troubles-related work programme, to consult organisations with expertise in reconciliation or anti-sectarianism.

Amendment 121 agreed.

Clause 51: Interpretation of this Part

Amendment 122

Moved by ***Lord Caine***

122: Clause 51, page 39, line 41, at end insert—

""relevant organisation" means an organisation that the Secretary of State considers to have expertise in carrying out, promoting or otherwise facilitating activities that are intended to encourage reconciliation or anti-sectarianism;"

Member's explanatory statement

This defines a term used in the amendments in Lord Caine's name related to the Troubles-related work programme under Part 4.

Amendment 122 agreed.

Clause 52: Consequential provision

Amendment 123 not moved.

Amendment 124 had been withdrawn from the Marshalled List.

Clause 54: Interpretation

Amendment 125

Moved by ***Lord Caine***

125: Clause 54, page 43, line 23, at end insert—

"financial year	This has the meaning given in section 2(9)."

Member's explanatory statement

This amends the table of definitions to include the definition of "financial year" that is added to the Bill by the amendments of Clause 2 in Lord Caine's name.

Amendment 125 agreed.

Amendment 126 had been withdrawn from the Marshalled List.

Amendment 127

Moved by ***Lord Caine***

127: Clause 54, page 45, line 30, second column, leave out from "which" to first "the" in line 32 and insert "(if contained in a Bill for an Act of the Northern Ireland Assembly) would result in the Bill requiring"

Member's explanatory statement

This changes the definition of "reserved provision" to reflect the fact that section 8(b) of the Northern Ireland Act 1998 requires consent to a Bill for an Act (rather than to the Act itself).

Amendment 127 agreed.

Clause 57: Commencement

Amendments 128 and 129

Moved by ***Lord Caine***

128: Clause 57, page 47, line 30, leave out "Part 3" and insert "section 39"

Member's explanatory statement

This would provide for only Clause 39 (and the associated amendments in Schedule 12) to come into force two months after royal assent.

129: Clause 57, page 47, line 32, at end insert—

"(2A) Part 3, except for section 39, comes into force on 1 May 2024."

Member's explanatory statement

This would provide for the rest of Part 3 to come into force on 1 May 2024 (instead of two months after royal assent).

Amendments 128 and 129 agreed.

Schedule 1: The ICRIR, the commissioners and ICRIR officers

Amendments 130 to 144

Moved by ***Lord Caine***

130: Schedule 1, page 50, line 30, at end insert—

"5A_(1) The ICRIR must—

(a) keep proper accounts and proper records in relation to them, and

(b) prepare a statement of accounts in respect of each financial year.

(2) The statement of accounts must be prepared in accordance with any directions that are given by the Treasury.

(3) The ICRIR must send a copy of each statement of accounts to the Secretary of State and the Comptroller and Auditor General as soon as practicable after the end of the financial year to which the statement relates.

(4) The Comptroller and Auditor General must—

(a) examine, certify and report on each statement of accounts,

(b) send a copy of each report and certified statement to the Secretary of State, and

(c) lay before Parliament a copy of each such report and certified statement."

Member's explanatory statement

This would require the ICRIR to keep accounts and provides for the accounts to be laid before Parliament.

131: Schedule 1, page 50, line 34, leave out from second "time" to end of line 35 and insert "how many other Commissioners there are to be under section 2(3)(c) (which allows for there to be between one and five of them)."

Member's explanatory statement

This is consequential on the amendment of clause 2(3)(c) in Lord Caine's name which allows the ICRIR to have a maximum of 5 other Commissioners. It amends the provision which gives the Secretary of State power to decide the number of other members which the ICRIR has.

132: Schedule 1, page 50, line 37, at end insert—

"(1A) In exercising the power to appoint Commissioners, the Secretary of State must ensure that (as far as it is practicable) the Commissioners include one or more persons who have experience gained outside the United Kingdom that is relevant to the work of the ICRIR."

Member's explanatory statement

This requires the Secretary of State to ensure that there is at least one Commissioner who has relevant international experience.

133: Schedule 1, page 51, line 4, leave out from "holds" to end of line 6 and insert "or has held high judicial office, and

(b) the Secretary of State has consulted—

(i) the relevant senior judge, and

(ii) such other persons as the Secretary of State considers appropriate."

Member's explanatory statement

This requires consultation in cases where a potential appointee no longer holds high judicial office (as well as in cases where they still hold such office), and authorises the Secretary of State to consult other persons besides the relevant senior judge.

134: Schedule 1, page 51, line 10, leave out from "Commissioner" to end of line 11

Member's explanatory statement

This removes some wording that is unnecessary as ill health is not a ground for removal from office as a Commissioner.

135: Schedule 1, page 51, line 11, at end insert—

"(5A) A reference in this paragraph to a person being insolvent, or to being disqualified from being a company director, has the same meaning as in paragraph 11 (see paragraph 11(4) or (5))."

Member's explanatory statement

This applies definitions of certain terms which appear in paragraph 11 to those terms as used in paragraph 7.

136: Schedule 1, page 51, line 12, leave out sub-paragraphs (6) to (8) and insert—

"(6) The following Orders apply to the Commissioners as they apply to constables—

(a) the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979 (S.R. 1979/195);

(b) the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (S.I. 1975/1023);

(c) the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions)(Scotland) Order 2013 (S.S.I. 2013/50)."

Member's explanatory statement

This updates the provision about the application to the Commissioners of the law relating to the rehabilitation of offenders. It ensures that the Bill provision reflects the current approach taken in that law.

137: Schedule 1, page 51, line 28, leave out paragraph (b)

Member's explanatory statement

This is consequential on the amendment in Lord Caine's name about consultation when appointing the Chief Commissioner.

138: Schedule 1, page 51, line 29, leave out "the holder of" and insert "a person who holds or has held"

Member's explanatory statement

This is consequential on the amendment in Lord Caine's name about consultation when appointing the Chief Commissioner.

139: Schedule 1, page 51, line 31, after "table" insert "; and, in the case of a person who has previously held two or more different kinds of high judicial office (but no longer holds any kind of high judicial office), the relevant senior judge is to be identified by reference to the kind of high judicial office which the person ceased to hold most recently"

Member's explanatory statement

This clarifies who is to be consulted where a retired judge held two or more kinds of high judicial office.

140: Schedule 1, page 51, line 34, after first "Kingdom" insert "or Lord of Appeal in Ordinary"

Member's explanatory statement

This requires consultation with the President of the Supreme Court where a retired judge was a Law Lord.

141: Schedule 1, page 52, line 32, after "Commissioner" insert "is for a term which—

(za) is of a duration, not exceeding five years, determined by the Secretary of State,"

Member's explanatory statement

This would require the Secretary of State to determine the period for which an appointment as a member of the ICRIR lasts - which must not exceed five years.

142: Schedule 1, page 52, line 34, leave out "unless and until the person resigns" and insert "until its end, unless the person resigns before its end"

Member's explanatory statement

This is consequential on the amendment requiring the Secretary of State to determine the period of an appointment as a member of the ICRIR.

143: Schedule 1, page 56, line 25, leave out paragraph 18 and insert—

"18_(1) The following Orders apply to ICRIR officers as they apply to constables—

(a) the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979 (S.R. 1979/195);

(b) the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (S.I. 1975/1023);

(c) the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions)(Scotland) Order 2013 (S.S.I. 2013/50).

(2) This paragraph does not apply to the Commissioner for Investigations (instead see paragraph 7(6))."

Member's explanatory statement

This updates the provision about the application to ICRIR officers of the law relating to the rehabilitation of offenders. It ensures that the Bill provision reflects the current approach taken in that law.

144: Schedule 1, page 57, line 23, at end insert—

"(2) This paragraph does not apply to the Commissioner for Investigations (instead see paragraph 14)."

Member's explanatory statement

This ensures that the Commissioner for Investigations (who is also ex-officio an ICRIR officer) falls only within paragraph 14 of Schedule 1 (as a Commissioner) and not also within paragraph 20 (as an ICRIR officer). Paragraphs 14 and 20 make equivalent provision to ensure that the prohibitions on trade union activity which govern the police do not apply to the ICRIR.

Amendments 130 to 144 agreed.

Schedule 2: Operational powers of ICRIR officers

Amendment 145

Moved by ***Lord Caine***

145: Schedule 2, page 60, line 17, at end insert—

"(1A) Sub-paragraph (1)(a) does not apply to an assault on a designated ICRIR officer under the law of England and Wales (instead see section 1 of the Emergency Workers (Offences) Act 2018)."

Member's explanatory statement

This avoids overlap with the provisions of the Emergency Workers (Offences) Act 2018 which will apply to designated ICRIR officers (but is law only in England and Wales).

Amendment 145 agreed.

Schedule 4: Supply of information: enforcement

Amendment 146

Moved by ***Lord Caine***

146: Schedule 4, page 64, line 39, leave out "£1,000" and insert "£5,000"

Member's explanatory statement

This increases the maximum penalty for failure to comply with an information notice under section 14 from £1,000 to £5,000.

Amendment 146 agreed.

Amendment 147

Moved by ***Lord Caine***

147: After Schedule 4, insert the following new Schedule—

"NO IMMUNITY IN CERTAIN CIRCUMSTANCES

PART 1

SEXUAL OFFENCE, EXISTING CONVICTION OR ONGOING PROSECUTION

Application of this Part

1_ This Part of this Schedule applies if—

(a) a person (P) has requested the ICRIR to grant P immunity from prosecution (the "current request") under section 18 and conditions A to C are met, but

(b) this Schedule prohibits a grant of immunity for an identified possible offence (see paragraphs 2 and 3).

Prohibition of grant of immunity: sexual offences

2_(1) A grant of immunity for an identified possible offence is prohibited if it is—

(a) a sexual offence, or

(b) an inchoate offence relating to a sexual offence.

(2) For the purposes of this paragraph "sexual offence" includes—

(a) rape;

(b) any offence committed by—

(i) sexual assault,

(ii) sexual activity, or

(iii) causing or inciting another person to engage in sexual activity;

(c) any offence relating to indecent images of children.

(3) For the purposes of this paragraph "inchoate offence relating to a sexual offence" includes an offence of—

(a) attempting to commit a sexual offence;

(b) conspiracy to commit a sexual offence;

(c) incitement to commit a sexual offence;

(d) aiding, abetting, counselling or procuring the commission of a sexual offence.

(4) The Secretary of State may, by regulations, make provision about the meaning of—

(a) "sexual offence", or

(b) "inchoate offence relating to a sexual offence";

for the purposes of this Part of this Schedule (including provision specifying offences which are to comprise, or to be included in, that definition).

(5) Regulations under this paragraph are subject to negative procedure.

Prohibition of grant of immunity: conviction or ongoing prosecution

3_(1) A grant of immunity for an identified possible offence is prohibited if—

(a) P has a conviction for the identified possible offence,

(b) P is being prosecuted for the identified possible offence, or

(c) P is being prosecuted for any other offence (whether or not a Troubles-related offence), and the immunity requests panel is satisfied that granting P immunity from prosecution for the identified possible offence would risk having, or would have, a prejudicial effect on that prosecution.

(2) For the purposes of this paragraph—

(a) P is "being prosecuted for" an offence if a public prosecution of P for the offence has begun and is continuing;

(b) a "public prosecution" means any prosecution other than a private prosecution;

(c) a public prosecution of P for an offence "has begun" if a prosecutor has made the decision to prosecute P for that offence;

(d) the circumstances in which a public prosecution of P is to be regarded as continuing include circumstances where the trial which forms part of the prosecution ends without P being convicted or acquitted or any other verdict being given and either—

(i) the period for the prosecution to seek a retrial is continuing (without a retrial having been sought), or

(ii) the prosecution have sought a retrial;

(e) the circumstances in which a public prosecution of P is to be regarded as not continuing include—

(i) circumstances where the trial which forms part of the prosecution ends with P being convicted or acquitted or with another verdict being given, and

(ii) circumstances where the trial ends without P being convicted or acquitted or any other verdict being given and the period for the prosecution to seek a retrial ends without a retrial having been sought.

Grant of immunity prohibited for all identified possible offences

4_(1) If this Schedule prohibits a grant of immunity for all of the identified possible offences, the ICRIR must not grant P immunity from prosecution in relation to the current request.

(2) Accordingly, section 18(1) and (7) to (16) do not apply in relation to the current request.

Grant of immunity prohibited for some identified possible offences

5_(1) This paragraph applies if this Schedule prohibits a grant of immunity for some (but not all) of the identified possible offences.

(2) The immunity requests panel must not decide under section 18(7) that P should be granted immunity from prosecution for—

(a) any identified possible offence for which this Schedule prohibits a grant of immunity, or

(b) a description of offences that includes any identified possible offence for which this Schedule prohibits a grant of immunity.

(3) The ICRIR must not grant P immunity from prosecution for any identified possible offence for which this Schedule prohibits a grant of immunity.

(4) Section 18(7) to (13) have effect subject to this paragraph.

PART 2

NEW REQUEST FOR IMMUNITY AFTER REVOCATION OF PREVIOUS GRANT

6_(1) This paragraph applies where—

(a) under section (Subsequent convictions: revocation of immunity), a court revokes immunity from prosecution granted to a person (P)(the "revoked immunity"),

(b) P requests the ICRIR to grant P immunity from prosecution (the "new request"),

(c) the new request—

(i) is made before the revocation and is not concluded at the time of the revocation, or

(ii) is made after the revocation, and

(d) conditions A to C in section 18 are met in relation to the new request.

(2) When dealing with the new request, the duty of the immunity requests panel to decide (under section 18(7)) what immunity should be granted to P has effect subject to sub-paragraphs (3) and (4).

(3) The panel must not decide that P should be granted immunity from prosecution for any identified possible offence which was also within the scope of the revoked immunity.

(4) When the panel is determining under section 18(9) or (11)(b) a description of offences for which P should be granted immunity from prosecution, the panel must frame the description so that it does not consist of, or include, one or more offences which were also within the scope of the revoked immunity.

(5) If the panel decides in accordance with sub-paragraphs (3) and (4) that there are no offences for which P should be granted immunity—

(a) the panel must decide that P should not be granted immunity from prosecution, and

(b) the ICRIR must not grant P immunity from prosecution (and accordingly section 18(1) does not apply).

(6) For the purposes of this paragraph the new request is "concluded" when the ICRIR gives P written notice of the outcome of the request in accordance with section 18(13)(a)."

Member's explanatory statement

This amendment deals with offences for which a person cannot be granted immunity from prosecution. The provision about sexual offences is moved here from Clause 19. It contains provision about previous convictions and current prosecutions (replacing Clause 20(1)). It also deals with cases where a person's immunity from prosecution is revoked under new Clause (Subsequent convictions: revocation of immunity).

Amendment 147 agreed.

Schedule 8: Determination of whether the prohibition on civil actions applies

Amendment 148 not moved.

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

Amendments 149 and 150 not moved.

Schedule 10: Investigations, inquests and inquiries in England and Wales and Scotland

Amendments 151 to 158

Moved by ***Lord Caine***

151: Schedule 10, page 81, line 6, leave out from "if" to end of line 8 and insert ", on 1 May 2024, a senior coroner was under a duty to conduct the investigation unless, on that day, the only part of the investigation that remains to be carried out is the coroner or any jury making the determination and any findings required by section 10, or something subsequent to that."

Member's explanatory statement

This would require any inquest initiated before the commencement of Schedule 10 to be discontinued on the commencement of that Schedule, unless the inquest is at its very final stage (the determination and any findings).

152: Schedule 10, page 81, leave out lines 20 to 39

Member's explanatory statement

This would remove paragraph 2 of the new Schedule 1A, which allows a pre-commencement inquest to continue if it is at an advanced stage. A pre-commencement inquest will now be able to continue if it is at its very final stage (the determination and any findings) as it will be outside the scope of the amended paragraph 1 of the new Schedule 1A.

153: Schedule 10, page 82, leave out lines 26 to 30

Member's explanatory statement

This is consequential on the amendments in Lord Caine's name relating to paragraphs 1 and 2 of new Schedule 1A.

154: Schedule 10, page 82, leave out lines 35 to 39

Member's explanatory statement

This is consequential on the amendments in Lord Caine's name relating to paragraphs 1 and 2 of new Schedule 1A.

155: Schedule 10, page 83, line 20, leave out from "before" to end of line 21 and insert "1 May 2024, unless, on that day, the only part of the inquiry that remains to be carried out is the sheriff making the determination required by section 26, or something subsequent to that."

Member's explanatory statement

This would require any inquiry initiated before the commencement of Schedule 10 to be discontinued on the commencement of that Schedule, unless the inquiry is at its very final stage (the determination).

156: Schedule 10, page 83, line 27, leave out "the relevant day" and insert "1 May 2024"

Member's explanatory statement

This is consequential on the amendment in Lord Caine's name to paragraph 1(1) of Schedule A1.

157: Schedule 10, page 83, line 36, leave out from beginning to end of line 16 on page 84

Member's explanatory statement

This would remove paragraph 2 of the new Schedule A1, which allows a pre-commencement inquest to continue if it is at an advanced stage. A pre-commencement inquest will now be able to continue if it is at its very final stage (the determination) as it will be outside the scope of the amended paragraph 1 of the new Schedule A1.

158: Schedule 10, page 84, line 45, leave out from beginning to end of line 9 on page 85

Member's explanatory statement

This is consequential on the amendments in Lord Caine's name relating to paragraphs 1 and 2 of new Schedule A1.

Amendments 151 to 158 agreed.

Schedule 11: Prisoner release

Amendments 159 to 161

Moved by ***Lord Caine***

159: Schedule 11, page 85, leave out lines 22 and 23 and insert—

""(6A) An offence is a qualifying offence if—

(a) subsection (7) or (7A) applies to the offence, and

(b) the prisoner was convicted of the offence—

(i) before the day on which section 18(1) of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 came into force, or

(ii) on or after that day by virtue of a public prosecution begun before that day.

(6B) For the purposes of subsection (6A)—

(a) "public prosecution" means any prosecution other than a private prosecution;

(b) a public prosecution of a person for an offence is "begun" when a prosecutor makes the decision to prosecute that person for that offence.""

Member's explanatory statement

This will prevent a prisoner from being released under the Northern Ireland (Sentences) Act 1998 if the prisoner is convicted after the ICRIR's power to grant immunity from prosecution becomes exercisable (and so is a case where the prisoner could have avoided conviction by obtaining immunity).

160: Schedule 11, page 86, line 9, leave out "it" and insert "the offence, and

(b) the prisoner was convicted of the offence—

(i) before the day on which section 18(1) of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 came into force, or

(ii) on or after that day by virtue of a public prosecution begun before that day.

(A2) For the purposes of sub-paragraph (A1)—

(a) "public prosecution" means any prosecution other than a private prosecution;

(b) a public prosecution of a person for an offence is "begun" when a prosecutor makes the decision to prosecute that person for that offence.""

Member's explanatory statement

This will prevent a prisoner from being released under the Northern Ireland (Sentences) Act 1998 if the prisoner is convicted after the ICRIR's power to grant immunity from prosecution becomes exercisable (and so is a case where the prisoner could have avoided conviction by obtaining immunity).

161: Schedule 11, page 86, line 30, leave out paragraphs 4 and 5

Member's explanatory statement

This removes some of the amendments proposed to the Northern Ireland (Sentences) Act 1998. Those amendments would have allowed prisoners to be released (a) if sentenced to less than 5 years' imprisonment; and (b) without the need to serve a minimum period in prison.

Amendments 159 to 161 agreed.

Schedule 12: Amendments

Amendments 162 to 167

Moved by ***Lord Caine***

162: Schedule 12, page 89, line 8, at end insert—

"2A_ After section 60ZC of the Police (Northern Ireland) Act 1998 insert—

"60ZD The Independent Commission for Reconciliation and Information Recovery

(1) An agreement for the establishment in relation to ICRIR officers of procedures corresponding or similar to any of those established by virtue of this Part may, with the approval of the Secretary of State, be made between the Ombudsman and the ICRIR.

(2) Where no such procedures are in force in relation to the ICRIR, the Secretary of State may by order establish such procedures.

(3) An agreement under this section may at any time be varied or terminated with the approval of the Secretary of State.

(4) Before making an order under this section the Secretary of State must consult—

(a) the Ombudsman; and

(b) the ICRIR.

(5) Nothing in any other statutory provision prevents the ICRIR from carrying into effect procedures established by virtue of this section.

(6) No such procedures shall have effect in relation to anything done by an ICRIR officer outside Northern Ireland.

(7) In this section—

"ICRIR" means the Independent Commission for Reconciliation and Information Recovery;

"ICRIR officer" has the same meaning as in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023.""

Member's explanatory statement

This enables the Police Ombudsman for Northern Ireland to have jurisdiction over ICRIR officers.

163: Schedule 12, page 89, line 16, leave out paragraph 4

Member's explanatory statement

This removes the amendment of the Regulation of Investigatory Powers Act 2000 (which would have made the ICRIR subject to the jurisdiction of the Investigatory Powers Tribunal, something no longer needed as the ICRIR will no longer have investigatory powers by virtue of amendment in Lord Caine's name to leave out paragraph 6(3) of Schedule 12).

164: Schedule 12, page 89, line 29, at end insert—

"5A_ After section 26E of the Police Reform Act 2002 insert—

"26F The Independent Commission for Reconciliation and Information Recovery

(1) The Director General and the ICRIR may enter into an agreement for the establishment, in relation to ICRIR officers, of procedures corresponding or similar to those provided for by or under this Part.

(2) Where no such agreement is in force, the Secretary of State may by regulations establish such procedures.

(3) An agreement under this section must not be made, varied or terminated except with the approval of the Secretary of State.

(4) Before making regulations under this section the Secretary of State must consult—

(a) the Director General; and

(b) the ICRIR.

(5) Nothing in any other statutory provision prevents the ICRIR from carrying into effect procedures established by virtue of this section.

(6) An agreement or regulations under this section may contain provision for enabling the Director General to bring and present, or otherwise participate or intervene in, any proceedings that are identified by the agreement as disciplinary proceedings in relation to ICRIR officers.

(7) Procedures established in accordance with an agreement under this section, or by regulations under this section, have no effect in relation to anything done outside England and Wales by any ICRIR officer.

(8) In this section—

"ICRIR" means the Independent Commission for Reconciliation and Information Recovery;

"ICRIR officer" has the same meaning as in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023."

5B_(1) Article 4 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order 2007 (S.I. 2007/1098) (agreements to establish complaints procedures) is amended as follows.

(2) After paragraph (4) insert—

"(4A) The Commissioner and the ICIRIR may enter into an agreement to establish and maintain procedures which correspond to or are similar to those contained in Chapter 2 of Part 1 of the Act in relation to complaints made about the acts or omissions of the ICRIR and ICRIR officers."

(3) In paragraph (7), after sub-paragraph (d) insert—

"(e) any statement made by a person who is, or has been, an ICRIR officer about the terms and conditions of their service;".

(4) In paragraph (14), after sub-paragraph (b) insert—

"(c) "ICRIR" means the Independent Commission for Reconciliation and Information Recovery;

(d) "ICRIR officer" has the same meaning as in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023."

5C_(1) The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602) is amended as follows.

(2) In article 3 (agreements to investigate serious incidents), after paragraph (17) insert—

"(17A) The Commissioner and the Independent Commission for Reconciliation and Information Recovery (the "ICRIR") may enter into an agreement for the Commissioner to investigate and report, where requested to do so by the ICRIR, on any serious incident involving the ICRIR.

(17B) A "serious incident involving the ICRIR" has the same meaning as a "serious incident involving the police" in section 41B of the 2006 Act except that "a person serving with the police" means an ICRIR officer (which has the same meaning as in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023)."

(3) In article 4 (investigation of crimes and deaths), after sub-paragraph (h) insert—

"(i) an ICRIR officer (which has the same meaning as in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023).""

Member's explanatory statement

This enables the Independent Office for Police Conduct (in England and Wales) and the Police Investigations and Review Commissioner (in Scotland) to have jurisdiction over ICRIR officers.

165: Schedule 12, page 89, line 33, leave out from "subsection" to "a" in line 35 and insert "(4), after paragraph (d) insert—

"(e) "

Member's explanatory statement

This changes the amendment of section 58 of the Investigatory Powers Act 2016 so that it operates on section 58(4) rather than on section 58(2).

166: Schedule 12, page 89, line 40, leave out sub-paragraph (3)

Member's explanatory statement

This removes the amendment of Schedule 4 to the Investigatory Powers Act 2016 (which would have made the ICRIR a "relevant public authority" for the purposes of Part 3 of that Act and enabled it to use investigatory powers).

167: Schedule 12, page 90, line 14, at end insert—

"7A_ In section 379 of the Sentencing Act 2020, in the table in subsection (1), at the appropriate place insert—

"Northern Ireland Troubles (Legacy and Reconciliation) Act 2023

section *(Subsequent convictions: revocation of immunity)*	revocation of immunity under that Act	making of false statements""

Member's explanatory statement

This is in consequence of new Clauses (False statements: offence) and (Subsequent convictions: revocation of immunity).

Amendments 162 to 167 agreed.

Situation in Russia and Ukraine Recovery Conference

Statements

The following Statement was made in the House of Commons on Thursday 22 June.

"With permission, Mr Deputy Speaker, I would like to update the House on the Ukraine Recovery Conference, which the UK is proud to be co-hosting with Ukraine in London.

Yesterday, the Prime Minister opened the conference, together with President Zelensky live from Kyiv, and the conference will conclude this afternoon. As my right honourable friend the Prime Minister said, the conference is planting the seeds of Ukraine's future. From the speeches from Ukraine's international partners to conversations with business leaders and civil society representatives, the message that echoes from the conference is one of hope and belief in the tremendous potential of Ukraine's economy.

Before this terrible war, Ukraine's economy was becoming a huge investment opportunity. Ukraine was the breadbasket of Europe, a top five exporter of iron ore and steel, a leader in energy and a start-up nation with a thriving tech sector. That opportunity is still there today. The international community has come together to support Ukraine's recovery and economic future—one that is modern, open, green and resilient. By helping Ukraine's recovery and economic transformation, we will unlock the potential of the

country and its people, help defeat Russia's aggression and benefit global security, prosperity and the rule of law.

Putin's unjustified and unprovoked invasion of Ukraine has caused untold misery. Thousands of Ukrainians have been killed, and millions have been displaced, including children. Schools, hospitals and critical infrastructure have suffered damage in Russia's indiscriminate air strikes. Ukraine must and will succeed as a free, independent, sovereign and democratic state within its internationally recognised borders. That is essential for the people of Ukraine and the Euro-Atlantic region, and for global peace and prosperity. We remain committed to a just and lasting peace based on respect for the UN charter and Ukraine's sovereignty and territorial integrity.

The conference has delivered funding to meet Ukraine's immediate recovery needs, help it to stay in the fight and lay the foundations for future growth. Ukraine's partners announced continued support for Ukraine's budgetary needs for the years ahead, including a new €50 billion EU facility dedicated to supporting Ukraine's recovery, reconstruction and modernisation. The UK is playing its part. The Prime Minister announced yesterday that, over the next three years, we will provide loan guarantees worth $3 billion.

Nearly 500 businesses globally from 42 countries, worth more than $5.2 trillion, pledged to back Ukraine's recovery and reconstruction in the wake of Russia's illegal invasion. Big businesses that can work with Ukraine to deliver a more modern, open economy have pledged their support. Virgin, Sanofi, Philips, Hyundai Engineering and Citi are among the companies involved.

Development finance institutions announced mechanisms to provide the seed capital to support private sector-led growth. The European Bank for Reconstruction and Development announced its intention to raise between €3 billion and €5 billion of new capital from shareholders. This could provide at least four times the amount in new investment in Ukraine for years to come, including in critical infrastructure. G7 and European development finance institutions launched a new Ukraine investment platform that will promote co-financing to maximise the impact of their support.

The Government of Ukraine and their partners responded to businesses' demand to extend commercial insurance coverage in Ukraine. The conference launched the London conference war risk insurance framework, which will be backed by G7 members. The framework outlines support for immediate de-risking measures to increase investor confidence, and it will guide efforts in working with the commercial insurance markets to unlock private investment to meet Ukraine's long-term reconstruction needs. The UK is already delivering on the framework by releasing up to £20 million of funding for the Multilateral Investment Guarantee Agency to provide guarantees and insurance for reconstruction projects now, while the conflict is ongoing.

As the Prime Minister made clear in his speech yesterday, Russia must pay for the destruction that it has inflicted, so we are working with allies to explore lawful routes to use frozen and immobilised Russian assets to fund Ukrainian reconstruction. On Monday, we laid new legislation to enable us to keep sanctions in place until Russia pays to repair the country it has so recklessly attacked. After the sacrifices and suffering of the war, Ukrainians are hoping for a better future. It is in the interests of Europe and the world that the country they rebuild should be stronger than ever, integrated into western markets and self-reliant. The Government announced a major commitment of up to £250 million of new capital for the UK's development finance institution, British International Investment.

The true legacy of this terrible war will be a Ukraine that is more modern, innovative, resilient and green. To support this, G7 Governments committed to developing a new clean energy partnership with Ukraine to accelerate the transition to a green energy system that is secure, sustainable, resilient and integrated with Europe, and the conference launched the Innovate Ukraine green energy challenge fund to accelerate low-carbon, affordable energy innovation. Ukraine's partners announced a new tech partnership to help realise the amazing potential of Ukraine's burgeoning tech ecosystem. With Ukraine we announced a new tech bridge to facilitate investment and support talent between the British and Ukrainian tech sectors. In the interest of encouraging private sector investment, President Zelensky reaffirmed his commitment to the reform path and towards EU membership, which was welcomed by Ukraine's partners at the conference.

The Government of Ukraine are committed to working in partnership with Ukrainian and international businesses, local government, civil society and the international community to deliver long-term sustainable recovery and development. The multiagency donor co-ordination platform for Ukraine, whose steering committee met in London yesterday, will continue to help deliver prioritised, co-ordinated recovery efforts. We now hand over the conference to Germany, which will host the Ukraine Recovery Conference next year and build on the outcomes of Lugano and London.

This conference demonstrates that we and our allies are steadfast in our resolve to support Ukraine not just in the here and now but for the long term. With Ukraine and international partners, we are planting the seeds of Ukraine's future. Together with our allies, we will maintain support for Ukraine's defence and for the counteroffensive, and we will stand with Ukraine for as long as it takes as it continues to win this war. Putin cannot hope to outlast our resolve or the spirit of the Ukrainian people. I commend this Statement to the House."

7.05 pm

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, with the leave of the House, I shall now repeat a Statement made in the other place by my right honourable friend the Foreign Secretary on the situation in Russia. The Statement is as follows:

"The long-running feud, played out in public, between Yevgeny Prigozhin, with his Wagner Group, and the leaders of the Russian armed forces reached a peak over the weekend. On 10 June, Russia's deputy Defence Minister said that 'volunteers' fighting for Russia must

[Lord Ahmad of Wimbledon]
sign contracts with the Russian Ministry of Defence by 1 July. Prigozhin announced immediately that his personnel would refuse to do so.

We—along with many Members of this House, no doubt—had been following closely the open escalation of rhetoric from Prigozhin. Last Friday, he denounced Russia's military leadership, accusing them of bringing 'evil' on the country and of invading Ukraine for their own personal benefit. He drove a coach and horses through President Putin's case for war, saying: 'The war was needed for Shoigu to receive a hero star … The oligarchic clan that rules Russia needed the war'. Prigozhin added, and I stress that I quote him directly: 'The mentally ill scumbags decided: "It's OK, we'll throw in a few thousand more Russian men as cannon fodder. They'll die under artillery fire, but we'll get what we want"'.

In the early hours of Saturday, Wagner forces entered the city of Rostov-on-Don in southern Russia and Prigozhin announced that he would march on Moscow. This finally drew a response from Putin, who accused Prigozhin of an 'armed rebellion' and promised 'tough' action and punishment. Wagner troops promptly advanced more than 500 miles northwards towards Moscow, before Prigozhin abruptly called off his operation and announced that Wagner would return to its bases. Having condemned him as a traitor in the morning, Putin pardoned Prigozhin in the afternoon, when a Kremlin spokesman announced that no charges would be brought.

The Government, of course, consider that this is an internal Russian affair. Of course, the leadership of Russia is a matter exclusively for the Russian people, but everybody should note that one of Putin's protégés has publicly destroyed his case for the war in Ukraine. Prigozhin said on Friday that 'there was nothing out of the ordinary before 24 February 2022, the situation was frozen with exchanges of military action and vicious looting' by the Russian side. He also said that Russia's defence ministry is 'trying to deceive both the President and the nation … that there was incredible aggression from the Ukrainian side with NATO support ready to attack Russia'. The Russian Government's lies have been exposed by one of President Putin's own henchmen.

The full story of this weekend's events and their long-term effects will take some time to become clear, and it is not helpful to speculate. However, Prigozhin's rebellion is an unprecedented challenge to President Putin's authority and it is clear that cracks are emerging in Russian support for the war. I, of course, hold no candle for Prigozhin or his forces; they have committed atrocities in Ukraine and elsewhere. But he has said out loud what we have believed since the start of Russia's full-scale invasion: that this invasion was both unjustified and unprovoked. The events of this weekend are an unprecedented challenge to Putin's authority, with an armoured column approaching his own capital city.

As the situation unfolded, the Government monitored and responded to developments carefully. I was briefed on Friday evening and again regularly throughout the weekend by officials. On Saturday, I chaired a COBRA meeting on the situation. We have also been in close touch with our allies. On Saturday, I spoke to Secretary Blinken and my G7 colleagues, and I have been in touch with other regional partners. My right honourable friend the Prime Minister spoke to President Biden, President Macron and Chancellor Scholz on Saturday afternoon.

Despite these internal developments in Russia, Putin's bloody war in Ukraine continues. The Ukrainians fight for their survival, and our Ukrainian friends are mounting a determined counteroffensive and steadily clawing back their territory. We will not be distracted from our work to support Ukraine's self-defence and subsequent recovery. This weekend's events show that it is Ukraine and its partners, not Russia, that have the strategic patience and resolve to prevail. At last week's Ukraine Recovery Conference, we sent a clear message that we will stand with our Ukrainian friends not only as they resist Putin's onslaught, but in the subsequent peace. Now that Russia's leadership cannot justify this war even to each other, the only rightful course is for Putin to withdraw his troops and end this bloodshed now. I commend this Statement to the House."

My Lords, that concludes the Statement.

7.10 pm

Lord Collins of Highbury (Lab): My Lords, I thank the Minister for repeating that Statement and for including the previous Statement on the recovery conference. As my right honourable friend David Lammy said this afternoon in the other place, we should reiterate to Ukraine that all sides in Parliament are in for the long haul and that the UK will always support it in its fight for democracy over tyranny.

I commend the Foreign Secretary for hosting the Ukraine Recovery Conference in London last week, as a vital part of that process of the fight for democracy. In the Common's debate on the recovery conference Statement, my honourable friend Stephen Doughty referred to the extra funding for British International Investment, and noted that neither the BII nor its predecessor, the CDC, has had any recent experience of working in Ukraine. Can the Minister tell us exactly what the BII's role will be in Ukraine and when it will be expected to begin operations? What additional support and guidance will it be given in this vital work?

Since at least last October, the Government have indicated that they are in principle supportive of seizing Russian state assets to fund Ukraine's reconstruction. However, in the months since, no specific proposals have been forthcoming. Tomorrow, Labour will be strongly urging the Government to use the Summer Recess to draft legislation to repurpose sanctioned Russian state assets for Ukraine's reconstruction. Across the world, Governments are coming forward with legal proposals to use Russian state assets for this reconstruction. Last week, EU Commission President Ursula von der Leyen said the proceeds from the over €200 billion belonging to the central bank of Russia frozen in the EU will be used to pay for Ukraine's reconstruction, with a proposal arriving before the summer break. We have seen similar action in the US, with a bipartisan group of senators launching a Bill to seize and transfer Russian assets to Ukraine. I know that the Minister will not give a clear commitment, but

I hope he can say that the statements made before will be followed up with action and that we will be following our allies in this regard.

The conference Statement also referred to the support of businesses that have contributed monetarily to Ukraine's recovery and reconstructions. These donations are significant, but it is equally important that these businesses continue to operate and support the economy of Ukraine now. What steps are the Government taking with our allies to encourage global businesses to invest in Ukraine now? I hope the noble Lord can respond on that.

Turning to the events over the weekend and the Statement, we know that Prigozhin has been a long-time and close ally of Putin. His military company, the Wagner Group, started becoming involved in eastern Ukraine in 2014, and this weekend's developments will have ramifications beyond Ukraine in conflicts around the world where its militia army has been active. Is the FCDO actively monitoring whether there has been any significant change in the activity or location of Wagner militias? As the Minister knows, Labour has long called for its proscription as a terrorist organisation. Again, I know that he will not wish to make any determination tonight, but I hope that the department is very actively engaged in looking at this—again working with our allies.

The Opposition agree that it is not helpful to speculate about where all this will end up in the long term. Events are constantly shifting in size and shape. As Secretary Blinken has said, last February Russian forces were approaching Kyiv thinking that they would be able to capture the capital in just a few days; one year and four months on, Russia has had to defend Moscow from internal rebellion. As the Foreign Secretary said, what happens in Russia is a matter for Russia, but one thing remains completely certain: the security of our continent depends on Ukraine winning the war. I hope that, following discussions with Foreign Ministers, he is confident that Ukraine will get the military, economic, diplomatic and humanitarian support it needs in the coming months. I hope the noble Lord the Minister will also be able to reassure us that we will be reaching out beyond our current allies to ensure that all nations join us in the fight for this democracy and ensure that those who have maintained a neutral stance will see that recent events should change their mind. We must maintain the depth of support for Ukraine from the UK and its allies so that the Ukrainian people get the freedom and justice they deserve.

Lord Purvis of Tweed (LD): My Lords, from these Benches I also thank the Minister and the Foreign Secretary for the Statement he gave in the House of Commons. As the noble Lord, Lord Collins, said, the people of Ukraine will know that there is unanimity across all corners of the Chambers in our Parliament in our continuing support for their steadfastness. I also associate myself with the questions that the noble Lord, Lord Collins, asked regarding the reconstruction and recovery conference.

Notwithstanding the reports that the West's intelligence services may have known for a number of weeks that a move from the Wagner Group was imminent, or indeed that Russian intelligence services either knew about it and did not tell Putin or did not know about it themselves—we shall no doubt learn—the weekend's events were extraordinary to observe. As the Minister rightly said, they are at the very least a very significant counternarrative to the Putin regime's suggested reasons as to why the illegal invasion of Ukraine took place.

Secretary Blinken said yesterday that US officials spoke to their Russian counterparts at the weekend concerning the safety of US nationals. I am glad that the Statement referred to the fact that COBRA had been convened, but will the Minister inform us whether there has been direct communication with Russian officials by British officials to stress the need for the safety of British nationals within Russia? On a number of occasions the Minister has called for awareness by all British nationals within Russia for their own safety and security, but when there is chaos and internal division on the scale that we saw at the weekend this must heighten concern for all those British nationals who are living in Russia.

A strong Putin has clearly been a menace to UK interests; a weakened one is a real danger. Whatever the motive of the terrorist Prigozhin's actions, Putin's sovereignty as leader of his country is now doubted and his position is unquestionably weakened. As the noble Lord, Lord Collins, has highlighted, the jarring juxtaposition of his calculation that Ukraine would fall within 48 hours and his now having to operate defences for his own capital draws a stark contrast between the resilience of the Ukrainian people and the weakness of Putin's regime.

Given Putin's positioning on Belarus and the use of President Lukashenko as what an opposition leader has called a postman between him and Prigozhin, and the belligerent language on the position of nuclear weapons, it is even more important to ensure that dialogue restarts on the nuclear states and the posture that they all have.

Can the Minister reassure me that the UK will continue to seek dialogue from all nuclear powers? If a state with such a nuclear arsenal as Russia can be shaken by an internal mutiny of this scale, it must concern the entire world. I agree that there is little to be gained in speculation on what comes next, but as Ed Lucas said on Radio 4 yesterday in a very powerful interview, we must accelerate discussions on what may be a post-Putin scenario, because, as some observers have said, the situation would not necessarily be better. As obvious cracks exist in his leadership, and how deep and far they will go we do not yet know, one thing for certain is that things will not be the same. Prigozhin and Putin consider themselves masters of the dark arts, but they have both miscalculated, which could be a danger not only to Europe but to the wider international community.

I shall repeat what I have done every month since last February—to call for the proscription of the Wagner Group—but in the context of what seems to be now a clear approach to absorb Wagner into the Russian military, this is inevitably going to be much harder. What is the Government's assessment of the Wagner Group, whether it is now formally part of the Russian state and how it will operate in Africa? The Russian Foreign Minister said today, in perhaps

[Lord Purvis of Tweed]
classic threatening terms, that it will continue its role in Africa as "instructors". Can the Minister give an update with regards to our assessment from working with other partners in Africa on the likely implications of the impact of the Wagner Group?

Finally, I commend the Minister for his work, and that of Foreign Office officials working with our partners, in continuing discussions on the full-scale recovery and reconstruction of Ukraine, which will be necessary for the long term. Can he reassure the House that oversight, accountability and scrutiny in respect of some of the eye-watering sums that will be required for reconstruction are necessary, and that the Ukrainian Parliament, the Verkhovna Rada, representing its people, will be at the centre of ensuring that this reconstruction will be delivered in an accountable, transparent and efficient manner? If anything is clear, it is the unity of the Ukrainian people, led now by an increasingly transparent and efficient Government. That cannot be put at risk, because it is the clearest contrast with the instability and lack of consistency in the Russian forces. I hope that that is a lesson that we can learn from the conference, to ensure that the reconstruction is done in a clear and accountable way.

Lord Ahmad of Wimbledon (Con): My Lords, once again, I thank the noble Lords, Lord Collins and Lord Purvis, for their strong support of the Government's position. As my right honourable friend the Foreign Secretary said, this is not something we share just from the Dispatch Box. My right honourable friend and I myself when I have represented the UK Government in our meetings—specifically on reconstruction in the Council of Europe as well as in associate meetings with the European Union—have made it clear in any public demonstration of support for Ukraine that it is across the board, across both Houses and all parties, and we stand as one. That message has been very clearly and warmly received by our Ukrainian allies and partners.

In thanking noble Lords, I shall pick up on some of the key issues and areas that have been raised by them. The noble Lord, Lord Purvis, raised the important issue of transparency and ensuring that parliamentarians in Ukraine are also involved. It is right to have that kind of scrutiny that any Parliament should give to the Executive. In the case of President Zelensky, that was in his mandate. It seems a long time ago now, in 2019, when he took on the mandate as president, and that was one of his key priorities. I am sure that, as the war effort continues and as Ukraine sustains and strengthens its position, and ultimately as we look towards reconstruction, that will be a very valid role for the Ukrainian Parliament.

On the Ukrainian recovery conference, I thank both noble Lords for their strong support of the Government's efforts. There were more than 1,000 attendees—a mixture of private sector, where the aim was, but also countries at government and Foreign Minister level, and others. There was a broad level of attendance. Both noble Lords often ask me about the importance of civil society, and that was also present. Overall, there was a large sum. Although it was not a pledging conference, once you tot up all the commitments, there was about £60 billion in terms of support. There is the immediate shortfall, which was required. I pay tribute to our colleagues, including those in the European Union. Commissioner von der Leyen made it clear how that gap would be plugged—but that was just for the next 12 months. That shows the immediate need and, of course, the importance of ensuring that we are in it for the medium and long term. I assure the noble Lord, Lord Collins, that that is exactly the message that we are delivering to our Ukrainian friends.

On asset seizures, again, the noble Lord, Lord Collins, and I have talked about this very clearly and consistently. Of course, we are monitoring and working with our partners to ensure that those responsible, which is the Russian Government against the people of Ukraine, are held accountable. It is estimated that currently, because of the various seizures that we have had, circa £18 billion is held just under UK territorial control. We are looking at key options, since it is an important but complex area, to see how those assets can also be utilised—and, of course, we are working with our key partners. There has been new legislation enabling sanctions on Russia to be maintained until Moscow pays compensation to Ukraine. We are looking at the development of a route to allow sanctioned individuals to donate frozen funds to Ukrainian reconstruction and, under the Russia financial sanctions regime, new requirements for sanctioned individuals and entities to disclose assets that they hold in the UK, as well as new requirements for those holding assets in the UK on behalf of the Russian Central Bank, the Russian Ministry of Finance or, indeed, the Russian National Wealth Fund, to disclose them to the Treasury. These are all steps being taken forward to ensure a full assessment of the money that we hold so that that money can also be utilised towards the recovery.

The noble Lord, Lord Collins, asked a specific question about BII and its predecessor. First, I assure him that the level of investment in BII's core markets, which include Africa, south Asia, south-east Asia and the Caribbean, will not be affected by the Ukrainian mandate. That is important to recognise. However, the BII is working with key partners to ensure that its expertise in investing can also focus on Ukraine as well. BII has recently also signed an MoU with the European Bank for Reconstruction and Development to create the EBRD-G7 DFI-EDFI Ukraine investment platform, which will act as a basis for how we work through the BII.

On the issue of full support for the fight for democracy, noble Lords alluded to the widening of the alliance and ensuring that all the countries beyond the partners are involved. It is encouraging that, well beyond a year into the conflict, we have seen votes at the UN consistent with key countries across north Africa and, indeed, the Middle East, changing their position in support of Ukraine. We very much welcomed from the Middle East the first visit to Kyiv of Foreign Minister Prince Faisal, who also pledged one of the largest donations by any country in humanitarian relief. We will continue, as I did recently through my visit to the UAE, to strengthen and broaden the alliance, ensuring that we are in it for the long term, not just from the United Kingdom, US and European perspective but across the piece.

Undoubtedly, there are challenges being felt. The noble Lord, Lord Purvis, also raised the issue of Africa, which is an important partner. We are talking to them as to how the events over the weekend impacted their operations. We are of course monitoring very closely, and all agencies are on this. Of course, there is a limit to what I can share, but it is notable that, when African leaders were in Kyiv, even then Russia threw a missile at Kyiv. What was that supposed to achieve? The African leaders, including the president of South Africa, saw for themselves what was happening.

Finally, in the closing seconds of responding to Front-Bench contributions, I can say that I spoke to my noble friend Lady Goldie today, and we will look to arrange an appropriate briefing for key Peers from your Lordships' House. We regard highly the valuable insights that noble Lords bring to this debate.

7.30 pm

Lord Ricketts (CB): My Lords, I too congratulate the Government on the success of the reconstruction conference last week. The timing of that conference looks even more prescient this week than it did last week. The spectacle we saw last weekend must surely have shown the whole world that Putin is a weak, indecisive leader at the head of a corrupt and chaotic country. I completely agree with the Government that the leadership of Russia is something for the Russian people, but our business is to ensure that Ukraine grows in confidence and strength in the months ahead. In that context, will the Minister reassure us that the ambassadors in all those non-aligned states that sat on the fence at the time of the invasion of Ukraine can now be persuaded that this would be a very good time to come off that fence and give their support to Ukraine, with the aim of shortening Putin's war?

I have one final point. With the Vilnius summit of NATO coming up very shortly, will the Government be working to open up more the prospect of Ukraine joining NATO one day?

Lord Ahmad of Wimbledon (Con): My Lords, the noble Lord speaks with an extremely valuable insight into world events, and I thank him for his constant insights and advice, which are always welcome. I can give him the reassurances he seeks. We have been working diplomatically through the United Nations, and directly and bilaterally with key countries, particularly across south Asia, the Middle East and north Africa. Are we seeing results? Yes, of course. To give just one example, the UAE is an important partner of the United Kingdom for various reasons; most notably, we have seen the UAE's strong support at the UN Security Council. More recently, we have seen countries such as Morocco also change their position. I am not saying that there is not more work to be done, but clearly the diplomatic effort, along with all the other areas that we are working on, is seeing results.

NATO expansion is a matter for all NATO countries, but it is very clear from the applications we saw from Finland and Sweden that, even before the weekend's events, all countries now recognise that Russia is a real challenge to their security. However, it is very clear, and we have said it time and again in debates, that the Russian Government and military are themselves fragmented. Indeed, as it said in the Statement I repeated, we have seen through Yevgeny Prigozhin's own statements that he, as someone who has contributed to and directly supported the Russian war on Ukraine, is saying that they are fragmented. I think the next few hours, days and weeks will be an important determinant of what happens, but I make very clear, and I am sure all noble Lords agree, that our intent right from the start was Ukraine's security. As my right honourable friend the Foreign Secretary made clear, the implosion of Russia and its instability is to no one's benefit.

Baroness Fall (Con): My Lords, I welcome the recovery conference and congratulate the Government on it. One thing we can do to help Ukrainians right now is ensure that there is not a lost generation of young people who cannot return and be the future leaders of their country. Those under our care should be going to school; we owe them that education. How many under-18s are with us? Are they going to school? For those who are not going, what are we doing to make sure that they go? It was certainly an extraordinary weekend, but I have some worries. I echo the words of the noble Lord, Lord Purvis: we have a nuclear power at war with its neighbour and now a nuclear power that seems to be at war with itself. I hope that, as a member of NATO, we are having conversations about the situation, making sure that that arsenal is at least being monitored by NATO.

Lord Ahmad of Wimbledon (Con): On her second point, I assure my noble friend that we are of course working with key partners, NATO and the G7. We are all acutely aware and deeply concerned about the situation in Russia. As I said in my response to the noble Lord, Lord Ricketts, an unstable and imploding Russia is to no one's benefit. As I am sure my noble friend recalls, prior to the war starting in February, well over a year and a half ago, the Russians themselves regularly signed the NPT. They have signed up to it, yet here was an aggression by a P5 member, a nuclear power, a founding member of the United Nations, against another country. The challenge remains, both diplomatically and, importantly, around how we come together to face the overall threat. Indeed, we have seen President Putin himself at times suggest the use of some kind of tactical weapons. We need to keep a watchful eye on this and be very much in a state of readiness in every respect.

On my noble friend's first question, we have a long tradition of providing support and protection to many from across the world, and Ukraine is no exception. Well over 140,000 Ukrainians have come to the UK. My noble friend makes a very valid point about education and there being no lost generation. I know many are attending local schools. If there is further data to share, I will ask my colleagues in the appropriate department to share that with her.

Baroness Smith of Newnham (LD): My Lords, I do not think I heard the Minister respond to one of the questions from my noble friend Lord Purvis, which was about proscribing the Wagner Group. Like my noble friend, I have raised this issue in the past, and

[Baroness Smith of Newnham]
I know the standard Front Bench response is that we cannot talk about individual cases while they are being considered. But if not now, when? This is not just a question about personnel fighting the war in Ukraine on behalf of Russia; it is about activity in Africa, and it is about gold and about riches. Surely now is the time to proscribe the Wagner Group.

Lord Ahmad of Wimbledon (Con): My Lords, sometimes a non-answer contains the answer itself. The noble Baroness is correct that I cannot speculate about what may or may not happen. What is very clear, as we have said repeatedly from this Dispatch Box, is that the Wagner Group is a mercenary force. There is an irony here, in that the very mercenary force that sought to plug gaps across Africa and in Ukraine, and to provide its support in other parts of the world where there was great instability, is now acting against its own so-called master.

As to who was the master and who was not, that remains to be determined. We have seen inconsistent statements, including from the Russian Administration themselves—Mr Putin and Mr Lavrov—as to the connection with the Wagner Group. That has become more transparent with the exchange of words that has happened recently. I assure the noble Baroness that we keep all elements under consideration. When it comes to sanctions, a great number of the Wagner Group's members and the organisation as a whole are subject to sanctions. We always note what noble Lords say in this House and what honourable Members say in the other place, and it is very clear that the Wagner Group is no one's friend.

Baroness Falkner of Margravine (CB): My Lords, the noble Lord mentioned several times that he has been speaking to the UAE. Picking up the theme of the Liberal Democrat Benches, we know that the UAE has a very malign influence in aiding and abetting the financing of the Wagner Group's activities across a range of countries, not least in Africa. We also know that it has had the same malign influence in busting Iran's sanctions as well. The noble Lord, Lord Ricketts, raised the Government's approach to working with allies. When are we going to be able to have those candid conversations with countries that we consider our allies but that nevertheless, in the murky shadows of international finance, seem to defy all our interests?

My other brief question is on the investment conference. I applaud the efforts of the Government there, but can the Minister say when our London war risk insurance framework will become a little more substantive than just a framework, because the outcome of that on derisking measures to increase investor confidence was quite disappointing for Ukrainians?

Lord Ahmad of Wimbledon (Con): My Lords, I cannot agree with the noble Baroness in her depiction of our relationship with key partners, including the UAE. They are important partners and we have candid and constructive engagement with them, as I have done recently. The circumvention of sanctions has been an issue which has seized many noble Lords—I know the noble Lord, Lord Purvis, has repeatedly asked this question—and I assure the noble Baroness that we work directly, bilaterally and collectively to ensure that, in those areas where sanctions are being circumvented, those loopholes are focused upon and can be closed. It is to no one's benefit if there are indirect ways in which the Russian machinery can be financed.

I will look into what the noble Baroness said about inward investment, et cetera, but in our interactions with the Ukrainian authorities at the most senior level, and in my direct interactions, there has certainly been no reservation along the lines of what she is suggesting. However, if she has further details to share then I will of course look into them.

Lord Skidelsky (CB): My Lords, the noble Lord, Lord Purvis, made an important point about the importance of thinking about a post-Putin future. I have never thought that Putin either can or deserves to survive this adventure on which he has embarked, but I am interested in what is meant by such phrases as "withdraw his troops and end this bloodshed now", and a remark from the Labour Front Bench about the importance of "winning the war". What exactly do these things mean? It seems to me that the black box here is Crimea. Is it assumed that winning the war and withdrawing Russian forces means going back to 2014 frontiers and that that is the purpose of winning the war? If that is the case, what legitimacy do the Government expect a post-Putin Government to have in Russia? In other words, if this unjustified invasion ends in the complete defeat and humiliation of Russia, what prospects are there of a stable future for any successor Government in Russia?

Lord Ahmad of Wimbledon (Con): My Lords, I do not believe that I or any member of His Majesty's Government or His Majesty's Opposition have ever said that the end objective is instability and the implosion of Russia. I have stated very clearly that that is in no one's interest. When the Statement says that the war can be ended now, that is exactly what it means. Mr Putin can make that call to the Russian troops and to others, including the mercenary Wagner Group, if they are supporting them. Let him make that statement. A very clear peace plan has been articulated by President Zelensky and we have made it clear that, ultimately, that negotiation begins and ends with Ukraine. As allies and friends of Ukraine, we stand united in ensuring that those objectives are delivered.

There has been a consistent position. It is not often that I can quote His Majesty's Opposition, but we are very much at one on the end objective, as are the Liberal Democrat Benches. Both sides can speak for themselves, but it is a consistent position. The war can end now if Mr Putin withdraws his troops from the eastern Donbass and Crimea, which was illegally annexed. Ultimately, the return of all sovereign territories includes Crimea. However, that negotiation and peace process is ultimately the responsibility of Ukraine; as a partner and ally of Ukraine, we will be led by its objectives.

Baroness Helic (Con): My Lords, the potential destruction of the Zaporizhzhia nuclear plant, Europe's largest, which is currently occupied by Russia and reportedly mined, is deeply concerning. The Kremlin

has already used the plant to issue severe threats to Ukraine, raising the stakes in the region. Despite the efforts of the IAEA, negotiations with Russia to establish a safety perimeter around the plant have been unsuccessful. Does my noble friend agree that, after this weekend's drama, it is even more urgent to address this issue and that no effort should be spared to create a safety perimeter around the plant? What efforts are we making to ensure that this happens?

Lord Ahmad of Wimbledon (Con): I agree with my noble friend. As others have expressed, this weekend's events have made very clear the instability within Russia and the nuclear challenge, through both threats and that particular plant. We are looking at Zaporizhzhia's positioning and have seen the insecurity and instability around it. We continue to work directly to support the efforts of the International Atomic Energy Agency, and I know that my right honourable friend the Foreign Secretary has been speaking directly to Mr Grossi. From our perspective, which is led by the objectives of Ukraine, Russia must immediately restore full control of the ZNPP to the competent Ukrainian authorities and, on the issue raised by my noble friend, ultimately ensure that the IAEA has full access to all nuclear facilities to make sure that safety and security measures can be put in place. We welcome its recent confirmation that there is no immediate risk to the plant, but that is a moment in time; security and stability must be returned and the IAEA must be given unfettered access.

Baroness Bennett of Manor Castle (GP): My Lords, I offer Green support to the comments from both opposition Front Benches on support for the Ukrainians.

I will pick up the questions from the noble Lord, Lord Purvis of Tweed, and the noble Baroness, Lady Fall, on nuclear weapons. It was rather covered over by the weekend's events, but late last week some thinkers with very close links to President Putin, including Sergey Karaganov, chair of the Council on Foreign and Defense Policy, a think tank, and an adviser to Putin, were on the record as making a number of very concerning comments about the so-called need to lower the threshold for the use of nuclear weapons to win the Ukraine war. That was followed by our being reminded that we cannot know whose hands those nuclear weapons will be in next week, next month or next year. The Minister referred to the nuclear non-proliferation treaty. There is an immediate concern to understand what is happening with those nuclear weapons, but is real government thought also being put into the fact that the world cannot be safe until it has no nuclear weapons?

We want to focus on the Ukrainians as well, so I have a very specific question about the Ukraine Recovery Conference. There is no reference in the Statement to demining. We have seen reports recently of farmers, in particular, who have been forced to patch together their own demining machines from tractors and lorries and take it upon themselves to clear their fields so that they can let their cows out and plant their crops. Is the Minister confident that enough support is going into that demining effort? Will he either tell me more about it now or perhaps write to me on it?

Lord Ahmad of Wimbledon (Con): We have had different perspectives on nuclear weapons over history, but it is very clear that this instability in Russia, as several noble Lords have said, is to no one's benefit. The instability and insecurity of Russia lends itself to real concerns over nuclear weapons. I assure the noble Baroness, without going into further detail, that we are working with all our key allies and partners from an intelligence perspective and in other areas. We have seen statements by other concerned Governments, including China today, so I assure her that we are not just monitoring but keeping vigilant on this issue.

The noble Baroness talked about statements by those close to Mr Putin. Even more worrying is that Mr Putin has at times threatened the same, which lends itself to even deeper concerns over the issue. Events this weekend have only added to that deeper concern. It requires greater vigilance; we must ensure that we mitigate and take all the necessary actions that we can.

As I have stated repeatedly, it has never been the intention—nor should it be—to see instability within Russia. This instability has been perpetrated by Mr Putin; let us not forget what he has done to members of the valid Russian opposition. We have repeatedly seen sentences increased and he has suppressed the public protests that started when his illegal war against Ukraine took on new proportions through the invasion of east Ukraine.

On environmental issues more broadly, we are watching the impact of the dam, and the issue of demining is key. I mentioned in the Statement that some of the floating mines have come down the Dnipro river, but I can share with the noble Baroness that the HALO Trust, which we support and fund, has played a key role. It was represented at and spoke during one of the key panel sessions of the Ukraine Recovery Conference. I fully support the noble Baroness, in that I agree that mining has a direct impact on not only the long-term stability and security of the country but on its primary resource, agriculture. Let us not forget that half a billion people used to get grain from Ukraine, and it will take a long time before that is restored, even if the war were to end today.

Lung Cancer: Screening

Statement

7.51 pm

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Markham) (Con): My Lords, with the leave of the House I shall now repeat a Statement made earlier in the other place by my right honourable friend Steve Barclay, the Secretary of State.

"With permission, I would like to make a Statement on our national lung cancer screening programme for England. Around a quarter of patients who develop lung cancer are non-smokers. We all remember our much-missed friend and colleague, the former Member for Old Bexley and Sidcup, James Brokenshire. He campaigned tirelessly to promote lung cancer screening and was the first MP to raise a debate on this in Parliament. His wife Cathy is continuing the brilliant work that he started in partnership with the Roy Castle Lung Cancer Foundation.

[Lord Markham]

In 2018, after returning to work following his initial diagnosis and treatment, James told this House that the Government should commit to a national screening programme and use the pilot to support its implementation. As I am sure many colleagues in the Chamber will recall, he said:

'If we want to see a step change in survival rates—to see people living through rather than dying from lung cancer—now is the time to be bold.'—[*Official Report*, Commons, 26/4/18; col. 1136.]

Despite being a non-smoker, James knew that the biggest cause of lung cancer was smoking and that the most deprived communities had the highest number of smokers. That is why I am delighted that today the Prime Minister and I have announced targeted lung cancer screening programmes at a national level, building on our pilot, which will be targeted at those who smoke or have smoked in the past.

Lung cancer takes almost 35,000 lives across the UK every year—more than any other cancer. Often, patients do not have any discernible symptoms of lung cancer until it is well advanced; in fact, 40% of cases present at A&E. Since its launch in 2019, and even with the pandemic making screening more difficult, our pilot programme has already given 2,000 lung cancer patients in deprived English areas an earlier diagnosis. That matters because when cancer is caught at an early stage, NHS England states that patients are nearly 20 times more likely to get at least five years more of life to spend with their families.

We all know that smoking is the leading cause of lung cancer. It is responsible for almost three quarters of cases, and in deprived areas people are four times more likely to have smoked. We have deployed mobile lung trucks equipped with scanners to busy car parks in 43 deprived areas across England. Before the pandemic, patients from those areas had poor early diagnosis rates, with only a third of cases caught at stage one or two. To put that in context, while a majority of patients diagnosed at stage one and two get to spend at least five more years with their children and grandchildren, less than one in 20 of those diagnosed at stage four are as fortunate. Thanks to our targeted programme, three quarters of lung cancer cases in those communities are now caught at stage one and two.

Targeted lung cancer checks work. They provide a lifeline for thousands of families. We need to build on that progress, which is why we will expand the programme so that anyone in England between the ages of 55 and 74 who is at high risk of developing lung cancer will be eligible for free screening, following the UK National Screening Committee's recommendation that it will save lives. It will be the UK's first and Europe's second national lung cancer screening programme. If results match our existing screening—there is no reason to think that they will not—when fully implemented the programme will catch 8,000 to 9,000 people's lung cancer at an earlier stage each year. That means that each and every year around 16 people in every English constituency will be alive five years after their diagnosis who would not have been without the steps we are taking today. That means more Christmases or religious festivals with the whole family sitting around the table.

Alongside screening to detect conditions earlier, we are investing in technology to speed up diagnosis. We are investing £123 million in AI tools such as Veye Chest, which allows radiologists to review lung X-rays 40% faster. That means that suspicious X-rays are followed up sooner and patients begin treatment more quickly.

How will our lung cancer screening programme work? It will use GP records to identify current or ex-smokers between the ages of 55 and 74 who are at a high risk of developing lung cancer, assessed through telephone interviews. Anyone deemed high risk will be referred for a scan and will be invited for further scans every two years until they are 75.

Even if they are not deemed at high risk of lung cancer, every smoker who is assessed will be directed towards support for quitting because, despite smoking in England being at its lowest rate on record, tobacco remains the single largest cause of preventable death. By 2030, we want fewer than 5% of the population to smoke. That is why in April we announced a robust set of measures to help people ditch smoking for good, with one million smokers being encouraged to swap cigarettes for vapes in a world-first national scheme. All pregnant women will be offered financial incentives to stop smoking, and HMRC is cracking down on criminals who profit from selling counterfeit cigarettes on the black market.

The lung cancer screening programme has been a game changer for many patients: delivering earlier diagnoses, tackling health inequalities and saving lives. We are taking a similar approach to tackle obesity, the second biggest cause of cancer across the UK. The pilot we announced earlier this month will ensure that patients in England are at the front of the queue for innovative treatments by delivering them away from hospital in community settings. Together, this shows our direction of travel on prevention, which is focused on early detection of conditions through screening and better use of technology to speed up diagnosis and then treatment, because identifying and treating conditions early is best for patient outcomes and for ensuring a more sustainable NHS for the next 75 years. I commend this Statement to the House."

7.57 pm

Baroness Merron (Lab): My Lords, I thank the National Screening Committee for its work and welcome this Statement, which outlines the only response that makes any sense: the establishment of a national targeted lung cancer screening programme. I also pay tribute to the many individuals and organisations that have worked over many years for this, in particular the Roy Castle Lung Cancer Foundation, which, in addition to campaigning, has been delivering its own scans since 2016.

I very much wish to associate these Benches with the thoughts of the late and much-missed MP for Old Bexley and Sidcup, James Brokenshire. I acknowledge the work he did in bringing this cancer screening programme about, which was continued by his wife Cathy. This is a very fitting Statement with which to honour his memory.

There is no doubt that diagnosing more people earlier is absolutely crucial. This programme will certainly improve that, but it does have to go hand in hand with treatment that is available rather quicker than is currently

the case. The UK currently lags behind the European average for five-year survival rates for lung cancer. More broadly, since 2010, ever more cancer patients have waited longer than is safe to see a specialist. The target of 85% of patients to start treatment from initial GP referral within 62 days has not been met since 2015.

Can the Minister tell your Lordships' House whether this extension of screening will be matched by the necessary improvements in access to treatment? If the treatment programme is to be improved—as surely it must be—how will this be done, and when? Will it be new money or a diversion from existing resources that funds the programme and any associated improvements in treatment?

Turning to the areas where lung disease is most prevalent, notably those with the greatest deprivation and health inequality, can the Minister give an assurance that resources for the screening programme will continue to be targeted at the areas that need it most? With existing health structures already worse in these areas, how will they be improved to support the delivery of the lung cancer screening programme?

Despite the Government's support today, it has taken nearly nine months to act on the recommendation of the National Screening Committee, and there is now a timeline to reach 40% of the eligible population by March 2025, with full coverage by March 2030. Can the Minister say whether work is going on to hasten the timeline of this rollout?

The Health and Social Care Select Committee's report last year into cancer services concluded that a lack of serious effort on cancer workforce shortages risks a reversal in cancer survival rates. While we have been promised the NHS workforce plan this week, after many years of waiting, I note that the Government's press release had just one line on the workforce necessary to make the screening programme a reality, saying that additional radiographers are due to be appointed. Can the Minister assure the House that when we do get the workforce plan, it will address the major shortages that were outlined by the British Thoracic Society, whose report identifies workforce shortages as the main challenge in the provision of healthcare to those with lung conditions?

As the Minister rightly pointed out in the Statement, smoking is indeed the leading cause of cancer, causing 150 cancer cases every day and one person's death every five minutes due to smoking-related ill health. It is therefore important that alongside diagnosis, we work to stop people smoking in the first place and support those who do smoke to quit. Yet the number of people quitting has slumped since 2010 and smoking cessation services have been cut. Can the Minister confirm when we will get the awaited Government response to the review of tobacco control policies, led by Dr Javed Khan?

It is not only smokers who have lung cancer and other lung conditions. The context in which all of this takes place is a range of other factors in addition to smoke and smoking, and that includes air quality. It would be helpful if the Minister indicated what is being done to tackle these broader challenges. Furthermore, it is not the diagnosis of lung cancer only that will improve through the screening programme, but also that of conditions such as cystic fibrosis. What expectation does the Minister have in this regard?

My Lords, I am sure we all want to see this national, targeted lung cancer screening programme save lives, and I hope the Minister can give the reassurances I seek today.

Lord Allan of Hallam (LD): My Lords, I would like to follow the noble Baroness, Lady Merron, in welcoming the Government's acceptance of the National Screening Committee's recommendation to introduce a targeted lung cancer screening programme, and echo her tribute to the late James Brokenshire, whom I dealt with in a previous capacity when he was a Minister advocating for child safety online. I found him to be very effective; a firm Minister who was also very pleasant to deal with—the most effective model for all of us.

The new programme is especially welcome as a step towards addressing the glaring health inequalities we face in the United Kingdom. I hope the Minister will reassure us that sufficient data will be collected in order to understand whether it is having the kind of impact the Government intend, as he outlined in the Statement.

I hope the Minister can also provide more information about how it can be delivered, given that we already have dire shortages in capacity to deliver diagnostic tests. This shortfall is reflected in today's report from the King's Fund, which shows a serious gap in CT and MRI scanner capacity between the UK and comparable countries. When can we expect to see investment from the Government in additional scanners, to bring us up to something more like the international mean? As well as the lack of machines, we do not have sufficient people to operate them or to assess the test results. I invite the Minister to refresh his formula for when we may see the long-awaited NHS workforce plan, including the element that relates to radiologists, perhaps updating it from "shortly" to "in the next week", as it surely has to come before the 75th anniversary of the NHS on 5 July.

The concern we continually have with announcements of new services by the NHS in the current context is that they will come at the expense of existing services; the noble Baroness, Lady Merron, also referred to this. I believe this is a rational and reasonable concern to have, given the evidence of missed targets and unacceptable wait times that is all around us. I hope the Minister can give us further assurances that, as the Government will the end of catching more cancers earlier, they will also be willing to will the means to deliver on this promise.

Anyone with eyes in their head can see that vaping is being cynically promoted to young teenagers; it is all around us in high street shops and in the evidence from the litter around schools. The Statement refers to the role of vaping as a tool to help existing smokers give up their harmful habit, but there is increasing evidence that vaping is creating new nicotine addicts, with associated risks. The Australian Government have found that young people who vape are three times as likely to take up smoking, and they have plans to bring

[Lord Allan of Hallam]
in a range of measures to suppress vaping among young non-smokers. Can the Minister explain what assessment the UK Government have made of the Australian evidence of vaping leading to higher smoking prevalence among young people, and are the UK Government considering similar measures to reduce vaping use here? It took us five years to follow Australia in introducing plain packaging for cigarettes. I hope we can follow faster here, on vaping.

The new screening programme is welcome, but it must be properly resourced with both machines and people. I hope the Minister can give us some insights into how that will happen, and at the same time explain what action the Government intend to take to reduce vaping among non-smokers, so that we do not end up creating a new wave of people who are at risk of lung cancer.

Lord Markham (Con): I will start with a small correction to the Statement. It should have said:

"We are investing £123 million in AI tools such as Veye Chest, which allows radiologists to review lung"

scans, not X-rays. I do not whether the etiquette is that I should have said that during the Statement. I repeated the Statement verbatim because I was told I should, but the correct word is "scans".

I thank both the noble Baroness and the noble Lord for their comments and support. I too had the pleasure of working with James Brokenshire, and I realise what an effective and kind person he was. Like others, I am delighted that we are making these positive steps today and welcome the constructive and supportive comments.

Regarding trying to show that we are matching the will with the means on MRI scanners, that is exactly what the 100-plus CDCs are all about. It is a recognition that we do not have the same diagnostic capability, as highlighted by the King's Fund report. That is what the investment in those centres is all about. My understanding is that about four million tests have already been done, so we are looking to match that. We will need 184 radiographers and 75 radiologists to do this work, but the other big support will be the use of AI. We are seeing some promising technology, which will help to a large degree. I am glad to say that a lot of this will be set out in the long-term workforce plan in the coming days—a new formulation. In other words, pretty soon.

In terms of the comments about screening being targeted at those most in need, that is where I have been most pleased by the pilots. Use of the mobile trucks really made a difference in those areas most in need. It really made a difference in the most deprived areas, which, as the noble Baroness, Lady Merron, mentioned, have higher levels of smoking. I am glad that it is targeting those areas.

Can we work to hasten the timetable? I think we would all like to but what we are trying to do here is to put down plans that we are confident we can hit. To answer the money question, it is £1 billion of extra investment during that time and that increases over time so that by the end it is about £270 million extra per annum.

What does that mean in terms of the Dr Khan responses? As I mentioned, we are committed to the smoking cessation results. As part of that we are considering all the points in the Khan review. I think we all accept that vaping is much better than smoking. We are very much trying to encourage vaping over smoking. But you have to be careful of the side-effects of that. As we have seen, vaping can be used in a somewhat cynical way—to borrow the phrase—with young people. More work undoubtedly needs to be done in that space but it is recognised that there needs to be a balance. I think I will need to come back in writing on air quality and cystic fibrosis.

I have tried to cover the points at this stage and look forward to further questions.

8.13 pm

Baroness Bennett of Manor Castle (GP): My Lords, I have two questions. My first question is about the timeframe and the role of GPs. The Statement says that, using GP records, current and ex-smokers aged 55 to 74 will be assessed by telephone interviews. Will that require resources from GPs? We all know that there are many different computer systems so where are the resources going to come from? Specifically on GPs, I can well imagine at many GP surgeries tomorrow morning at that terrible time of 8.30 am as everyone frantically tries to hit the dial button that a lot of people will be asking for a scan. Have GPs been equipped to handle that? Do they know what to say and how to manage that kind of scenario?

My other question follows on from the questions about the Khan review. That said that we are grossly underfunding things. Mass media campaigns in particular are funded at 90% under what is needed, while other services are about 50% underfunded. Surely we have to stop these cases happening. Can we see a commitment from the Government within some sort of timeframe to say that we are going to put more money into this?

Lord Markham (Con): I thank the noble Baroness. In terms of identifying the smokers, the telephone is just one way of doing it. The hope is that using the digital data and the app means that more of these things will be on people's records and identified with them. As ever with these things, electronic means will be the best way to do that, albeit those telephone resources in terms of supporting the GPs are very much part of the plan. It is understood that GPs have a large burden at the moment.

There is not a lot more to add about the Khan review. The ambition is still there to be smoke-free by 2035 and investment has gone behind that. The best example of that, as has been mentioned, is people swapping cigarettes for vapes as one means to do it. Undoubtedly, a lot more needs to be done in that direction as well.

Lord Kennedy of Southwark (Lab Co-op): My Lords, I join noble Lords in paying tribute to James Brokenshire. I met him a few times, and it was a tragedy when he lost his life after a brave fight. I also pay tribute to the work his wife continues to do in his name.

This progress is to be welcomed, but can I say—if nobody else is going to come in—that cancer takes many forms? One area of cancer where we need to make much more progress is that of brain tumours and glioblastomas. We all remember our dear friend Tessa Jowell, who died on 12 May 2018 of a brain tumour. My brother John was a cab driver. Many people would not know my brother; he was just a cheeky, funny London cab driver who had a view on everything and who was loved by his family. He died on 26 March this year at 57, having fought a brain tumour for nearly three years. Our dear friend Baroness McDonagh was mentioned in the other place today. She died on 24 June at 61. She was my friend for 42 years; I met her when I was 18.

It is devastating. There has been no progress in this area of cancer treatment. There are quite clear inequalities, partly because only about 3,500 people a year get glioblastomas, so there are not huge numbers. There is no research, no trials and no hope—it is a death sentence. That cannot continue. We are no further than we were 30 years ago in this area. What happened today is brilliant, and I think there is now an 85% survival rate for breast cancer and that the rate for bowel cancer is 55%. However, brain tumours are virtually a death sentence. We have to improve that. It is an outrage that people can die so young from them and that there is no hope.

I do not expect an answer from the Minister today; I just want to put down a marker that I and other colleagues here and in the other place will keep mentioning this. I refer all colleagues here to the wonderful speech made by my honourable friend Siobhain McDonagh MP—my friend Margaret's sister—when she talked about her sister and the treatment she had to undergo. I saw Margaret about three or four days before she died; it is a real tragedy, as is my brother's case. I hope we can all work together and with the cancer charities, and that we can get some research done, put some money in and improve the situation. It cannot carry on.

Lord Markham (Con): I thank the noble Lord, Lord Kennedy, and I am sorry for the loss of his brother. I agree with his sentiment that while this is good news today and is welcomed by all, it shows that this is a journey and that we need to do more in lots more areas. I take on that point and say, from our point of view, that we agree that we must work together to make further progress.

Baroness Merron (Lab): Could I give the Minister another opportunity to pick up on the key point I raised? We very much welcome the improved diagnosis rates—and my noble friend Lord Kennedy makes a very pertinent point that, of course, we are talking not just about one cancer. I thank him for sharing his views and feelings with your Lordships' House. That takes me to my reminder to the Minister: I asked about matching improvements in diagnosis with improved access to treatment; otherwise, we are leaving people diagnosed but not matching it by giving them the treatment they need in a timely manner. Could the Minister assist with that point?

Lord Markham (Con): I am sorry; I was answering in a generic format in terms of the new CDCs. The noble Baroness is quite right that diagnosis is one thing—and we all know that the early stages are key—but you then have to follow that up with treatment. Of course, the good news is that if you can detect cancer in people at the earlier stages, they need less treatment. The resources I mentioned, in terms of what is being spent on the programme, take into account the treatment required as well.

Of the people being identified at this stage, only 1.4% from the pilot were then positive and needed treatment, thankfully. Obviously, those resources are in place. There is a second interesting category of people—about 17% or so—who are fine but we want to make sure that what has been noticed is in an okay state.

I am going to grab my notes to make sure I am referring exactly to the right term at this stage. I apologise; about 1.7% have nodules, which is not a problem per se, but it is a problem if those are growing. The idea is that we will be getting those people back in for frequent scans on a three- to six-monthly basis and using AI technology to see whether or not the nodules are growing. If they are not growing, it is not a problem, but we then keep up the frequency of scans. Obviously, if they are growing, that would be a concern at the early stages, and that would then move them into the treatment category.

The other 80% or so of people fortunately will not have any concerns from the scan at all. At that stage, they will be put into this continual programme, where they will be reviewed every couple of years to make sure that we keep on top of it. I hope that this shows that this is a well thought-out, entwined service, with the idea being that for the 1.4% who are identified as needing cancer treatment, the treatment is there to back them up.

Financial Services and Markets Bill

Returned from the Commons

8.23 pm

The Bill was returned from the Commons with amendments and a reason.

House adjourned at 8.23 pm.

Grand Committee

Monday 26 June 2023

Arrangement of Business

Announcement

3.45 pm

The Deputy Chairman of Committees (Lord Haskel) (Lab): My Lords, if there is a Division in the Chamber while we are sitting, the Committee will adjourn as soon as the Division Bells ring and resume after 10 minutes.

Sentencing Act 2020 (Special Procedures for Community and Suspended Sentence Orders) Regulations 2023

Motion to Take Note

3.45 pm

Moved by ***Lord Ponsonby of Shulbrede***

That the Grand Committee takes note of the Sentencing Act 2020 (Special Procedures for Community and Suspended Sentence Orders) Regulations 2023 (SI 2023/559).

Relevant document: 43rd Report from the Secondary Legislation Scrutiny Committee (special attention drawn to the instrument)

Lord Ponsonby of Shulbrede (Lab): My Lords, these regulations introduce pilots of an intensive oversight system for certain less serious offenders. The Explanatory Memorandum states that,

"this legislation is expected to: improve judicial confidence in the sentencing system, increase offender compliance, reduce reoffending and reduce the use of custody".

The regulations will come into force on Monday 26 June.

In July 2022 three sites were selected with the approval of the senior presiding judge and the Secretary of State. Substance misuse ISC pilots will be established in Teesside Crown Court and Liverpool Crown Court, and the women's ISC will be piloted in Birmingham magistrates' court. It needs to be remembered that, in the sentencing White Paper 2020, the Government committed to pilot a problem-solving approach, which is essentially what this is, in up to five courts in England and Wales. It is regrettable that they are now committing to only three.

The Ministry of Justice describes ISCs as a "problem-solving approach" to offender management, in which those receiving some community and suspended sentences have regular contact with a multidisciplinary team including the judiciary, health professionals, police and probation officers and specialist support in relation to housing, education and skills. Local authorities will reportedly be a key part of the team in ISCs.

ISCs will seek to address an offender's induvial needs, such as substance misuse, housing and education, with the ultimate aims including reducing reoffending and the use of custody. Judges and magistrates will oversee the process and be able to incentivise good progress, such as by relaxing conditions, while sanctioning behaviour that fails to meet agreed standards by increasing drug testing, court reviews and periods in prison, for example.

It is worth putting this in an international context. According to the Centre for Social Justice, there are more than 3,000 problem-solving courts in the United States of America and Canada, and the model has spread across the world, notably to Australia, New Zealand, Ireland, Norway and Belgium. The US was an early adopter, with examples including the Miami drug court, which was established in 1989, the New York Midtown Community Court, established in 1993, and the Red Hook Community Justice Center, established in 2000.

International evaluations have variously highlighted improvements in offender compliance with court sanctions, greater levels of offender accountability and improved collaboration with external agencies. Despite its international appeal, problem-solving justice has had limited uptake in England and Wales. Although a handful of problem-solving community courts were established as pilots during the mid-2000s, their evaluations, while important, cannot be generalised, and successive Governments have been unwilling to invest further in an approach that is lacking "credible data".

Although advocates continue to argue that problem solving should be better mainstreamed in the criminal justice system of England and Wales, their arguments are sometimes based on the fact that the model has great potential rather than a proven track record in reducing reoffending rates.

I will list some of the challenges I see with this model, the first of which is administration. To achieve consistency of the Bench, which is a core requirement of the ISC model, the current system for court listings and rotas would need to be amended to enable the same person—or group of people, if they are magistrates—to sit on the same case. The current system allows for drug courts, so there is no reason why this method could not be utilised more widely, but it would require HMCTS to change its systems.

The second challenge is effectiveness. To date, no evaluation has been published of the Manchester women's problem-solving court, and the evaluation of the Aberdeen court was also limited. This is a big issue, and something the ISC pilots will need to address. Previous evaluations, such as those of the Liverpool community court and the Salford problem-solving court, found that there was no difference in rates of reoffending between those who went through the problem-solving stream and those who did not.

My experience of the drug court at Hammersmith magistrates' court was that the magistrates—which I was at the time—had to sit on a separate rota. That rota was discontinued after a number of years because the Ministry of Justice, as I understood it, was unable to demonstrate that there was a reduction in reoffending by offenders through this separate rota approach. At the time, this was a disappointment and frustration to me and my colleagues because the data had not been gathered to make an informed assessment of the approach. Since it could not be proven that it worked, it was discontinued. However, that was not assessment of data which had been gathered; the data simply had not been gathered.

The next challenge is the importance of a collaborative approach. As the Minister will know, there is currently a postcode lottery of specialist services, which is an

[Lord Ponsonby of Shulbrede]
obstacle to the ISC vision. There were hours of oral evidence at the recent Lords' Select Committee on this very topic, and the Chief Inspector of Probation raised it with the Select Committee a few weeks ago. Without the necessary agencies to create the holistic, multiagency scaffolding required to support people in the community, a specialist order is very difficult to put in place in practice. The backlogs from the pandemic mean that offenders are still unable to access specialist support services in some areas of the country. The lack of specialist services, including proper buy-in from the Probation Service, will have an impact on sentencer confidence.

A further challenge is appropriate training. Any expansion of the problem-solving model would certainly require investment in training opportunities, which is of particular concern to magistrates who have seen their Judicial College and HMCTS training budgets slashed. Budget issues notwithstanding, I am sure that many magistrates and judges would like to sit on these types of courts and use the additional skill of building an appropriate relationship over a period of time to try to discourage reoffending.

Although, as I understand it, this issue was not raised by magistrates or judges, most practitioners—probation officers, as well as keyworkers or other support services—have expressed concern that the model should not be used as a route to up-tariffing in the name of helping people, whereby people would be given a longer sentence than they might have otherwise got because of the help available. Their professional experience was that many people struggle to juggle the many elements of their orders with different appointments and things like that. The concern expressed by these professionals, such as those in the Probation Service, is that, given the chaotic and complex nature of their lives, you could, potentially, set people up to fail. The problem-solving model should not be touted as the universal answer for all people serving community orders, and suitable holistic support should continue to be provided for those who would not respond positively to additional court reviews.

To be clear, I support and welcome this model, but I have raised my concerns to make sure that we go into these pilots with our eyes open about the potential pitfalls. It is disappointing that no new money is being committed to these pilots and that the scope of the pilot schemes has been reduced. Nevertheless, intuitively, it sounds like a good model. I support it, but it needs to be underscored and supported with sufficiently robust data collection so that a realistic assessment can be made for its potential future extension. I beg to move.

Lord Jackson of Peterborough (Con): My Lords, I shall speak briefly on this statutory instrument. I have always taken an interest in the criminal justice system and have taken the view that, if you are to impose relatively draconian sentences on some prisoners, you should at least also give them an opportunity for redemption and to improve and turn around their lives for the benefit of their families, not least, and the wider community. In the other place, I strongly supported the coalition Government's rehabilitation of offenders Act 2012, which I thought was a brilliant piece of legislation, in that, hitherto, "low-level" prisoners were discharged from prison and forgotten, and they very quickly got into the clutches of drug dealers and others. It goes without saying and is axiomatic that drugs have a huge negative impact on our communities.

I shall elucidate some of the points that the noble Lord made. I was slightly disappointed that the Explanatory Memorandum that accompanies this instrument is not more detailed. I find it quite odd that the analysis of the work of the Liverpool community court should come up with the statistics referenced by the noble Lord. It is very important to interrogate why that was and why there was no demonstrable difference between recidivism in that court's area, compared with more traditional courts.

Obviously, another issue is money. If you are going to establish a pathfinder scheme in order to keep people out of the prison estate and give them a chance to turn their lives around, and have a multidisciplinary approach with adult social care, children's services, the police, et cetera, you need to spend the money. I am not someone who always calls for tax rises but, for the long run, you need to spend the money on this bespoke project, and you probably need more than three projects. It is disappointing that only three projects were allocated under the auspices of these regulations, because the excellent White Paper published in 2020 alluded to the possibility of five or more projects.

The Government may have missed a trick in not allowing a wider degree of public consultation in the design and review of these pilot schemes. I understand that they have to be expedited and that the Government have to move rapidly in order to put processes in place, but there is an awful lot of experience, knowledge and skills in the third sector and civil society, which could have been brought to bear in assisting the Government in developing these schemes. The Opposition spokesman mentioned Manchester and Salford. Lots of people have been involved and will have real-world experience.

My final point is on analysis and evaluation. It is frankly scandalous if we are really looking at a comprehensive evaluation taking another four years. I understand that you have to look at reoffending rates at the end of a period, but we already have a small cohort in this study; to wait another four years, which would be half way through the next Parliament and Government, for us to make a value judgment on its success or otherwise would let down taxpayers. On that basis, Ministers would perhaps be wise to look again at the efficacy of such a long-running period.

4 pm

Broadly speaking, my view is not a million miles away from that of the noble Lord. In many respects, this is a lost opportunity—it could have been better. Ministers might want to go back and look again, because this is potentially a good-news project that would reflect well on the Government. It is cross-party, and I think any future Labour Government would take it on and probably expand it. I support it, but we probably could have done a little better.

Lord Beith (LD): My Lords, I am grateful to the noble Lord, Lord Ponsonby of Shulbrede, for initiating this debate. I welcome his contribution and that of the

noble Lord, Lord Jackson. I am not a million miles from either of their views either, but I emphasise that I value the progress that we are making with the three courts on the aims of the White Paper. I want to give it a fair wind, because we need to carry out these experiments.

I share some of the reservations of the Secondary Legislation Scrutiny Committee about some of the problems: the inadequacy of the Explanatory Memorandum; the failure to identify the resources that are needed, which are spread across government, so this is a pretty important question; and the failure to set out a systematic means of evaluation. What is the point in an experiment if you do not evaluate it properly and independently? Those who operated the experiment should not be the judges of its success.

I have a long-term interest in the development of problem-solving courts as an alternative to periods of imprisonment for some offenders—periods of imprisonment that did nothing to change the lives of such offenders. When I was chair of the Justice Committee in the Commons, I had the opportunity to visit a number of such courts, including the North Liverpool Community Justice Centre. Why do we not have a proper evaluation of that yet? The noble Lord, Lord Jackson, mentioned that point. Reoffending rates alone do not explain why the full potential of that experiment was not realised. I could see certain things that were working well when I looked at it, including the access it gave offenders to services that they needed and that are physically located within the court complex. When a judge can send an offender off to someone who can provide an addiction service or help them with their housing problem, it facilitates progress towards an orderly life for people whose lives are chaotic. We need to know what was lacking or what more could have been done to make that experiment more successful.

I also observed the Red Hook court in New York and problem-solving courts in Seattle; Portland, Oregon; and Houston, Texas. Texas was really interesting, because Republicans and Democrats there both agreed that they were wasting the taxpayer's dollar on periods of imprisonment for people whose lives were not being changed by that imprisonment. The political divide fell away as the two parties and the wings of those parties agreed that the taxpayer's dollar should be used for something that might work better. Hence there was a real political investment in developing problem-solving courts.

In observing these various courts, I was struck by some general points that proved important. One I have already mentioned: access to services—such as addiction treatment, housing, education and employment—which offenders had found it difficult to access or had not even tried to access before they were convicted. That is crucial.

The second is a review process overseen by the same judge, who often became an important authority figure in offenders' lives and had a capacity to hold them to account for the changes that they needed to make in their lives.

A feature that is not attempted in these proposals—I have some doubts about it, but it was interesting to observe it in Texas—is a court-room full of other offenders, who would applaud an offender who had got a clean bill of health, because he was clean of drugs and had not reoffended since the last time he came before the judge. All the people waiting for their cases to be heard would clap at that point and give him encouragement. Of course, if the reverse was true and the offender had failed, they might be sympathetic, but the Texas marshals were there to take the offender away for imprisonment, which was the consequence of not keeping up with requirements that the judge had set. The cultivation of a common feeling of "let's try to make this work and change our lives" was really valuable.

Today, we are authorising more limited experiments in two courts for men and one for women. They will not deliver improvement unless there are adequate resources available from the Ministry of Justice through the Probation and Courts Services. Then, of course, there is the hope of an eventual shift in resources from prisons to probation, for example, but also from a wide range of other departments that will need to become involved in offenders' lives if we are going to try to change them; that includes housing, education and health services.

All this is taking place against a background of declining confidence in the courts in community sentences. I sit on the House of Lords Justice and Home Affairs Committee, which, as the noble Lord, Lord Ponsonby, pointed out, is currently carrying out an inquiry. There has been a lot of public evidence already indicating that, as a proportion of sentences, there is a decline in the use of community sentences; this suggests a lack of judicial confidence in them. That must change; it needs to change for the system as a whole, but it certainly needs to change in the context of these three courts.

This is potentially an important and valuable experiment. As well as the resourcing and valuation issues that I have mentioned, it will need judicial continuity, with the same judge dealing with individuals over the period of their sentence. It will also need confidence to be built in the quality of community sentencing, addiction services and other services. The courts need to be better informed about what services are available and how good and reliable they are, as well as how appropriate they are to the kind of offender that they may want to attach to them. It will place considerable requirements on the Probation Service, which is seriously overstretched at the moment throughout the country, and will pose challenges for local authorities, the health service and other providers of services. However, we need to do it and I wish it well. We need an effective alternative to expensive, ineffective prison sentences for some offenders.

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bellamy) (Con): My Lords, I am extremely grateful to all noble Lords who have contributed to this debate in such a constructive and thoughtful way. I am particularly grateful to the noble Lord, Lord Ponsonby, whose Motion gave rise to it.

First, I will briefly address the concerns raised, notably by the noble Lord, Lord Beith, about the Explanatory Memorandum. I am happy to acknowledge that, in this case, the Explanatory Memorandum was

[Lord Bellamy]
somewhat thin and did not meet the required standard. My officials have, I think, been able to provide answers to the committee's satisfaction. We are working to ensure that future memoranda do not encounter a similar problem. Internal training is being undertaken and we will shortly have a meeting with the clerk of the relevant committee to understand what its requirements are. I hope that these various measures will deal with the problem, but I apologise for the fact that the committee felt it necessary to draw the House's attention to this statutory instrument.

Let me explain briefly some of the background to this instrument; I hope also to deal with the points that have been raised. We are piloting three ISCs: two are focused on offenders with substance misuse and one is focused on female offenders. I place particular importance on the female offender court, which is at magistrates' level in Birmingham. To take one particular point, in the earlier sentencing White Paper of 2020, the Government committed to piloting up to five schemes; we did not commit to five or more, I think. It is partly a question of resource, but the view has been taken that we should try to do three properly now rather than risk spreading resource too thinly; of course, that leaves open the possibility of the programme being expanded later if it is successful, but I hope that this is a solid and important start. I am glad to hear that, in general, noble Lords welcome this step forward.

I mention, I hope relevantly, four particular features of the programme. The first is close judicial monitoring by the same judge. The noble Lord, Lord Ponsonby, my noble friend Lord Jackson and, I think, the noble Lord, Lord Beith, raised the importance of continuity from a judicial point of view; it is crucial. I am sure that the MoJ will take away that point—it was made very forcefully by your Lordships, who collectively represent a wealth of experience in this area—and ensure that it happens. That is indeed a mainstay of the proposal.

The second feature is a particular emphasis on continuity and personal probation supervision so that there is always that particular continuity. As has been explained to me—to my personal satisfaction, I must say—it is in this respect something of a return to the old system of probation, whereby you had one probation officer who looked after you, took you all the way through the court process and was in direct touch with the judge, rather than there being, as I understand has happened to some extent in recent times, a sort of split within the Probation Service between the court team that prepares the reports and the supervisors who are out in the community, with a certain lack of communication in that process. It is very important that there should be the continuity of a single probation officer. Of course, at the same time—this is one of the reasons why the experiment is perhaps not as expansive as it might be—you do need to fully involve local authorities, other support services and so forth. We need to be sure that agencies have, as it were, signed up to and bought into the whole process for it to work.

For the substance misuse course, we have a requirement for regular drug testing so that, if there is a risk of someone falling back into such misuse, it will be picked up early.

Fourthly, as the noble Lord, Lord Ponsonby, said, there is not exactly a mixture of carrot and stick but the possibility of imposing sanctions on offenders if they are clearly not observing the rules in a way that merits a sanction.

Your Lordships know the sequence of events. There was a sentencing White Paper in 2020, then there was the 2022 Act and now there are the pilots. The ministry did not exactly invite bids but sought to explore which areas of the country would be interested in undertaking this work. I have to say, the response was not exactly overwhelming because, at the time, the courts were preoccupied with the backlog and after-effects of Covid and all those issues. So we do not, from that point of view, start from a particularly propitious situation. None the less, on each site, a local level, multiagency team has worked together, including the judiciary, probation, the police, the police and crime commissioner, the local authority, third-sector organisations and, of course, MoJ officials.

Lord Jackson of Peterborough (Con): Will my noble and learned friend the Minister put on record the continuing support and importance of chaplaincy—both potentially in these schemes and in the wider prison estate—which, to my mind, is an integral part of supporting prisoners as they move away from crime and take their place in society?

Lord Bellamy (Con): I am very happy to give my noble friend Lord Jackson that assurance. The Ministry of Justice and the Government share his view that effective chaplaincy is very important and part of the wider holistic approach to dealing with offenders.

The Deputy Chairman of Committees (Lord Haskel) (Lab): My Lords, there is a Division in the House. The Committee stands adjourned for 10 minutes.

4.15 pm

Sitting suspended for a Division in the House.

4.25 pm

Lord Bellamy (Con): My Lords, I was explaining the work with local multiagency teams to make sure that we are delivering a model and a system that will work with a ring-fenced probation resource and a judiciary that will engage in intensive supervision and provide the continuity that has been lacking so far. As I say, this resulted from the sentencing White Paper of 2020 and the 2022 Act.

Against that background, I will take up at least some of the main points raised in the debate by noble Lords. As I say, we have sought to concentrate on what is within our ability to deliver, which is why we have gone for three courts instead of five. There may well be further opportunities to expand that in the future.

It is certainly true that there is an international context, to which attention was rightly drawn. Over the years, it has been difficult to pinpoint exactly how successful some of those international experiments were or are. I regret to say that there was not a full follow-up to the Liverpool experiment of some years ago, so we do not have the data, which is why the evaluation process is so important. All noble Lords

referred—and the noble Lord, Lord Ponsonby, and my noble friend Lord Jackson specifically referred—to the importance of evaluation.

There will be an interim process evaluation report next year—2024—a further evaluation report in 2025 and yet a further impact evaluation in 2027. The reason for the further impact evaluation in 2027 is to allow time to give an assessment of the reoffending rate because we want to be sure—or to have some information on—whether people have managed to stay on the straight and narrow for two or three years. That is why the 2027 date is in the evaluation.

There will be a continual process of assessment as we go along. There are governance boards across the three sites to enable local partners and the MoJ to review progress on an ongoing basis, so evaluation is critical to the success of this experiment. It is fair to add that one of the encouraging features in a parallel context, at least in some areas, is the relative success of the FDACs—family drug and alcohol courts. That parallel example is slowly catching on because, unlike this process, they involve very considerable dedication of resources by local authorities and it is has taken them a little while to buy in to the idea, particularly in some parts of the north of England.

Lord Beith (LD): Will the Ministry of Justice be marking its own homework, or will we have some kind of independent basis for the evaluation?

Lord Bellamy (Con): At the moment, the evaluation is an MoJ evaluation, as far as I know. I am sure that we can build in stakeholders. This is not exactly the MoJ's homework, because the MoJ is not active in doing this; it is judges, the Probation Service, local authorities and so forth. I am sure that if your Lordships attach importance to some objective, third-party look at what we are doing—I can quite see why—that suggestion should be taken very seriously as we move forward.

The Deputy Chairman of Committees (Lord Haskel) (Lab): My Lords, there is another Division in the House. The Committee stands adjourned again for 10 minutes.

4.30 pm

Sitting suspended for a Division in the House.

4.36 pm

Lord Bellamy (Con): My Lords, in further answer to a question asked by the noble Lord, Lord Beith, I understand that we will be engaging external contractors to support the evaluation of these proposals. So there will be some element of external verification, but I expect your Lordships' House—indeed, both Houses—to take a close interest in how we are getting on and to demand explanations and information. I hope that there will be a collaborative approach all the way through.

I will take some of the other points raised; I have already touched on some of them. It is very important that we have evaluations and the same judge, and that we assemble the relevant data. As emphasised by noble Lords, it is particularly important that we take a collaborative approach, which the noble Lord, Lord Ponsonby, referred to as the "scaffolding", in which there is a truly multiagency approach and access to services.

To take up the point raised by my noble friend Lord Jackson, this is a holistic operation because we are already engaged in rehabilitation for offenders in prison. We have employment advisers in prison and local employers helping them into jobs. We even have small things such as the Friday release Bill, which enables people to access services before the weekend and further arrangements are in train to make sure that there is accommodation, a bank account, a national insurance number and all those things, and they are beginning to have an effect. That aspect is not underestimated at all. Investment in training is accepted, and we should make sure that those who engage in this kind of work have appropriate training.

As to the concern that was said to have been expressed by probation officers that this is a route to "up-tariffing"—I think that was the expression used—that is not the aim of the exercise at all. One has to be very alert to making sure that nothing of that kind occurs. The law of unintended consequences has the habit of striking when it is least expected, but this is something to keep an eye on. As I said, the rehabilitation of offenders is very much at the forefront of our minds.

My noble friend Lord Jackson marked our paper as "could do better". I do my best to reassure your Lordships that this is a sure start. As others have said, let us hope it leads to wider things and presents a real opportunity to make a difference. With that, I commend the statutory instrument.

Lord Ponsonby of Shulbrede (Lab): Before the noble and learned Lord sits down, can he explain why two Crown Courts and one magistrates' court were chosen? The magistrates' court is for women offenders. Of course, the vast bulk of low-level drug offences are seen in magistrates' courts, not Crown Courts, so I would be interested to know whether there is an explanation for choosing this particular combination of courts.

Also, the noble and learned Lord just said that there was not an overwhelming response when looking for pilot courts. I suggest that the reason for that is that a number of the courts have been round this course before. In the past, similar types of arrangements have run into the sand for various reasons. I gave my own example of the drug court at Hammersmith Magistrates' Court. I sat on that separate rota and it was discontinued because it could not demonstrate the benefit of that approach.

From what the noble and learned Lord has said, it seems that there is a more holistic approach to gathering data in order to make a proper assessment; that is a very important element of what is being suggested and piloted here. I think that we just need to acknowledge that, in the ranks of court professionals and the professional people who have advised me, there is some scepticism about this. We need to be open-eyed about that because this idea has been tried a number of times and not been fully evaluated. Good luck to it this time but there needs to be a proper approach to form a proper basis for future decisions.

Lord Bellamy (Con): My Lords, I am not sure that I am able to give the noble Lord, Lord Ponsonby, a comprehensive answer to his first question as to why we did not do more in magistrates' courts. We certainly wanted, in terms of the Crown Court, to see to what extent we could divert from custody, which tends to be the issue in the Crown Court. That is why two Crown Courts were chosen.

On the magistrates' court, it was felt that we should give priority to the problem of low-level offending by women. That is an area where it is felt that this approach can make a significant difference. One is working to some extent with the art of the possible and the resources available.

I have more or less finished. The last thing that I want to say was that the noble Lord, Lord Ponsonby, rightly expressed scepticism. This approach has been tried before and the results have been rather depressing. The difference this time will be in the data and the evaluation. We have concrete evidence so we can convince everyone that it is working.

Lord Ponsonby of Shulbrede (Lab): My Lords, I thank everybody who has taken part in this brief debate. I look forward to discussing this issue further as the pilots evolve and I commend my Motion to the Committee.

Motion agreed.

Committee adjourned at 4.43 pm.