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HOUSE OF COMMONS
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GENERAL COMMITTEES

Public Bill Committee

CRIMINAL FINANCES BILL

Sixth Sitting

Tuesday 22 November 2016

(Afternoon)

CONTENTS

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Saturday 26 November 2016

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The Committee consisted of the following Members:

Chairs: †Mrs Anne Main, Sir Alan Meale

† Arkless, Richard *(Dumfries and Galloway)* (SNP)
† Atkins, Victoria *(Louth and Horncastle)* (Con)
† Dakin, Nic *(Scunthorpe)* (Lab)
† Davies, Byron *(Gower)* (Con)
† Dowd, Peter *(Bootle)* (Lab)
† Drummond, Mrs Flick *(Portsmouth South)* (Con)
† Elphicke, Charlie *(Dover)* (Con)
Ghani, Nusrat *(Wealden)* (Con)
† Griffiths, Andrew *(Lord Commissioner of Her Majesty's Treasury)*
† Harris, Carolyn *(Swansea East)* (Lab)
† Hunt, Tristram *(Stoke-on-Trent Central)* (Lab)
† Huq, Dr Rupa *(Ealing Central and Acton)* (Lab)
† Mann, Scott *(North Cornwall)* (Con)
† Mullin, Roger *(Kirkcaldy and Cowdenbeath)* (SNP)
† Sandbach, Antoinette *(Eddisbury)* (Con)
Vaz, Keith *(Leicester East)* (Lab)
† Wallace, Mr Ben *(Minister for Security)*
† Wood, Mike *(Dudley South)* (Con)

Colin Lee, Ben Williams, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 22 November 2016

(Afternoon)

[Mrs Anne Main *in the Chair*]

Criminal Finances Bill

New Clause 6

Failure to prevent financial crime

'(1) A relevant body (B) is guilty of an offence if a person commits a criminal financial offence when acting in the capacity of a person associated with (B).

(2) It is a defence for B to prove that, when the criminal financial offence was committed—

(a) B had in place such prevention procedures as it was reasonable in all the circumstances to expect B to have in place, or

(b) it was not reasonable in all the circumstances to expect B to have any prevention procedures in place.

(3) In subsection (2) "prevention procedures" means procedures designed to prevent persons acting in the capacity of a person associated with B from committing criminal financial offences.

(4) For the purposes of this clause—

"criminal financial offence" means one of the following offences—

(a) an offence under section 1, 6 or 7 of the Fraud Act 2006;

(b) an offence under section 17 of the Theft Act 1968;

(c) an offence under section 327, 328 and 329 of the Proceeds of Crime Act 2002;

(d) a common law offence of conspiracy to defraud;

"relevant body" has the same meaning as in section 36.

(5) A relevant body guilty of an offence under this section is liable—

(a) on conviction on indictment, to a fine,

(b) on summary conviction in England and Wales, to a fine,

(c) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum.

(6) It is immaterial for the purposes of this section whether—

(a) any relevant conduct of a relevant body, or

(b) any conduct which constitutes part of a relevant criminal financial offence

takes place in the United Kingdom or elsewhere."—*(Peter Dowd.)*

This new clause would create a corporate offence of failing to prevent financial crime.

Brought up, read the First time, and motion made (this day), That the clause be read a Second time.

2 pm

Peter Dowd (Bootle) (Lab): This morning I was indicating that the Government also need to tackle the facilitators of corruption—by that, I mean those institutions that fail to conduct due diligence on their clients. The UK anti-corruption summit committed countries to pursuing and punishing those who facilitate corruption, and the new clause reaffirms Britain's commitment to do so.

The failure to include such measures in the Bill will lead to many of our partners accusing us of hypocrisy and double standards; it will severely damage our prestige abroad, or will have the potential to damage our prestige abroad; and it will undermine our reputation. I find it perplexing, as do many others, that not a single bank has yet been criminally prosecuted for handling the proceeds of corruption, despite the fact that they may have been fined for doing so. This is not just about banks, but about some of the people in the banks—that is the important thing to take away. My constituency is similar to those of other Members, in that as well as having lots of local branches, Santander has 2,000 people based there. I am certainly not in the business of pointing the finger at everybody in the banking sector—it is important to make that point.

In March 2012, Coutts was fined £8.75 million by the Financial Conduct Authority for serious systemic failings that resulted in "an unacceptable risk" that Coutts had handled the proceeds of crime, yet despite that fine, in April 2016 Swiss authorities investigated whether money from the 1Malaysia Development Berhad scandal had ended up in Coutts' bank accounts, which suggests that regulatory action alone is an insufficient deterrent against laundering corrupt proceeds. From that instance, it is clear that an extension of a failure to prevent money laundering offence would significantly enhance the scope for criminal sanctions.

We should not forget that the cost of fraud and money laundering greatly exceeds the cost of tax evasion. In 2016, Her Majesty's Revenue and Customs estimated the tax gap to be £36 billion, of which tax evasion accounted for £5.2 billion. Some witnesses last week believed it to be higher. In May 2016 the annual fraud indicator put the cost of fraud to the UK economy at £193 billion. The cost to the public sector is £37.5 billion, with procurement fraud costing as much as £10.5 billion a year. We are talking about significant figures, which is why we need significant action. I am pleased that the Government are taking significant action but we want to push them further. The National Crime Agency estimates that billions of pounds of suspected proceeds of crime are laundered through the UK every year. That money, if accounted for, would be more than enough to help fund a whole range of services in the country.

The Crime and Courts Act 2013 specifies that certain economic crimes, which include fraud, money laundering and false accounting, as well as bribery and tax evasion, can be dealt with by way of a deferred prosecution agreement. The absence of an extension to a failure-to-prevent offence to the other economic crime offences listed in the Act results in a disparity in how different economic crimes, which all cause significant damage to the taxpayer, can be dealt with by prosecutors.

New clause 6 would also improve corporate governance. Companies are already subject to criminal law for all the additional offences listed in the amendment, although currently on the basis of the "directing mind" test. In addition, companies are required under FCA regulations to have effective systems and controls in place to prevent themselves being used to further financial crime, including money laundering.

At the end of the day, we are trying to get the message across to the Government. Mostly, in broad terms and in specific situations, the Government have got that message, but it is the duty of the Opposition to push the

boundary a bit more where we feel that the Government have not acted as forcefully as they could, in the light of what I have just said about scale, and in the light of the comments we heard from our witnesses last week.

Richard Arkless (Dumfries and Galloway) (SNP): We broadly support new clause 6, tabled by the Opposition, which seeks to extend corporate financial crime beyond the provisions in the Bill as drafted—beyond tax evasion and bribery. We are generally supportive. It is worth mentioning the point made by the hon. Gentleman that the provisions in new clause 6(4) defining a criminal financial offence are at the moment corporate offences that require the directing mind to be present. To my mind, the new clause would merely remove the directing mind provision from those offences.

We broadly support the new clause, but I question subsection (2)(b), which states that a defence could be that

"it was not reasonable in all the circumstances to expect B to have any prevention procedures in place."

Although the provision seeks to catch other offences, it strikes me that the bank or organisation would merely need to demonstrate that it was not reasonable to have prevention procedures in place. To my mind, that defeats the purpose of extending the offence so widely. Nevertheless, we broadly support the new clause, and I would like to hear from the Minister about the Government's inclination, if not to accept new clause 6, then to recognise that, at some future point, corporate financial crime could be extended beyond the provisions agreed in the Bill.

Another way of framing new clause 6 would be to codify specifically the exact offences within the three Acts. That might have negated the need for subsection (2)(b), which strikes me as a direct negative that might defeat the purpose. I would be interested to hear what the Minister has to say about the thought process, but generally speaking we support extending corporate financial crime, and are provisionally minded to agree to and support the new clause.

Dr Rupa Huq (Ealing Central and Acton) (Lab): It is a pleasure to serve under your chairmanship again, Mrs Main. My hon. Friend the Member for Bootle made an excellent speech. New clause 6 is supported by Amnesty International, CAFOD, Corruption Watch, Global Witness, ONE, Rights and Accountability in Development, Tax Justice Network, The Corner House, Traidcraft and Transparency International UK. Those are some heavyweight organisations. Before we adjourned, my hon. Friend asked what happened to the consultation promised at the anti-corruption summit. I would be interested to hear the answer.

The Minister for Security (Mr Ben Wallace): New clause 6 highlights an issue raised on a number of occasions when we heard from interested parties about the Bill last week. I am pleased that the Opposition have tabled it, because it allows me to restate that the Government appreciate those concerns and agree that the damage caused by economic crime facilitated by those working for major companies is serious and affects individuals, businesses and the wider economy, and indeed the reputation of the United Kingdom as a place to do business.

As the hon. Member for Ealing Central and Acton is aware, the Labour Government took action in the Bribery Act 2010 in respect of bribery committed in pursuit of corporate business objectives. The Act is widely respected as both a sound enforcement tool and a measure incentivising bribery prevention as part of good corporate governance. We have already debated the new corporate offence of failure to prevent tax evasion created in the Bill. The provisions followed a process of extensive consultation, as did the Bribery Act 2010. I trust that hon. Members will agree that such an approach is necessary when considering the adequacy of the existing legal framework in matters involving complex legal and policy issues.

In respect of the current law governing corporate criminal liability for economic crime, the Government announced that a consultation would take place in May this year. I confirm that we will publish a call for evidence on the subject. In keeping with the considered and methodical approach adopted for the reforms on bribery and tax evasion, the call for evidence will form part of a two-part consultation process. It will openly request and examine evidence for and against the case for reform and seek views on a number of possible options. Should the responses that we receive justify changes to the law, the Government will then consult on firm proposals. The Government believe that it would be wrong to rush into legislation in this area for the reasons I have given. In the light of my assurances and the forthcoming publication of the call for evidence, I invite the hon. Gentleman to withdraw the new clause.

Peter Dowd: As I have said, the job of the Opposition is to push the issue as much as we can. As to what the hon. Member for Dumfries and Galloway said about subsection (2), the reality is that we are building into the new clause the capacity for someone to defend themselves, but not stating categorically, "Someone commits an offence if this happens." There is room for manoeuvre, which is only right. However, in the light of what the Minister has said and the assurance he has given, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 11

Unexplained wealth orders: reporting requirements

'In Chapter 2 of Part 8 of the Proceeds of Crime Act 2002, after section 362H insert—

"362HA Unexplained wealth orders: reporting requirements

(1) The Secretary of State must make an annual report to Parliament setting out the number of unexplained wealth orders applied for by enforcement agencies under section 362A of this Act (and by Scottish Ministers under section 396A of this Act) during the previous 12 month period.

(2) The report must also provide information in respect of each unexplained wealth order about—

(a) the value of property subject to the order,

(b) whether the respondent was—

(i) a politically exposed person,

(ii) a person involved in serious crime (whether in a part of the United Kingdom or elsewhere)

(c) whether the order was granted,

(d) the value of the property reclaimed as a result of the order.

(3) For the purposes of this section "enforcement agencies" has the same meaning as in subsection 362A(7).'"—*(Tristram Hunt.)*

This new clause would require the Secretary of State to make an annual report to Parliament about the number of unexplained wealth orders made each year.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 7, Noes 9.

Division No. 2]

AYES

Arkless, Richard	Hunt, Tristram
Dakin, Nic	Huq, Dr Rupa
Dowd, Peter	Mullin, Roger
Harris, Carolyn	

NOES

Atkins, Victoria	Mann, Scott
Davies, Byron	Sandbach, Antoinette
Drummond, Mrs Flick	Wallace, Mr Ben
Elphicke, Charlie	Wood, Mike
Griffiths, Andrew	

Question accordingly negatived.

New Clause 14

PUBLIC REGISTER OF BENEFICIAL OWNERSHIP OF UK PROPERTY BY COMPANIES REGISTERED OUTSIDE THE UK

'(1) It shall be the duty of the Secretary of State, in furtherance of the purposes of

(a) the Proceeds of Crime Act 2002, and

(b) Part 3 of this Act

to establish, within 6 months of the commencement of section 1 of this Act, a publicly accessible register of the beneficial ownership of UK property by companies registered in non-UK jurisdictions.

(2) In this section—

"a publicly accessible register of the beneficial ownership of companies" means a register which, in the opinion of the Secretary of State, provides information broadly equivalent to that available in accordance with the provisions of Part 21A of the Companies Act 2006.'"—*(Tristram Hunt.)*

This new clause would require the Secretary of State to establish a publicly accessible register of the beneficial ownership of UK property by foreign companies within 6 months of the commencement of this Act.

Brought up, and read the First time.

Tristram Hunt (Stoke-on-Trent Central) (Lab): I beg to move, That the clause be read a Second time.

The purpose of new clause 14 is to require the Secretary of State to establish a publicly accessible register of the beneficial ownership of UK property by foreign companies within six months of the commencement of the Act. That is another helpful intervention to support the Minister in his work.

As I read in *The Observer* on Sunday, money launderers use anonymous offshore companies to acquire properties in the UK with the proceeds of crime. That became evident from the Panama papers. More than 2,800 secret companies set up by Mossack Fonseca held 6,000 Land Registry titles in the UK with combined historical costs in excess of £7 billion. In London alone more than 40,000 properties —one in every 10 in the borough of Westminster—are owned by offshore companies with unknown beneficiaries. There is not only an impact on housing costs in the capital, which can, indeed, spread to St Albans, Mrs Main, but a fear about money laundering and the hiding of finance through the use of London property essentially as a reserve currency.

Requiring offshore companies holding property titles in the UK to declare their beneficiaries would be fully in line with the legal obligations of UK companies to disclose persons with significant control, which came into effect in June. Requiring the Government to set up a public register of the persons with significant control of non-UK corporations holding properties and other assets, or PSCs willing to do business in the UK, will naturally tie the two purposes together: the commitment to lift offshore secrecy; and the passing of the Bill with the aim of the eradication of money laundering in the UK. It will build on exactly what the Minister suggested with reference to the former Prime Minister's anti-corruption speech in Singapore, and the anti-corruption summit. I hope the Minister will agree to the new clause.

Mr Wallace: At the London corruption summit earlier this year, the Government announced that we plan to create a beneficial ownership register of overseas companies that own or wish to purchase property in the United Kingdom. The Government remain committed to delivering that policy and are developing the detail of how the register will work before we issue a call for evidence in the coming months. Our intention is to bring forward legislation to provide a statutory basis for the register in due course and as soon as possible.

The UK leads the world in corporate transparency. That is a position that the UK Government are rightly proud of: we are the first in the G20 to have started a public register of beneficial ownership. We should build on that position, and I am determined that we complete what we started at the summit.

The proposal is that the register will apply throughout the whole of the United Kingdom. That is important to ensure that control of companies owning land is transparent wherever in the UK the land is. However, Scotland and Northern Ireland have different land registration requirements from England and Wales, which makes the drafting of the legislation more complex. The Government therefore believe that it is important to spend time to get the policy and its implementation correct, and to consult on the policy before legislating.

2.15 pm

The UK property market is attractive to overseas investors and we must ensure that it remains so for legitimate investment. I thank the hon. Gentleman for his comments, his earlier support and the meeting we had last week. I joined him in reading his article in *The Observer* over the weekend—that makes two readers of *The Observer*, a double demerit of the readership in that respect—

Peter Dowd: Three!

Mr Wallace: It is getting higher—we will be getting into double figures for *The Observer*'s readership if we are not careful.

The best time to examine the register is when we have had a full consultation. We have worked closely with the Scottish Government and the Northern Ireland Executive

to ensure that we get it right. As the Scottish National party has pointed out, things such as Scottish limited partnerships were set up often for landowners to avoid ownership obligations way back in 1907, if I am not mistaken. Therefore, legislating is easier said than done, and we want to ensure that we get it right so that there are no loopholes or areas in which people can hide in the shadows, which might happen if we rushed it. We want to ensure that public means public. I therefore urge the hon. Gentleman to withdraw his new clause.

Tristram Hunt: I thank the Minister for his response. I understand that such a register throws up legal complexities and matters to do with the interrelationship between the English property market and legal system and the Scottish and Welsh ones. That is why it should be a UK-wide process. I am willing to admit that six months might seem a little aggressive in terms of the full publication of the register. The Minister said "in due course" and "as soon as possible". On Report, perhaps he will give us slightly greater clarity about the commitment with which the Government are approaching the register. I very much welcome his enthusiasm. On that basis, I beg to ask leave to withdraw the motion.

Motion, by leave, withdrawn.

New Clause 15

FAILURE TO PREVENT FACILITATION OF TAX EVASION OFFENCES: EXCLUSION FROM PUBLIC PROCUREMENT

'(1) In section 57 of the Public Contract Regulations 2015 after paragraph 3(b) insert—

"(c) the contracting authority is aware that the economic operator is a body that has been convicted of an offence under section 37 or 38 of the Criminal Finances Act 2017."'—*(Tristram Hunt.)*

This new clause would ensure that companies convicted of failure to prevent a tax evasion facilitation offence are excluded from public procurement.

Brought up, and read the First time.

Tristram Hunt: I beg to move, That the clause be read a Second time.

The new clause builds on new clause 6, which we looked at earlier. Exclusion is the key means of incentivising good corporate governance. The threat of exclusion from public procurement is known to be one that companies fear more than fines. Making the new offences subject to exclusion would ensure that companies take preventing such offences seriously. The UK's anti-corruption summit committed to excluding corrupt bidders from public procurement contracts, so it is important that companies that facilitate tax evasion are similarly excluded.

Under the Public Contract Regulations 2015, public authorities must exclude companies found to be in breach of their obligations related to the payment of taxes. Unless the Bill specifies whether the new offences under clauses 37 and 38 will constitute such a breach, the Crown Commercial Service, which is often narrow in its approach, is unlikely to consider that they do. The purpose of the new clause therefore is to urge Ministers to ensure that the Crown Commercial Service understands there to be a breach in that context.

Mr Wallace: I am grateful to the hon. Gentleman for tabling his new clause because it allows us to cover another important element of the tax evasion offence we debated earlier. I also thank him for meeting me to discuss those proposals.

New clause 15 would create mandatory exclusion from public contracts of a relevant body convicted of an offence under part 3 of the Bill. I fully agree that, where an organisation has been convicted under the new offences and grave professional misconduct has taken place, it should be possible to exclude that organisation from public contracts.

I am pleased to say that existing law already allows for that by virtue of the Public Contracts Regulations 2015, which allow for the exclusion of a body from a public contract

"where the contracting authority can demonstrate by appropriate means that the economic operator is guilty of grave professional misconduct, which renders its integrity questionable".

That is quite a low threshold if you ask me; nevertheless, it allows us to do it. I know the hon. Gentleman will be interested in this part, because it is a European angle to his proposal. I am advised that it is not possible lawfully to include a new mandatory exclusion under regulation 57, as proposed by the amendment. Regulation 57 contains a list of offences based on the six categories set out in the EU public contracts directive. The categories outlined in the directive are exhaustive. Case law indicates that member states are not free to add new additional grounds for exclusion to those set out in the directive.

Peter Dowd: Not yet.

Mr Wallace: I hope the Committee is satisfied that, where there has been grave professional misconduct by an organisation convicted under the new offences, contracting authorities will have the discretion to exclude them from public contracts.

Tristram Hunt: I thank the Minister for his answer. As my hon. Friend the Member for Bootle quietly alluded, this might be something we will have to look at again amid the welter of opportunities—count them!—thrown up by Brexit. [HON. MEMBERS: "Hear, hear!"]

As a result of European regulations, I am willing to accept the Minister's point. On Report, will he say whether we could have included in the statistical bulletins on unexplained wealth orders and other elements of the Bill an account of any corporations excluded from public procurement as a result? Is there a statistical account of whether any companies have fallen foul of the measure? Could we gain some account of that?

Mr Wallace: I am grateful for the hon. Gentleman's idea, which I think is a good one. I will certainly try to ensure it is released in any statistical bulletins. When the Bill is up and running, I would like to know as much as he would how many people are precluded from public procurement practices.

Tristram Hunt: I thank the Minister. On that basis, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 16

FAILURE TO PREVENT FACILITATION OF TAX EVASION OFFENCES: REPORTING

'The Secretary of State must make an annual report to Parliament containing the number of prosecutions brought and convictions made under section 37 and 38 of this Act.' —(Tristram Hunt.)

This new clause would require that the Secretary of State reports annually on the number of prosecutions brought and convictions made for failure to prevent the facilitation of UK and foreign tax evasion offences.

Brought up, and read the First time.

Tristram Hunt: I beg to move, That the clause be read a Second time.

The new clause would

"require the Secretary of State reports annually on the number of prosecutions brought and convictions made for failure to prevent the facilitation of UK and foreign tax evasion offences."

That is connected to an earlier new clause about culture change within Government to ensure the right degree of ministerial push and importance given to the implementation of the Bill, and to ensure that attention is given at the top of the Home Office and in ministerial offices, which is something a report to Parliament encourages. The fear that I and some of my colleagues have is that, if that detail is hidden away in obscure departmental documents, it does not necessarily have the drive and political push it deserves. The new clause is therefore another attempt to support the Minister in his job, and to encourage proper transparency about this interesting and in many ways useful Bill.

Mr Wallace: I do not want to look ungrateful to the hon. Member who is, as he says, trying to help me enhance the Bill and do my job. I am incredibly grateful for all the suggestions from hon. Members over the last few weeks.

Nic Dakin (Scunthorpe) (Lab): Wonderful.

Mr Wallace: I am not that grateful.

New clause 16 would require the Secretary of State to report annually to Parliament on the number of prosecutions brought and the number of convictions made under the new corporate offences. Under the domestic tax evasion offence, HMRC will be the investigating authority and the decision on whether to prosecute will rest with the Crown Prosecution Service. In relation to the overseas offence, the Serious Fraud Office and the National Crime Agency will be the investigating authorities and the decision to prosecute will rest with the SFO or the CPS.

It is important to emphasise that, as with the corresponding offence under the Bribery Act 2010, the number of prosecutions alone will not be a true metric of the level of success of the measure. The new corporate offences are not only about responding to wrongdoing but about changing corporate culture and behaviour. True success will lie in changing corporate culture and preventing wrongdoing from occurring in the first place.

In any case, all of the prosecuting authorities already undertake extensive public reporting on investigations and prosecutions. For example, HMRC publishes quarterly performance updates and the CPS publishes an annual report. Neither of those documents are obscure—they are weighty but not obscure. I can confirm that information relating to the new offences will be included in those existing formats. Accordingly, I invite the hon. Member for Stoke-on-Trent Central to withdraw his new clause.

Tristram Hunt: I will not detain the Committee with an inquiry into the difference between "weighty" and "obscure"; these things can often be lost in the mists of time. As we did not quite generate the success that we needed to on new clause 11, I will not put the measure to a Division. However, I urge the Minister to ensure that, having created this interesting Bill and having delivered these interesting reforms, if the reforms are going to be put to proper effect and have the political momentum—a terrifying word—behind them, then a degree of political transparency and support connected to Parliament is important. On that basis, I beg to ask leave to withdraw the clause.

Clause, by leave, withdrawn.

New Clause 19

WHISTLEBLOWING IN RELATION TO FAILURE TO PREVENT THE FACILITATION OF TAX EVASION

'The Chancellor of the Exchequer shall conduct a review of arrangements to facilitate whistleblowing in the banking and financial services sector, including the protection of anonymity, in relation to the disclosure of suspected corporate failure to prevent facilitation of tax evasion, and report to Parliament within six months of the passing of this Act.'—*(Roger Mullin.)*

This new clause would conduct a review into the facilitation and protection of whistleblowers with a focus on the protection of anonymity for those who suspect corporate failure to prevent the facilitation of tax evasion.

Brought up, and read the First time.

Roger Mullin: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 22—*The culture of the banking industry and prevention of the facilitation of tax evasion*—

'(1) The Secretary of State must undertake a review into the extent to which the banking culture contributes to the failure to prevent the facilitation of tax evasion in the financial sector, and lay a copy of the review before the House of Commons within six months of this Act receiving Royal Assent.

(2) The review must set out what steps the UK Government intends to take to ensure that banking culture is not facilitating tax evasion.'

Roger Mullin: I rise to speak to new clauses 19 and 22, which are on today's amendment paper for the Committee to scrutinise thanks to the complacent and worrying attitudes of both the FCA and the BBA at last week's evidence session, when I specifically raised the issues of banking culture and whistleblowing.

During the previous exchanges, the Minister indicated the importance of culture, for which I am grateful. I have been concerned with culture for a long time. In one of my previous lives, I undertook more than 30 cultural studies of large, complex organisations. As many Members will be aware because I have related this fact more than once, large-scale international studies have shown that around 70% of major corporate failures are primarily as a result of a failure of culture—they are not about detailed regulation or detailed law, but about culture. In that regard, this issue must be taken very seriously indeed.

A very important part of culture for the related new clause on whistleblowing is to assess internal trust within organisations. Unless there is sufficient cultural trust, whistleblowers will not feel secure or safe. Despite advances in recent years in the protection of whistleblowers, I am sure that I am not alone in having had people come to me, an MP for barely over a year, saying that they wish to raise issues in organisations but fear the consequences.

I will highlight that by picking just one example—the case of Paul Moore, with whom some Members will be familiar—from the financial sector to show the importance of culture and whistleblowing. He is best known as the HBOS whistleblower, following his dismissal from Halifax Bank of Scotland in 2004. He was appointed to the role of head of group regulatory risk at the end of 2003 and had formal responsibilities for the bank's policy and oversight of executive management's compliance with Financial Services Authority regulation. During 2004, while conducting reviews of the bank's sales culture, Moore and his team uncovered mis-selling and unethical practice. He reported those findings to the HBOS board as his job demanded, and was fired on 8 November 2004 by the HBOS group chief executive officer, James Crosby. Since then, Mr Moore has been shunned by the financial community for doing his job and doing it well.

2.30 pm

Crosby, however, did not immediately suffer for his actions. He was part of an almost untouchable banking and establishment culture. Some time later, on 11 July 2006, Crosby was appointed by my predecessor as Member for Kirkcaldy and Cowdenbeath to lead the Government's public-private forum on identity management. Also in 2006 and after sacking his risk manager, Crosby received a knighthood for services to the financial industry. In April 2008, Crosby was appointed by the then Chancellor, Alistair Darling, to head up a working group of mortgage industry experts to advise the Government on how to improve the functioning of the mortgage market. I could go on. Only after parliamentary inquiries into the collapse of HBOS, which included reviewing Mr Moore's situation, did Crosby lose all his positions and half his pension, and relinquish his knighthood.

That it should take parliamentary inquiries to deal with something that was in the public domain—that a senior bank official had been sacked for doing his job—tells us something about what has been wrong and what many consider still is wrong with much of the remaining close-knit culture in the financial sector. Despite changes since that time, we remain unconvinced that enough has been done to explore the culture in the financial sector and properly safeguard whistleblowers, hence we have tabled new clauses 19 and 22. I am sure we will return to this issue many times as many of us try to secure a much more sensible regime, but in the meantime I will be pleased to listen to the Minister's response.

Mr Wallace: I am grateful to the hon. Member for Kirkcaldy and Cowdenbeath for his contribution. New clause 19 would require a review of arrangements to facilitate whistleblowing in the banking and financial sectors. Whistleblowing can play an important part in bringing wrongdoing to light. The Government value the contribution of whistleblowers and believe they should be able to highlight wrongdoing without fear of retribution. To that end, the UK has put in place a strong framework of employment rights for workers who disclose malpractice in the public interest.

If a worker loses their job or suffers some other detriment —being overlooked for promotion, for example—as a result of blowing the whistle, they may bring a claim to the employment tribunal for unfair dismissal or detriment. To qualify as a protected disclosure under the Public Interest Disclosure Act 1998, the legislation that protects whistleblowers, the issue in question must fall into one of the categories listed in that Act. Those categories include both criminal offences and failure to comply with the law in other ways, so the issues in the Bill are certainly catered for, as is any new offence as soon as it comes into force.

To retain their employment protections, whistleblowers must generally make their disclosures either internally to the employer or to the relevant prescribed person named in statute. Two such prescribed persons are most likely to deal with issues covered by the Bill. HMRC is prescribed for matters about the administration of UK taxes, and the Financial Conduct Authority is prescribed for matters relating to the conduct of banks and all other funds and firms subject to the Financial Services and Markets Act 2000. MPs are now also prescribed persons, so Public Interest Disclosure Act remedies will also apply if a person suffers a detriment in employment as a result of disclosure to us.

Both HMRC and the FCA have published information for whistleblowers on how to disclose wrongdoing in their workplace. They both accept, and act on, anonymous disclosures. The Public Interest Disclosure Act 1998, under which disclosures are made and protected, was comprehensively reviewed as recently as 2014. There is a code of practice and guidance for its use. The Government are taking significant steps to ensure that effective arrangements are in place to facilitate whistleblowing in relation to tax evasion or other matters. I am not sure that, as yet, I see a case for further review at this stage.

On new clause 22, I agree with hon. Members that the culture of the financial services sector, as well as other sectors such as advisory, accounting and legal, plays a key role in preventing financial crime. That is the very reason that the Government are legislating for the new corporate offences in part 3 of the Bill—to drive culture change among businesses in relation to preventing complicity in and facilitation of tax evasion. A key measure of the success of the new offences will be how businesses respond and drive culture change.

We have engaged extensively with business over the last 18 months on the offences, both in the UK and overseas. We have seen examples of good practice in a number of sectors and organisations, which have responded swiftly to the new measures and are proactively seeking to drive culture change and operate to the highest standards. Some organisations have been slow to react, but HMRC officials have been working with them and their representative bodies to support business in putting in place compliance procedures.

Given that ongoing engagement, I do not believe it would be prudent to conduct a statutory review immediately following Royal Assent, although I share the same objectives as hon. Members. It is the Government's view that we should focus our efforts on effectively implementing the new offences, and on using them to help trigger further cultural change, prior to diverting resources to a further review of the arrangements. I would be happy to discuss that further with hon. Members in case they have specific concerns that I should raise with other ministerial colleagues, which I am also happy to do. I hope I have provided adequate assurances for now or that we can agree to disagree. I hope the hon. Gentleman feels able to withdraw the new clauses.

Roger Mullin: I thank the Minister for his remarks, particularly his conclusion, when he indicated an open mind, as is only to be expected from him. However, we remain concerned about culture. He mentioned the role of the FCA. After the comments made last week by the FCA representative, I would have thought that the FCA itself needs a bit of a culture review to see whether it is fit for purpose.

Mr Wallace: When the Bill was being rolled out, I specifically asked for a meeting with the FCA to demand that when it comes into force—hopefully it will do so—they will up their game. The overall intention of the Bill is not just the criminal prosecution of individuals, but to bring about cultural change. As a regulator, I would like steps to be taken. One of the things that I welcome in the English part of the Bill is that the perpetrators are faced with unlimited fines for some of the offences—there is no cap on fines. With large fines, we change not only employees' habits, but shareholders' behaviour, which is important.

Roger Mullin: I think the Minister for those remarks and I particularly welcome his remarks about his meeting with the FCA. He is to be commended for that, and we would fully support him. Given his remarks, we will not at this stage push either of the new clauses to a Division, but we will reserve our position and perhaps return to it on Report. I beg to ask leave to withdraw the new clause.

Clause, by leave, withdrawn.

New Clause 20

RECOVERY ORDERS: REPATRIATION

'(1) The Proceeds of Crime Act 2002 is amended, after section 266, by inserting—

"**266A Recovery orders: repatriation**

(1) Where a court—

(a) issues a recovery order under section 266; and

(b) has reasonable grounds for suspecting that property subject to the recovery order was obtained through unlawful conduct in a foreign country,

the court must issue a repatriation order in relation to that property.

(2) A repatriation order shall provide that within a year of the property's having been recovered the property must be repatriated back to its country of origin.

(3) When a repatriation order has been issued, the Secretary of State shall send a request for cooperation and assistance to a representative of the government of the country of origin, in consultation with relevant third parties, and must, upon a court having issued a recovery order, endeavour to agree with that representative—

(a) as to how such property or the value of such property will be used upon its being repatriated to ensure that wherever possible the property repatriated will be used in a manner that will contribute to the implementation of Sustainable Development Goal 16, that benefits victims of the unlawful conduct, or that ensures the repatriated property is used for the original purpose from which it was diverted;

(b) a mechanism for accounting for the disbursement of the property and for making public a report on the use to which the property has been put.

(4) For the purposes of this section—

"relevant third parties" will include civil society actors and non-governmental organisations; independent audit bodies; the Department for International Development and multilateral development banks; and

"victims" will include communities affected by the unlawful conduct as well as the State.

(5) A repatriation order shall not be issued where—

(a) the court is satisfied that on the balance of probabilities that successful repatriation would lead to the property or the value of the property being subject to conduct that, were it within its jurisdiction, would violate the Human Rights Act 1998;

(b) the court is satisfied that on, the balance of probabilities, that successful repatriation would most likely result in such property being subject to illicit financial activity by a Politically Exposed Person in its country of origin; or

(c) the court is satisfied that, on the balance of probabilities, the property would not reach and/or be used for the purposes as agreed to by the Secretary of State and the representative of the country of origin.

(6) The UK may retain the total value of the recovered property where the Secretary of State and the relevant enforcement agency take all appropriate steps as set out in section (3) subsections (a) and (b) to assist the State in question in repatriating such property and yet receive no cooperation from the other State within a year of having taken such appropriate steps.

(7) For the purposes of subsection (6) "cooperation" is defined as the foreign State's conclusively demonstrating to the Secretary of State and enforcement agency of its having done or being in the process of implementing the necessary steps required to ensure that the property or value of such property will be used for the ends laid down in section (3) (a) and the court is satisfied on the balance of probabilities that the property or value of such property will be used in accordance with those activities and probabilities as laid down in subsection (5)(a), (b) and (c).

(8) The court may order that a repatriation order may grant that the property could be given, subject to an agreement between the Secretary of State and a representative of the government of the country of origin, to a non-state actor who may distribute the property in accordance with subsection (3)(a) and (b) above.

(9) Upon application by the relevant enforcement agency the court may increase the time period within which repatriation must happen up to a maximum of five years if the court is satisfied that operational circumstances preclude the possibility of repatriation within the period previously required.

(10) The relevant enforcement agency may apply to the court for further extensions to the time period, where there is less than a year before the date of repatriation.

(11) Where the court grants an extension the enforcement agency in conjunction with the Secretary of State must publish a public report detailing the reasons why it sought an extension to the deadline for repatriation.

(12) Where the Secretary of State in conjunction with the enforcement agency publishes such a report as set out the Secretary of State may omit sensitive operational information which would preclude the possibility of repatriation being successful should such details be published.

(13) Such a report without redacted information will be passed to the Secretary of State upon each application made to the court for an extension.

(14) No later than one year after such property is repatriated all such reports will be made public in an uncensored form.""—*(Dr Huq.)*

This new clause would require property that was subject to a recovery order to be repatriated to its country of origin where the money was options through unlawful conduct in that country.

Brought up, and read the First time.

Dr Huq: I beg to move, That the clause be read a Second time.

The new clause would place a duty on the Secretary of State—and the enforcement agencies vested with the power to do so—to receive recovered property under the Proceeds of Crime Act 2002, and to repatriate recovered

property where a court is satisfied that the property or the value of the property was begotten by illicit means. I hinted at the issue this morning. The clause builds on former Prime Minister David Cameron's global forum for asset recovery, which came about after the anti-corruption summit of May 2016. We Opposition Members commend him for that. How he is missed. We have seen the forum begin to bear fruit, with the Government having signed a memorandum of understanding with Nigeria last September. There has clearly been limited progress on repatriation, but the Crown Prosecution Service's most recent asset recovery strategy laments the low take-up of mutual legal assistance requests:

"Since London is a global centre for finance, there are a large number of criminal proceeds deposited in its financial institutions. Despite this, historically the CPS has not received a high volume of incoming MLA requests for the restraint and recovery of assets."

Many of the people from the charitable sector who gave evidence worry that, at the end of the process, little will go back to those communities and third-world economies.

The Minister said on Second Reading, in relation to repatriating illicit wealth, that

"It is important to note that we are already doing this. In November 2015, the UK returned £28 million to Macau, which were the proceeds of corruption laundered in the UK. That is a concrete example of our giving back money to those countries that have been robbed by crooks who have used Britain to launder the money or to make the money in its jurisdiction. I want to see more of that and to see it go further."—[*Official Report*, 25 October 2016; Vol. 616, c. 198.]

Through this new clause, we seek to help him with that process. He has made a clear commitment to seeing repatriation go further, and to ensuring that there is more of it. The CPS has also stated that mutual legal assistance is seriously underused, and that massive sums of illicit wealth are simply not subject to such requests and are therefore not being repatriated.

The new clause would not obstruct the Minister or the Government in their desire to see greater repatriation of illicit wealth. In fact, it would aid the Government in realising their aims. The new clause seeks to provide a different avenue from mutual legal assistance for repatriating illicit wealth, and it has a number of in-built safeguards to ensure that the UK repatriates such wealth to deserving countries, as well as safeguarding against the UK's time being wasted.

Although the new clause is substantial in scope and takes up a number of pages in the amendment paper, we are not trying to cause an argument for argument's sake. A precedent for repatriating wealth has been set, and the Committee has heard an example. The new clause would streamline the process, and I hope that the Government will take that in good faith; the new clause is technical, rather than political.

This is how we envisage the new clause working: where a court is satisfied that property is recoverable and issues a recovery order, and where it is also satisfied that the property was acquired with wealth illicitly obtained abroad, it may instruct a receiving enforcement agency to take steps towards repatriating that wealth upon the property being initially recovered. We term that a "repatriation order"—that is snappy.

Once such an order has been made, the Secretary of State would request co-operation and assistance in the repatriation process from a representative of the Government of the country of origin. The Secretary of State would then be free to enter into consultation with any other relevant third party. After that initial contact, an agreement would be reached with the aforementioned actors on how the value of the property would be used on repatriation.

The purpose of the measure is international development. In the new clause, proposed new section 266A(3)(a) of the Proceeds of Crime Act 2002 states that

"wherever possible the property repatriated will be used in a manner that will contribute to the implementation of Sustainable Development Goal 16",

or the repatriated property will benefit the victims of the crime, or it will be used for its original purpose. The Government have some flexibility and room for discretion in the phrase "wherever possible". Proposed subsection (4) contains a list of definitions.

2.45 pm

There are two obvious questions: what are the conditions by which the property will be repatriated, and how will this large-scale, cross-jurisdictional activity be funded? To answer the first question, if a court is satisfied that on the balance of probabilities, the property or value of the property, if repatriated, would be put to a use that would violate the Human Rights Act 1998, the UK would have the right to retain the entirety of the property and its value, and no repatriation order would be issued.

Secondly, if a court was satisfied that on the balance of probabilities, a politically exposed person or group of PEPs would subject the property or value of the property to illicit financial activity, the UK would retain the property or its value, and no repatriation order would be issued. If the court was satisfied that on the balance of probabilities, the property or its value, if repatriated, would not be put to use for the purposes agreed by the Secretary of State and the country of origin, yet again, the UK would retain the entire value of the property, and the repatriation order would be rescinded.

Finally, proposed new subsections (6) and (7) stipulate that the UK will retain the total value of the property if the Secretary of State has taken all the necessary steps to aid the country of origin in working towards the provisions set down in proposed new subsection 3(a), but the other state has been unco-operative. That is meant to be the basis of the new clause. As for the timescales, they are in proposed new subsections (9) to (14).

Proposed new subsection 8 is a last-chance saloon for an unco-operative state that receives a repatriation order. Lots of conditions must be satisfied first. It simply affords the courts the chance to grant the Secretary of State the discretion to work towards an agreement by which a non-state actor may distribute the property or its value in the country of origin, provided that the distribution would not violate proposed new subsections 3(a) and (b).

On funding, the new clause would basically pay for itself. It is common practice for the UK to retain some of the value of any property that it repatriates to another country. I see no reason why that should change, and the new clause does not argue that it should. We acknowledge that there are states that are hugely corrupt—I think "fantastically corrupt" were David Cameron's words—that routinely violate human rights agreements, and that engage in behaviour that would be deemed illegal here. In such instances, it is only fair that the UK retains the value and puts it to good use.

There is a third dimension to the new clause: it provides the UK with soft power to influence other states, to ensure that the UK does not stand idly by where there is corruption and systemic human rights violations. Nor can it be even remotely complicit by returning value to countries if it could be used for untoward purposes. I am open to questions from the Minister and tweaks to the clause, but I hope that he will agree that the principle is a good one.

Mr Wallace: First, I think that we all support what we are trying to do: returning money that we take off the bad guys to whomever it belongs to. If that is not possible—I used the example earlier of a criminal enterprise whose wealth was created by drug dealers, rather than by ripping off a state or somebody else's assets—we return it to the prosecution authorities to ensure that they can continue.

Significantly, in the past, we have seen money paid back in cases of grand corruption. The UK is party to the UN convention against corruption, article 57 of which clearly requires embezzled funds to be paid back to the victim state, so we are already obliged under international law to do that. We must do that, and it is what we want to do. The £28 million returned to Macau that the hon. Lady and I both mentioned fell under the auspices of that convention. As we are subject to international law, there is no requirement to put such provisions in our domestic legislation. Nothing in our law prevents us from returning recovered assets.

Sharing and repatriating assets in asset recovery cases is a fast-developing issue in international law, and it is something that the UK fully supports. For example, there is a requirement, under the EU framework decision on the mutual recognition of confiscation orders, that at least 50% of assets recovered on behalf of another member be sent back to that state. The UK can return assets to any country, and where underpinning international agreements are required, we enthusiastically pursue them. For example, we recently concluded an asset-sharing agreement with Nigeria, under the formal title I referred to earlier.

This helpful debate on the Opposition's new clause has allowed us to put these points on the record, but I trust that the Opposition will agree that there is no need for further primary legislation. Asset return happens anyway, with my full support and encouragement. Indeed, strict requirements in an Act could restrict our flexibility and make it harder to obtain effective asset-return agreements tailored to the peculiarities of individual cases. I am aware of a number of cases in which another country's Government members have requested that we effectively co-return assets for certain projects, for fear of them disappearing into other parts of that Government that are corrupt. That type of flexibility is important to make sure that moneys returned do indeed get to the right place, rather than going back to the same place, and the same individual turning the assets of crime back into another townhouse in London.

That flexibility is really important, and while I cannot bind any successor Government, it would be odd if any Government chose to say, "No, thank you, we are going to keep everything, break our international law obligations, and upset a number of countries around the world by just pocketing this for ourselves." It is not what we have done in the past, and it is not what we will do in the future. I urge the hon. Member for Ealing Central and Acton to look to our obligations under international law; I hope that that will satisfy her that we do not need more restrictive primary legislation on this issue.

Dr Huq: I listened carefully to the Minister. The 14 subsections in new clause 20 have a set of in-built checks and balances, and I know that the development charities would be disappointed if the new clause was not in the Bill. I accept, as I said, that things are being done on this front—the Macau example is a very good one—but as I understand it, the Minister says that there is no need for the new clause because there are international agreements. He mentioned the EU framework; the first money laundering directive also came from the EU, and we are leaving the EU, so I think it is no bad thing to put our own defence in the Bill, if only for ourselves. We would like to put the new clause to a vote.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 7, Noes 8.

Division No. 3]

AYES

Arkless, Richard	Hunt, Tristram
Dakin, Nic	Huq, Dr Rupa
Dowd, Peter	
Harris, Carolyn	Mullin, Roger

NOES

Atkins, Victoria	Griffiths, Andrew
Davies, Byron	Mann, Scott
Drummond, Mrs Flick	Wallace, Mr Ben
Elphicke, Charlie	Wood, Mike

Question accordingly negatived.

New Clause 21

PUBLIC REGISTERS OF BENEFICIAL OWNERSHIP OF COMPANIES REGISTERED IN CROWN DEPENDENCIES AND OVERSEAS TERRITORIES

'(1) In Part 1 of the Proceeds of Crime Act 2002 (introductory), after section 2A, insert—

"**2AA Duty of Secretary of State: Public registers of beneficial ownership of companies registered in overseas territories and Crown dependencies**

(1) It shall be the duty of the Secretary of State, in furtherance of the purposes of—

(a) this Act; and

(b) Part 3 of the Criminal Finances Act 2017

to take the actions set out in this section.

(2) The first action is, no later than 31 December 2017, to provide all reasonable assistance to the Governments of Crown Dependencies and overseas territories to enable each of those Governments to establish a publicly accessible register of the beneficial ownership of companies registered in that Government's jurisdiction.

(3) The second action is, no later than 31 December 2018, to enact an Order in Council in respect of any overseas territory that has not yet introduced a publicly accessible register of the beneficial ownership of companies within their jurisdiction. This Order would require the overseas territory to adopt such a register.

(4) The third action is, no later than 31 December 2018, to consult with the Governments of the Crown Dependencies that have not established a publicly accessible register of the beneficial ownership of companies, regarding the ability of those jurisdictions to do so.

(5) The fourth action is to take all reasonable steps to support the Crown Dependencies to consent to adopting publicly accessible registers of the beneficial ownership of companies.

(6) In this section 'a publicly accessible register of the beneficial ownership of companies' means a register which, in the opinion of the Secretary of State, provides information broadly equivalent to that available in accordance with the provisions of Part 21A of the Companies Act 2006."'—*(Dr Huq.)*

This new clause would require the Secretary of State to take steps to provide that overseas territories and Crown dependencies establish publicly accessible registers of the beneficial ownership of companies, for the purposes of the Proceeds of Crime Act 2002 and Part 3 of the Bill (corporate offences of failure to prevent facilitation of tax evasion).

Brought up, and read the First time.

Dr Huq: I beg to move, That the clause be read a Second time.

We discussed this subject this morning in connection with clause 38. The new clause would make it incumbent on the Secretary of State to do all that she can to ensure that there are public registers of beneficial ownership in the UK's overseas territories and Crown dependencies for companies operating and registered in their jurisdictions.

Proposed new subsections (2) to (5) delineate the steps that the Secretary of State would take to ensure that such registers were adopted. Proposed new subsection (3) states that those territories that failed to do so by a specific time would be subject to an Order in Council. I know what was said this morning, but there is precedent for that; I could go through a whole list of examples, but I will not bore the Committee with that quite yet.

The Government have created a Bill with the express intention of stamping out financial crime and clearing up the UK and London's image. We quite rightly no longer wish to be seen as a country that is a soft touch, or as a City where dirty money can be hidden. To me and others, it is therefore astounding that there is no mention at all of the UK's overseas territories and Crown dependencies in the Bill.

Thanks to the Panama papers, we and the rest of the world know that the UK overseas territories and Crown dependencies facilitate corruption, money laundering and tax evasion on a global scale. I am sure that the Minister is sick to death of hearing about the issue—we heard about it so many times in the evidence, and pretty much in every speech on Second Reading, with both Government and Opposition Members mentioning it—but I am afraid to say that the public are also sick of hearing about the double standards that exist for the politicians and wealthy elite who do not pay their taxes.

Opinion polling and recent research has shown that more than eight in 10 people think that it is morally wrong for businesses to avoid paying tax, even if that is legal or looks like, prima facie, a victimless crime. Only 20% of people think that any political party has done enough, and 77% think that the Government should be doing more to ensure that companies stop tax-dodging; among leave voters, that figure rises to 83%. More than two thirds of people want the Government to insist on public registers of beneficial ownership in the overseas territories and Crown dependencies. Again, there is a whole alphabet soup of different organisations and charities involved. This is all according to ComRes polling done on the issue for Oxfam and Christian Aid.

The issue will continue to reappear until the Government start listening to the people, finally step in and, if needs be, compel overseas territories to toe the line. None of us wants overseas territories to have registers forced on them, so we would be delighted if they did something. Christian Aid suggested a timeline, a set of goals being put in place to make something happen, because nothing will happen overnight; those jurisdictions are used to propping up tax evasion, so they will not fall into line quickly. A set of dates and objectives, however, would be extremely helpful.

We have already heard today about how overseas territories and Crown dependencies are making progress, but it is not swift enough. They have had three years, but nothing has happened. Under the former Prime Minister, they were first asked to take action three years ago, but not one of them bothered to consult on that request. The ones that responded to it largely said a simple no to the supposed consultations. In April 2014, they were asked again to do so in a letter from the former Prime Minister, but only one, Montserrat, committed to adopting a public register. The worst offenders, however, the ones that facilitate the stealing of wealth from developing countries and so in effect harbour blood money —the British Virgin Islands and the Cayman Islands— ignored the Foreign and Commonwealth Office's request to meet and discuss the issue. I tried to ask about that this morning, but did not get a proper answer.

At every step of the way, the overseas territories and Crown dependencies have sought to frustrate any real progress. I did not mention any particular ones by name in my speech on Second Reading, but I had a really snotty, or not very friendly, letter from the Isle of Man, basically saying, "How very dare you. You don't understand any of this."

The Library brief on beneficial ownership cites a Minister who said:

"We have made huge progress in ensuring that we have registers of beneficial ownership in the overseas territories…The progress that has been made in the overseas territories is the greatest under any Government in history, which perhaps is one reason Transparency International said that the summit had been a good day for anti-corruption."—[*Official Report*, 15 June 2016; Vol. 611, c. 1745.]

However, the brief also states:

"Given that some of the Crown Dependencies and British Overseas Territories have already…said very firmly that they will not be creating public registers, it seems likely that any further negotiation towards such registers will not be easy."

That is an impartial brief. Transparency International recognises that some people are setting their faces against this.

3 pm

I have a copy of *Hansard* from Jersey that I was thinking of pulling out this morning. It was pointed out to me that a Deputy asked the following question in the Jersey States Assembly on 15 November:

"Following statements made in the House of Commons by the Minister for Security on 25th October, that the U.K. Government"—

that is the Minister opposite me, is it not?

Mr Wallace: That's me!

Dr Huq: Yes. The Minister was quoted in the Jersey States Assembly in a question about the fact that

"the U.K. Government hopes the Crown Dependencies might have made their Registers of Beneficial Ownership of Companies public by the end of this year, or into next year."

[Dr Huq]

The Deputy asked whether the Chief Minister would

"advise what discussions he has had"

and what steps were being taken to put in place the good work that the Minister has mentioned. The following answer came back:

"The U.K. Government accepts, and has accepted in conversations with us, that our approach meets the policy aims that they are trying to meet and international bodies, standard setters and reviewers, have acknowledged that our approach is a leading approach and is superior to some other approaches taken."

The answer is quite long, and I will bore people if I read it all out, but in essence it was, "We're doing enough, and we've been told that it's fine." That is quite scandalous. A supplementary question was also asked. The Chief Minister of Jersey has said, "We're doing what we're doing, and it's enough." That does not go far enough. As long as such countries can get away with that, they will do that. There is a race to the bottom. They are all saying, "We don't have to do it; no one else is doing it."

As I am sure the Minister knows, Orders in Council have been made over the years in relation to different things. One was made in 1991 to abolish capital punishment for the crime of murder in the Caribbean territories of Anguilla, the British Virgin Islands, the Cayman Islands, Montserrat and the Turks and Caicos Islands. In 2009, the UK Government suspended the ministerial Government and the House of Assembly of the Turks and Caicos Islands. The Government basically went in to run the thing: direct rule from London was imposed, despite opposition and criticism. There is a longer list of examples. That has been done before. It seems from the Chief Minister's answer that Jersey thinks it can get away with it. Could we perhaps set a date of, say, 2020 and say that if it has not published entirely public registers of beneficial ownership by then, we will presume that all money coming through is dirty, or something like that? That may concentrate minds.

I could go on and on about the new clause, but I was told to be brief this afternoon, so I will end there for now. I am curious to hear the Minister's response.

Richard Arkless: The SNP generally supports that proposition—we would prefer that Crown dependencies and overseas territories held publicly available registers of beneficial ownership—but to further a point that I made earlier, as the Scottish National party, we are obviously reluctant to compel this place in primary legislation to legislate for jurisdictions where it perhaps does not have locus. Proposed new section 2AA(5) in new clause 5 highlights the constitutional quagmire that that would put this place in. It states that this place would

"take all reasonable steps to support the Crown Dependencies to consent".

Are we going to try to persuade them to consent? I do not quite understand what that subsection is getting at. If we have jurisdiction, we have jurisdiction; if we do not have jurisdiction, we simply do not have jurisdiction.

In conversations that I have had with the Jersey authorities—I have forthcoming conversations with the Isle of Man authorities, which sent me a similar letter, although I perhaps would not describe it in such terms—they have been at pains to stress that this place does not have competency to make such legislative provisions. I am minded to agree, even though I think it would be a good idea if they did, under their own steam, make those public registers available. Our position is that we support the proposition in principle, but we do not see that this new clause is competent, given the jurisdictional capabilities of this place over the Crown dependencies.

Roger Mullin: The SNP has been very supportive of everything today, but I have to say that for the past year and a half I have been having discussions with the Isle of Man authorities, including with the First Minister there, and I have found them genuinely willing to engage in discussions. I think that the language used about the Isle of Man was unfortunate.

Mr Wallace: As the hon. Lady rightly says, this subject has been raised significantly, both on Second Reading and elsewhere. New clause 21 would set a legislative timetable for the UK Government to ensure that overseas territories have a public register of beneficial ownership, and to work with Crown dependencies to achieve the same outcome. There is considerable interest in this specific issue and I am pleased that this amendment allows us to debate it. I understand where the Opposition are coming from and appreciate the desire for these jurisdictions to have publicly accessible registers of beneficial ownership information—David Cameron made this an ambition in 2015. I would be grateful if the hon. Lady clarified why she chooses to treat Crown dependencies differently from overseas territories when it comes to some of the measures; that would be helpful to all Members.

While the overseas territories and Crown dependencies are separate jurisdictions with their own democratically elected Governments, and are responsible for their own economic diversification and fiscal matters, we have been working with them on their role on company transparency. If public registers emerge as a new global standard, the UK Government would expect all relevant jurisdictions to meet that standard. However, it would be wrong to say that, in the absence of public registers, no efforts have been made to increase corporate transparency and tackle tax evasion and corruption. The Crown dependencies and those overseas territories with financial centres are already taking a number of important steps on beneficial ownership and tax transparency, which will put them well ahead of most jurisdictions. This includes some of our G20 partners and other major corporate and financial centres, including some states in the United States. These measures will prevent criminals from hiding behind anonymous shell companies and mark a significant increase in the ability of UK law enforcement authorities to investigate bribery and corruption, money laundering and tax evasion.

I asked officials whether there has ever been an example of our imposing legislation on the Crown dependencies. As far as we can find out, in recent history there has never been an example of our imposing legislation on Crown dependencies without their consent. That is important—we have not gone around imposing our will on Crown dependencies as we see fit. Where we have done so on overseas territories, it has been on very strong moral issues such as capital punishment. Both in Crown dependencies and overseas territories, people have moved quite significantly and, I have to say to the hon. Lady, far more significantly than in 13 years of a Labour Government. We cannot sit here and ignore the elephant in the room.

Under our Government, we now have a position where the debate in this room is about the word "public" and whether registers are going to be public. It is not about whether these islands and other places will have a central register of beneficial ownership. By next year, they will either have a direct central register or linked registers and that is 90% of the way. By the way, our law enforcement agencies will have automatic access to that information.

The best thing, in my view, would be to say, "Yes, we know what David Cameron's intention was in 2015 when he made that statement; yes, the United Kingdom pretty much leads the world in making our register public for the whole of the United Kingdom", but also to say, "Let us revisit this once we get the Bill through, once we see whether our law enforcement agencies can use that access to prosecute, deter, change culture and show the way forward." If that is not happening, of course we can have these debates again, but we should recognise that a lot of those countries have moved without our imposing our will on them, and we are hopefully giving access to our National Crime Agency and HMRC—all the things that we struggled to get for very many years. Let us see where that journey takes us. Our intention is clear. We pretty much lead the world in this. I urge hon. Members to recognise that we are going a long way.

Richard Arkless: The Minister will forgive me if I am wrong, but he has only outlined the position and the progress made by the Crown dependencies in having registers and information sharing. Will he elaborate on the overseas territories or did I miss something?

Mr Wallace: I am grateful to the hon. Gentleman for pointing that out. I meant and/or the overseas territories. The full house will, hopefully by next year, have those registers in place with automatic sharing enabled for our law enforcement agencies, and vice versa—should someone choose to use our country to hide tax from those other countries, their law enforcement agencies will be able to have it.

What I notice about all this is that the world is changing. Transparency is in the ascendancy, secrecy is not. Whether these places are overseas territories or other countries that are nothing to do with the United Kingdom, it is not secrecy that makes them competitive or attractive, but the tax rates and surrounding regulations. That is generational change. Yes, there will be people who wish to hide their wealth for all the wrong reasons, but we are now in a position where our agencies and bodies of law and order will be able to access those areas. They will not have to rely on leaks or third-hand information.

I would not be surprised if, in five or 10 years, we are talking about entirely different countries around the world, maybe even countries that we might think would not be harder to access, but actually are. Those countries might have a more developed legal system and a more protective privacy system that makes it harder for our forces of law and order to get hold of data. I certainly think that these places have come 90% of the way, and we should see whether that works for us. We all have the intention and the United Kingdom is leading by example.

The new clause is a very strong measure. We should not impose our will on the overseas territories and Crown dependencies when they have come so far. Irrespective of the point raised by the hon. Member for Ealing Central and Acton about their attitude and about whether they were pushed or forced, they were not pushed there by a gunboat. It is important to recognise that we have got where we have through cajoling, working together and peer group pressure, which, after all, makes a real difference. Therefore, I urge the hon. Lady to withdraw the new clause.

Dr Huq: It is not good enough to say that we just have to pat ourselves on the back and that everything is fine. I am a bit disappointed with the Minister for trotting out that thing about 13 years of Labour. What did Labour do? We passed the Proceeds of Crime Act 2002, which the Bill amends; the Serious Organised Crime and Police Act 2005; the Bribery Act 2010, section 7 of which we discussed so much this morning; and the Money Laundering Regulations 2007. We created the Serious Organised Crime Agency to ensure a single, intelligence-led response to organised crime.

Mr Wallace: Will the hon. Lady give way?

Dr Huq: Let me finish this list. We also passed the Terrorism Act 2000, part 3 of which we have been amending here, as well as part 2 of the Anti-terrorism, Crime and Security Act 2001—legislation to deal with all these things that we have been talking about, such as terrorist funding. It is a bit low of the Minister to trot out that one about 13 years of Labour. We have been consensual and friendly all the way through this Committee, saying what good legislation this is, so that is a bit tawdry. *[Interruption.]*

The Chair: Order. It is a bit difficult to hear what the hon. Lady has to say. Is the Minister intervening?

Mr Wallace: We could say that that is a whole list of missed opportunities for Labour to impose its will on the Crown dependencies. The point is that this takes time. I do not expect Labour to rustle up a perfect, tax-transparent solution to the problem; I did not expect Labour to do it in 13 years, and it is unreasonable to say suddenly, "We are going to impose it in the Bill." There has been a direction of travel all the way through the last decade and a half. This has been about building a slow but thorough process to make sure that we got to where we are. We will be back again on economic crime and reviews of regulators, and to build on some of these issues.

3.15 pm

I am not making the party political point that Labour did not do anything for 13 years. My point is that these things are easier said than done. Labour had plenty of opportunities to do them, but did not, and I respect the reasons for that. Labour did not do these things, not because it could not be bothered, but because it felt it had to build a foundation of recovering assets from crimes. Once the foundation was built, Labour moved to elements of the Bribery Act 2010, and to all the other parts of the law, so that we have ended up where we are. We can go on to build on that. That was my point. I do not need to make cheap party political points; I need to make the point that these things are easier said than done, and we have all come a long way.

Dr Huq: I respect the Minister and I know that he is a reasonable person, but six years into government, he is dragging up the record of a previous Government. I would like to pass on to him the *Hansard* of the States of Jersey legislature. In it, the question was asked:

"Can the Chief Minister confirm that this is not something that, from Jersey's perspective, is immediately on the cards"

or is

"the Minister for Security in the UK"—

that is the Minister opposite me—

"under a misunderstanding of what direction the Crown Dependencies are going in?"

The answer from Senator Gorst, from the governing party in Jersey, was as follows:

"they have decided that the best approach for them is a public register. Of course, they are asking others around the world to consider following their approach. We take the approach which meets the international standard which is, as far as we are concerned, a leading approach."

Judging from that, Jersey has no plans to have a public register until it becomes the international standard.

I accept that the Minister says that it is bad to compel people to do things, but in my last speech, I said that we could work towards some sort of timeline or some dates. Rather than compelling and forcing people to do things, we can encourage them with dates. Already three years have passed, and very little has happened. From what the Chief Minister and all these people in Jersey have said, it looks very much as though they have no intention of taking this action. Earlier, my hon. Friend the Member for Bootle referred to things looking a bit hypocritical from the outside; I worry that people might judge us that way. I have listened carefully to what the Minister said. We will not push the new clause to a vote, but I am sure that he is aware that a lot of people are concerned about the issue. I thought he would be interested to see that *Hansard*, in which he is mentioned; it is quite flattering. I beg to ask leave to withdraw the clause.

Clause, by leave, withdrawn.

Clause 45

MINOR AND CONSEQUENTIAL AMENDMENTS

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

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

That schedule 5 be the Fifth schedule to the Bill.

Clauses 46 to 51 stand part.

Mr Wallace: The remaining clauses in part 4 are relatively technical and straightforward. I am tempted to sit down after saying that. They are also similar to other pieces of legislation, so I will not delay us much longer, beyond highlighting a few points.

Clause 46 allows the Secretary of State to make by regulation such provision as they consider necessary in consequence of this Bill. Clause 47 sets out the procedural requirement for making regulations in respect of the devolved Administrations, while clause 49 covers the Bill's territorial extent. Most of the Bill extends to England, Wales, Scotland and Northern Ireland. As I stated on Second Reading, we expect the Scottish Government and the Northern Ireland Executive to seek legislative consent motions from their legislatures; I welcome that, and support them in doing so. I am grateful for our constructive and ongoing engagement with the devolved Administrations.

As this brings us to the end of the Committee, I pay tribute to the Chair and co-Chair for their expeditious and authoritative chairing of our proceedings, and to the many members of the House authorities that have facilitated our consideration of the Bill. They include the Clerks of the Public Bill Office, the Doorkeepers, *Hansard* and many others.

I am grateful for the constructive approach taken by the Opposition Front Benchers and the Scottish National party in trying to make the best of the Bill. It is not over yet; I understand that there is a long way still to go. I am grateful for the amendments that were tabled, including those from the hon. Member for Stoke-on-Trent Central. I thank the hon. Members for Dumfries and Galloway, and for Kirkcaldy and Cowdenbeath, for pointing out the issues to do with Scottish limited partnerships and other concerns; I shall meet them for discussions.

The fact that the Committee stage is to finish early is a testament to the significantly cross-party approach, it says here. We shall, I hope, return to the Floor of the House with the Committee's strong endorsement of the Bill as well drafted legislation that will make a difference in the fight against organised crime.

Since I took on my present job, I have had to deal with a range of matters, including terrorists and serious organised crime. The bit that scares me the most is the serious and organised crime—the wealth of those individuals, and the impunity with which they operate. I cannot say how helpful the Bill will be, at least in taking away their profit and returning it to the countries or people they have stolen from or, failing that, to the forces of law and order. When I go to sleep at night, it is serious and organised crime that scares me more than anything else in my brief. I hope that we have gone a long way towards at least deterring those engaged in it, and sending a strong message to people who think that such behaviour is permissible.

Question put and agreed to.

Clause 45 accordingly ordered to stand part of the Bill.

Schedule 5

MINOR AND CONSEQUENTIAL AMENDMENTS

Amendments made: 54, in schedule 5, page 140, line 11, leave out "designated" and insert "counter-terrorism".

See the explanatory statement to amendment 16.

Amendment 73, in schedule 5, page 140, line 32, at end insert—

'( ) In paragraph 5, in sub-paragraph (1), for "this Schedule" substitute "any provision of this Schedule other than Part 2A".

( ) In that paragraph, omit sub-paragraph (4)."

This amendment is consequential on NC18.

Amendment 74, in schedule 5, page 140, line 33, at end insert—

'( ) In paragraph 8(1), for "this Schedule" substitute "paragraph 6"."

This amendment is consequential on NC18.

Amendment 75, in schedule 5, page 140, line 34, at end insert—

'( ) After paragraph 9 insert—

Restrictions on release

9A Cash is not to be released under any power or duty conferred or imposed by this Schedule (and so is to continue to be detained)—

(a) if an application for its forfeiture under paragraph 6, or for its release under paragraph 9, is made, until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded;

(b) if (in the United Kingdom or elsewhere) proceedings are started against any person for an offence with which the cash is connected, until the proceedings are concluded."

( ) In paragraph 10, in sub-paragraph (1) after "Schedule," insert "and the cash is not otherwise forfeited in pursuance of a cash forfeiture notice,".

( ) In that paragraph, after sub-paragraph (8) insert—

"(8A) If any cash is detained under this Schedule and part only of the cash is forfeited in pursuance of a cash forfeiture notice, this paragraph has effect in relation to the other part.'"

This amendment is consequential on NC18.

Amendment 55, in schedule 5, page 141, line 27, leave out "303O(4) and insert "303O(5)"

This amendment corrects an incorrect cross-reference.

Amendment 56, in schedule 5, page 142, line 2, at end insert—

( ) in paragraph (b) (as amended by section 28 of this Act), for "or 298(4)" substitute ", 298(4) or 303O(5)";" *—(Mr Wallace.)*

This amendment is consequential on amendment 15 and corresponds to the amendment of section 82 of the Proceeds of Crime Act 2002 made by paragraph 18(3)(b) of Schedule 5 to the Bill, as amended by amendment 55.

Schedule 5, as amended, agreed to.

Clauses 46 to 48 ordered to stand part of the Bill.

Clause 49

EXTENT

Amendment made: 52, in clause 49, page 102, line 34, at end insert—

"() section 28(2A);" *—(Mr Wallace.)*

This amendment is consequential on amendment 15.

Clause 49, as amended, ordered to stand part of the Bill.

Clause 50

COMMENCEMENT

Amendment made: 53, in clause 50, page 103, line 5, after "25" insert "and 28(2A)"*—(Mr Wallace.)*

This amendment is consequential on amendment 15.

Clause 50, as amended, ordered to stand part of the Bill.

Clause 51 ordered to stand part of the Bill.

Question proposed, That the Chair do report the Bill, as amended, to the House.

Dr Huq: It has been a pleasure to serve under your chairmanship, Mrs Main, and that of Sir Alan Meale in the earlier sittings. I commend the Minister on the Bill. We can all sleep safely in our beds because of it. I am fortunate that my first Front-Bench service has been with such a nice Minister. I look forward to working constructively with the Government on Report—even if there were some tiny things. However, let us not raise those.

Richard Arkless: I add my thanks to you, Mrs Main, and congratulate you on your splendid chairing today. We got through the Bill at a rate of knots, and like other Members, I am delighted to be leaving before 3.30 pm, thanks to you. I do not wish to inflate the ego of the Minister any further, given the compliments that he has had from all sides. Suffice it to say that with the second name Wallace, I wonder what happened.

There is a great deal of cross-party consensus about the objectives of the Bill. It is about making sure that the bad guys, who elicit huge sums of money from criminal activity, have nowhere to hide. We are all focused on that goal, and we will all come together to make sure that that happens. If we can achieve that—subsequent, obviously, to lengthy conversations that we still have to have on a few points, and I am sure that the Minister will treat those conversations as he has done others throughout the Bill process—then I am sure that we can get to a position that will satisfy us, if not in this primary legislation on Report, then certainly within the contemplation of Government in future. That is certainly our objective. Unlike my more experienced colleague, my hon. Friend the Member for Kirkcaldy and Cowdenbeath, who has been an MP for the same amount of time as me, this is my first Bill Committee. It has not been the most contentious in the world, which I suppose I should be grateful for, but I look forward to the other stages on the Floor of the House, and I thank all Members.

Question put and agreed to.

Bill, as amended, accordingly to be reported.

3.26 pm

Committee rose.

Written evidence reported to the House

CFB 04 Standard Chartered Bank
CFB 05 British Banking Association
CFB 06 Save the Children, ActionAid, Christian Aid and Oxfam