PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

POLICE, CRIME, SENTENCING AND COURTS BILL

Tenth Sitting

Tuesday 8 June 2021

(Afternoon)

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not later than

Saturday 12 June 2021

The Committee consisted of the following Members:

Chairs: † Steve McCabe, Sir Charles Walker

† Anderson, Lee *(Ashfield)* (Con)
† Atkins, Victoria *(Parliamentary Under-Secretary of State for the Home Department)*
† Baillie, Siobhan *(Stroud)* (Con)
† Champion, Sarah *(Rotherham)* (Lab)
† Charalambous, Bambos *(Enfield, Southgate)* (Lab)
† Clarkson, Chris *(Heywood and Middleton)* (Con)
† Cunningham, Alex *(Stockton North)* (Lab)
† Dorans, Allan *(Ayr, Carrick and Cumnock)* (SNP)
Eagle, Maria *(Garston and Halewood)* (Lab)
† Goodwill, Mr Robert *(Scarborough and Whitby)* (Con)
Higginbotham, Antony *(Burnley)* (Con)
Jones, Sarah *(Croydon Central)* (Lab)
† Levy, Ian *(Blyth Valley)* (Con)
† Philp, Chris *(Parliamentary Under-Secretary of State for the Home Department)*
† Pursglove, Tom *(Corby)* (Con)
Wheeler, Mrs Heather *(South Derbyshire)* (Con)
† Williams, Hywel *(Arfon)* (PC)

Huw Yardley, Sarah Thatcher, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 8 June 2021

(Afternoon)

[Steve McCabe *in the Chair*]

Police, Crime, Sentencing and Courts Bill

2 pm

The Chair: Good afternoon. I remind Committee members about the usual things: turn your phones and electronic devices to silent, remember to wear face coverings and observe social distance. Please remove your jackets if you feel so inclined.

Clause 54

Imposing conditions on public processions

Question (this day) again proposed, That the clause stand part of the Bill.

The Chair: I remind the Committee that with this we are discussing the following:

Clause 55 stand part.

Clause 56 stand part.

Clause 60 stand part.

The Parliamentary Under-Secretary of State for the Home Department (Victoria Atkins): I now turn to the detail of clauses 54, 55, 56 and 60, which all relate to the conditions that the police can place on public processions, public assemblies and, by virtue of clause 60, single-person protests.

The police are able to place conditions on planned or ongoing protests to prevent serious public disorder, serious damage to property or serious disruption to the life of the community. Conditions may also be imposed on a protest if the purpose of the person organising it is the intimidation of others in order to compel them to do or not to do an act that they have the right to do or not to do. The four clauses will ensure that the police are better placed to prevent protests that cause those harms. They will achieve that in the following ways.

Clause 55 will widen the range of conditions that the police can impose on public assemblies, to match existing powers to impose conditions on public processions. Clause 56 will prevent protesters from exploiting a loophole to evade conviction should they breach conditions at a protest and will increase sentences for such offences. Clauses 54, 55 and 60 will enable the police to impose conditions on a public procession, public assembly or single-person protest where noise may have a significant impact on those in the vicinity or may result in serious disruption to the activities of an organisation. These same clauses will also confer on the Home Secretary the power, through secondary legislation, to define the meaning of

"serious disruption to the life of the community"

and

"serious disruption to the activities of an organisation which are carried out in the vicinity of a public procession",

assembly or single-person protest.

Hywel Williams (Arfon) (PC): It appears that some of the Bill's provisions intersect with the Welsh Government's responsibilities. For example, the responsibility for public order is reserved to the UK Parliament, while the provisions relating to noise generated by persons taking part in a procession look set to overlap with the devolved Government's responsibilities for environmental health. How have the Government addressed those particular concerns, and have they been resolved?

Victoria Atkins: I am so sorry; I do not understand the hon. Gentleman's concerns. Are they that this matter is reserved?

Hywel Williams: I will explain again. As Dr Robert Jones of the University of South Wales points out, the Welsh Government have responsibilities that seem to overlap with provisions in the Bill; their environmental health responsibility on noise is a particular case in point. The Bill says that demonstrations should not be noisy if they cause alarm and so on, but the Welsh Government have those sorts of responsibilities as well. How have those overlapping responsibilities been addressed and how have they been resolved?

Victoria Atkins: I am told that all the provisions relate to reserved matters, so they fall within that framework.

Hywel Williams: I will not pursue this matter further, but is it not clear that the Welsh Government have responsibilities on an environmental basis for noise reduction?

Victoria Atkins: I cannot add to what I said earlier. These are all reserved matters.

I move on to public assemblies. I will explain why it is necessary for the police to be able to place the same conditions on public assemblies as they can on public processions. The case for the changes in clause 55 was made by Her Majesty's inspector Matt Parr in his report on policing protest, published in March. The report included the following observation:

"there have been some conspicuously disruptive protests in recent years, both static (assemblies) and moving (processions). Protests are fluid, and it is not always possible to make this distinction. Some begin as assemblies and become processions, and vice versa. The practical challenges of safely policing a protest are not necessarily greater in the case of processions than in the case of assemblies, so this would not justify making a wider range of conditions available for processions than for assemblies."

It is clear that the challenges of safely policing a protest are not necessarily greater for processions than they are for assemblies. The clause will therefore enable the police to impose conditions such as start times on public assemblies, and prevent excessive noise levels.

Mr Robert Goodwill (Scarborough and Whitby) (Con): Does the Minister agree that, contrary to what the Opposition say, the measures are about facilitating peaceful protest, not stopping protest? Obviously, if a protest breaches other people's right to carry out their normal lives, that is different, but this is about making sure that protests can take place.

Victoria Atkins: Very much so. This is about ensuring that the rights that we have spoken about so far are protected, and that the integral balance of the social contract is maintained. My right hon. Friend is absolutely right.

The police already have the power to impose any necessary conditions on marches. If it is acceptable for the police to impose any such conditions on processions, as they have been able to do since the 1930s, it is difficult to see the basis for the Opposition's objection to affording equivalent powers to impose conditions on an assembly when it presents an equivalent public order risk.

In his evidence, Chief Constable Harrington said words to this effect—my apologies to *Hansard*: "We asked for consistency between processions and assembly, which this Bill does." The police will impose those conditions only where they are necessary and proportionate, complying with their obligations under the Human Rights Act 1998. In fairness, Chief Constable Harrington set out the care and training that the police receive to ensure that they can carry out their obligations carefully.

Clause 56 closes the loophole in the offence of failing to comply with a condition attached to a procession or assembly. When the police impose conditions on a protest to prevent serious public disorder, serious damage to property or serious disruption to the life of the community, they ensure that protesters are made aware of those conditions through various means. Those can include communicating with protesters via loudspeakers or handing out written leaflets.

Some protesters take active measures, such as covering their ears and tearing up leaflets without reading them, to ensure that they are not aware—or to complain that they were not aware—of the conditions being placed. Should they go on to breach the conditions, they will avoid conviction as, under current law, an offence is committed only if a protester knowingly fails to comply with the condition.

Clause 56 will change the threshold for the offence to include where a protester ought to have known of the conditions imposed, closing the loophole in the current law. That is a commonly used fault element in criminal law—indeed, I note that the hon. Members for Stockton North and for Rotherham use it in new clause 23, which provides for a new street harassment offence. The police will continue to ensure that protesters are made aware of the conditions, as they currently do. The onus on the prosecution would change from having to show that an individual was fully aware of conditions, to showing that the police took all reasonable steps to notify them. As I said earlier, the standards and burdens of proof apply, as they do in any other criminal case: it is for the Crown to prove the case beyond reasonable doubt.

This particular proposal was examined by the policing inspectorate and it is again worth quoting from its report in March. It said:

> "Our view is that the fault element in sections 12(4) and (5) and sections 14(4) and (5) of the Public Order Act 1986 is currently set too high. The loophole in the current law could be closed with a slight shift in the legal test that is applied to whether protesters should have known about the conditions imposed on them. On balance, we see no good reason not to close this loophole."

The clause will also increase the maximum penalties for offences under sections 12 and 14 of the Public Order Act 1986.

Due to the increasingly disruptive tactics used by protesters, existing sentences are no longer proportionate to the harm that can be caused. Organisers of public processions and assemblies who go on to breach conditions placed by the police, as well as individuals who incite others to breach conditions, will see maximum custodial sentences increase from three to six months. Others who breach conditions will see maximum penalties increase from level 3 to level 4 on the standard scale, which are respectively set at £1,000 and £2,500.

Sarah Champion (Rotherham) (Lab): Can the Minister give an example of an occasion when the current sentence has not been proportionate, in her opinion? Is she looking at custodial sentences and considering the impact they would have on the courts and on the Prison Service?

Victoria Atkins: The custodial aspect has been increased from three months to six months in relation to organisers of public processions and assemblies who go on to breach conditions, as well as those who incite others to breach conditions. The sentence in relation to the fine is for those who breach conditions. They go in a different category from organisers and those who incite others to breach conditions.

I do not have any examples to hand immediately, but I imagine some will find themselves in my file in due course. We are looking at maximum sentences, but it is still for the independent judiciary to impose sentences in court on the facts of the case that they have before them. That is another safeguard and another check and balance within this legislation. It will be for the judiciary to impose individual sentences, but it is right that Parliament look at the maximum term.

Alex Cunningham (Stockton North) (Lab): What evidence does the Minister have for the need for tougher sentences in this area? Are the judiciary saying that they are ill equipped to sentence people appropriately when they have been convicted of this type of activity?

Victoria Atkins: Again, I point to the disruption and to the tactics that have been developing over recent years, which have grown not just more disruptive but, in some cases, more distressing. There are examples of an ambulance being blocked from an A&E department and of commuters being prevented from getting on the train to go to work in the morning by people who had attempted to climb on to the train carriage. We are seeing more and more of these instances, so it is right that the maximum sentence is commensurate.

If protesters feel that such measures are disproportionate, they will presumably put that defence forward in court. It will be for the Crown to prove its case beyond reasonable doubt and for their counsel to mitigate on their behalf. We are trying to show the seriousness with which we take these small instances, where the balance between the rights of protesters and the rights of the community that is not protesting is disproportionate within the checks and balances that we have already discussed in the course of this debate.

I turn now to the measures relating to noise. The provisions will broaden the range of circumstances in which the police may impose conditions on a public procession or a public assembly to include circumstances where noise may have a significant impact on those in the vicinity, or may result in serious disruption to the activities of an organisation. These circumstances will also apply to single-person protests.

The hon. Member for Rotherham asked whether the noise provision was London-centric, with the biggest protests happening in London. As I said earlier, one

[Victoria Atkins]

would not want to assume that some of the protests that we have seen on the news could not happen outside London, as with the "Kill the Bill" protests in Bristol. It is right that we have clarity and consistency in law across the country so that if a group of protesters behaved in the way people appear to have behaved in the Bristol protests—injuring many, many police officers who were just acting in the line of duty—one would expect the law to apply as clearly in Rotherham as in central London.

2.15 pm

Sarah Champion: I thank the Minister for her clarity on that. I completely support her point when violence is being done or emergency services are being blocked and the disruption is in no way proportionate to the nature of the protest, but I would like her to give some clarity on the issue of noise. Is it a decibel thing? Is it an irritation thing? Who decides what the irritation is? What is and is not acceptable? Would the threshold be lower in a small village because noise would not normally be heard, whereas in a big city with lots of industrial sites it would be a lot higher? It is that subjectivity that I put to the Minister.

Victoria Atkins: That is precisely why we are introducing an objective test in clause 54(3). The hon. Lady will see the wording:

"For the purposes of subsection (1)(ab)(i), the noise generated by persons taking part in a public procession may have a relevant impact on persons in the vicinity of the procession if—

(a) it may result in the intimidation or harassment of persons of reasonable firmness with the characteristics of persons likely to be in the vicinity."

That is consistent with other parts of the criminal law. The wording continues:

"or (b) it may cause such persons"—

that is, persons of reasonable firmness—

"to suffer serious unease, alarm or distress."

We have been very mindful of trying to help the police because it would be a matter for the police to weigh up during a procession, assembly or one-person protest or before one starts. It would be for the senior officer to make that assessment, but it is an objective test.

I hope that the hon. Lady will not mind my raising it, but the example she gave of the impact that hearing a drill had on her personally was her personal, subjective experience; we are saying that this would have to be an objective test—the reasonable firmness of people in the vicinity of that noise.

Sarah Champion: Let me give an example that I am sure everyone in this room will have experience of, as I have. An MP might be speaking at a demo or rally and a group of people feel the need to say, "See you next Tuesday" during the speech. That distresses the church group being addressed. Would that reach the threshold? Is it more of a decibel thing rather than it being directed to the MP? For example, in Rotherham the community came together to hold peaceful vigils but the far right held counter-protests in which they felt the need to call us paedophiles.

I appreciate that I am being annoying on this, but I just do not get it. These particular cases feel subjective and that is why I would like to get the clarity bedded down.

Victoria Atkins: First and foremost, the hon. Lady is certainly not being annoying; she is doing her job and her duty on the Committee. I am feeling my way here carefully because obviously Ministers should not comment on individual cases, but, on her example, in a scenario where someone is being at shouted at or spoken to as she described, there is a very good argument for saying that the person doing the shouting is committing a public order offence under the 1986 Act—that could be a section 5 offence of causing harassment, alarm or distress at the moment.

Again, I read across to other parts of public order legislation. That is why the objective test is an important one. We want first to be consistent with other public order measures. However, we recognise that there may be some instances in which an individual, for whatever reason—medical or otherwise—may have a particular sensitivity. In the criminal law, we say, "Look, we have got to deal with this on an objective basis, because it is the criminal law and the consequences of being convicted of a criminal offence are as serious as they are." I have some hypothetical examples to give a bit of colour in due course, but, if I may, I want to complete outlining the checks and balances as written in the Bill so that everyone has a clear picture of the steps that a senior officer will have to go through to satisfy herself or himself that a condition can be imposed on the grounds of noise.

The senior officer must decide whether the impact is significant. In doing so, they must have regard to the likely number of people who may be affected, the likely duration and the likely intensity of that impact. The threshold at which police officers will be able to impose conditions on the use of noise is rightly very high. The examples I have been provided with—I am sure the Committee will understand that I am not citing any particular protest or assembly—are that a noisy protest in a town centre may not meet the threshold, but a protest creating the same amount of noise outside a school might, given the age of those likely to be affected and how those in the school are trying to sit down to learn on an average day. A noisy protest outside an office with double glazing may not meet the threshold, but a protest creating the same amount of noise outside a care home for elderly people, a GP surgery or small, street-level businesses might, given the level of disruption likely to be caused. Again, that refers to the conditions in clause 54(3) about the likely number of people, the likely duration and the likely intensity of that impact on such persons.

Siobhan Baillie (Stroud) (Con): We have heard an awful lot about the police having to apply judgment and make decisions quickly, but, given the examples that the Minister has just read out, does she agree that there is a good dollop of common sense in much of what we need to apply with this legislation?

Victoria Atkins: Indeed. Of course, we are rightly sitting here scrutinising every single word of the Bill carefully, but a senior police officer on the ground will have had a great deal of training and years of experience

as an officer working in their local communities. They will also have the knowledge of their local communities. I imagine that policing a quiet village and policing the centre of Westminster are two very different experiences, and the officers making such decisions will be well versed in the needs of their local areas. None the less, officers across the country will be bound by the terms of subsection (3)—those checks and balances I have referred to throughout—and the European convention on human rights.

Sarah Champion: I thank the Minister for being generous; it is appreciated. On the examples I supplied, her response was that the existing legislation ought to be covering the point. She mentioned a case study in which a protest could reach the threshold if there was no double-glazing. What concerns me is the organiser who could now face up to six months in jail. Are they meant to know whether properties do or do not have double-glazing, and therefore instruct the march to be silent for a specific 100 yards, as they could otherwise fall foul of the earlier clause? I say to the Minister that I just do not like subjectivity when it comes to the law.

Victoria Atkins: The organiser in those circumstances would, of course, be liable to having a committed an offence only if they breached the order. Indeed, this is the important point. It is for the police to make that assessment. If the police have a conversation with an organiser and say, "We believe that using your very high-level amplification system in this residential street meets the criteria under subsection (3) such that we are going to impose a condition asking you to turn it down," the organiser, or the person deemed to be the organiser, will have had that conversation with an officer, and I very much hope that they will abide by the condition. If they do not, that is where the offence comes in, and that is a choice for the organiser.

As is already the case with processions, those conversations will happen and it will be a matter for the organiser as to what course of action they choose to take. One hopes that they will take the advice and guidance of the police, adapt and therefore be able to continue with their protest in a way that meets the expectations of the local community or local businesses. I appreciate that the detail is incredibly technical, and I am trying to work through every set of factual circumstances. I understand absolutely why people want to work through those, but there are checks and balances that run throughout the Bill.

Alex Cunningham: First, does the Minister agree that we must therefore have specific training for the police? She has referred many times to senior officers making decisions, but senior officers might not be available in Stockton-on-Tees or Rotherham, and certainly not in the local village, when there is some form of demonstration. The local PC may well be the person who has to turn up and make some form of decision in this situation. Secondly, on the issue of noise itself, how can a police officer be fair and objective where there are different groups of people who will be suffering differently as a direct result of a demonstration? A bunch of teenagers standing on Whitehall might find the noise and the robustness of the conversation tremendously exciting, but the pensioners group that has gone for tea at the local café might be very distressed. How on earth does the police officer make a balanced decision in that sort of situation?

Victoria Atkins: I can help the hon. Gentleman on the officer point. Pre-procession—in other words, in respect of processions that are yet to happen—the conditions must be assessed, and if ordered, ordered by a chief officer. That is a chief constable outside London, and in London an assistant commissioner. That is the highest rank in a police force. Mid-procession, conditions are imposed by a senior officer, which is an inspector or above, at the scene. So I do not think that the circumstances that the hon. Gentleman describes will arise. It is another example of the checks and balances that we have tried to put in place throughout this part of the Bill to ensure that these decisions are taken by very experienced and specialised officers.

I have been given another example to help demonstrate the point. A noisy protest that lasts only a short time may not meet the threshold, so the 90 seconds of—I forget the piece of music—

Bambos Charalambous (Enfield, Southgate) (Lab): Holst.

Victoria Atkins: Thank you, Holst. But a protest creating the same amount of noise over several days might meet it, given the extended duration of the protest.

2.30 pm

Again, it is about the officer on the ground, or before the protest, making these decisions in the circumstances of the protest and the surrounding area. Situating oneself in the middle of an enormous park would be different from situating oneself in the middle of a residential street, where lots of people are living in mansion flats or blocks of flats nearby—I am thinking specifically of the Westminster example. Those are all factors that the senior officers will have to weigh up.

The vast majority of processions, assemblies and single-person protests will be able to continue making noise as they do now. Most organisations are able to continue to operate with a loud protest on their doorstep without serious disruption to their activities, and most individuals are able to endure loud protests without suffering serious unease, alarm or distress.

Bambos Charalambous: For clarification, is the senior officer expected to know the area and the types of buildings where the protest will be, as well as the nature of the demonstration—whether it will have lots of sound systems, or involve lots of whistles and chants? Is it expected that that will be known beforehand, or is there scope to act if that were to occur during a demonstration?

Victoria Atkins: That serves to demonstrate the dynamic nature of different forms of protest. If a decision is to be made during the course of a protest, it will be made by a senior officer of inspector rank or above, on the ground and assessing the situation. Let me try to provide a practical example. The inspector may assess the situation in Hyde Park, then walk through to an area where there is lots of high-density housing and consider that the circumstances there are different. It is about being able to react to circumstances as they change and evolve in the course of a protest. That is why we are trying to bring consistency between processions and assemblies—because of the dynamic nature of protests—but it will be for the senior officer, working of course with his or her colleagues, to assess the factors laid out in subsection (3).

[Victoria Atkins]

The police will impose conditions on the use of noise only in the exceptional circumstances where noise causes unjustifiable disruption or impact. I emphasise that in doing so they will have to have regard to the number of people affected and the intensity and duration of the noise, and act compatibly with the rights of freedom of expression and so on within the convention.

The shadow Minister prayed in aid the non-legislative recommendations from HMIC. I want to place on the record that the National Police Chiefs' Council has established a programme board to consider and implement those. I hope that helps.

Mr Goodwill: Does the Minister agree that not only is it a judgment or decision for the police to make in this situation, but that if a prosecution were to follow, the Director of Public Prosecutions and ultimately a jury would decide whether, on balance, they thought a breach of these provisions had occurred?

Victoria Atkins: Exactly right. The police will first have to satisfy themselves and the CPS that a charge should be brought, and from that all the usual safeguards and standards that we expect in the criminal justice system will apply. For example, the CPS will have to apply the code for Crown prosecutors in relation to the public interest and evidential tests. We will then have the mechanisms in the trial process—perhaps a submission at half-time by defence counsel if they feel the evidence is not there. There are many mechanisms that apply in criminal trials up and down the country every single day, and those mechanisms will be available for offences under the Bill as they are for any other criminal offence.

I have been asked for clarification of the terms: annoyance, alarm, distress and unease. Many of those terms are already used in the Public Order Act 1986 and in common law. They are well understood by the judiciary, and the Law Commission—this is particularly in reference to the public nuisance point, which we will come on to in a moment—recommends retaining the word "annoyance", as it provides continuity with previous legal cases and is well understood in this context. We understand the concerns about this, but as I say, through the introduction of these words, we are trying to be consistent with the approach that has long applied in the Public Order Act.

It is necessary to apply the measure in relation to noise to single-person protests because they can, of course, create just as much noise through the use of amplification equipment as a large protest using such equipment. Again, the police will be able to impose conditions on a single-person protest for reasons relating only to noise, not for any other reason.

Forgive me: I have just been corrected regarding the briefing I received about the rank of the officer at the scene. It is the most senior officer at the scene, so there is no minimum rank, but it is anticipated in the use of the word that it will be an officer of great seniority. Any protest on which it may be necessary to impose conditions is likely to have an officer present of at least the rank of inspector.

Alex Cunningham: I am grateful to the Minister for clarifying that point, but it does mean that the local sergeant or PC in a village or a town centre is going to have to make decisions about these matters. My point was that surely, this means that there needs to be some very specific training on how police should react to demonstrations or other activities of that nature.

Victoria Atkins: I would give the police some credit. First, if it is a protest of any serious size, or the organisers have contacted the police or the other way around, this can and should be dealt with ahead of the protest. In the event of a protest taking people by surprise in a quieter area than a huge metropolis, the police will react as they are very used to reacting in circumstances that need them to be flexible and move quickly, and I am sure they will have people on the scene very quickly who can assist with this. We want to ensure that the expectation is that a senior officer, and certainly the most senior officer at the scene, will be the one imposing these conditions.

I now turn to the parts of the clauses that set out that the Home Secretary will have the power, through secondary legislation, to define the meaning of

"serious disruption to the life of the community"

and

"serious disruption to the activities of an organisation which are carried on in the vicinity of the procession",

or assembly or single-person protest. Again, to clear up any misunderstandings, this is not about the Home Secretary of the day banning protests. Opposition Members have understandably called for clearer definitions wherever possible, which is what this delegated power is intended to achieve. Any definition created through this power will need to fall within what can reasonably be understood as "serious disruption". The threshold will be clarified, not changed: such definitions will be used to clarify the threshold beyond which the police can impose conditions on protests, should they believe them necessary to avoid serious disruption. This is about putting the framework in place to help the police on the ground.

The regulations will be subject to the draft affirmative procedure, which means that they must be scrutinised, debated, and approved by both Houses before they can be made. It will, of course, be for the police in an individual case to apply that definition operationally. They can apply that definition only if the criteria in the Bill are met. This is not about the Home Secretary outlawing particular protests or individual demonstrations; it is about setting a framework for a definition, to help the police operation on the ground to understand the criteria in the Bill. To assist in scrutiny of the Bill, we aim to publish further details of the content of the regulation before consideration on Report.

The clauses relating to protest, public assemblies, marches, processions and demonstrations, as well as other terms that have been used to describe this, represent a modest updating of legislation that is more than 35 years old. They do not enable the police or, for that matter, the Home Secretary of the day to ban any protest. Interestingly, we will come to debates in Committee on new clause 43, which relates to interference with access to or the provision of abortion services. That provision does, in fact, seek to ban such protests, so, again, there is a balancing act, or the grey area that has been referred to in this very debate.

Alex Cunningham: I am interested in what the Minister has to say about new clause 43. Is she indicating Government support for the measures that we are trying to introduce?

Victoria Atkins: No, I am drawing out an apparent contradiction. I do not say that in a pejorative sense. The hon. Member and others have expressed strong reservations and complaints about the Bill. I understand that they will vote against the measures, but it seems that discussions about freedom of speech and expression—that balancing act—will be part of the consideration of the Opposition's new clause. I am not laying out a position either way; I am observing the difficulty in achieving that balancing act and an apparent contradiction. It is for individual Members to decide matters of scrutiny.

These clauses provide for a sensible alignment of police powers to attach conditions to an assembly or a public procession, and extend those powers to deal with particularly egregious cases of disruption due to unacceptable levels of noise. The measures are supported by the police, who will, as now, have to exercise the powers within the framework of the Human Rights Act. On that basis, and with that detailed analysis, I commend the clauses to the Committee.

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

The Committee divided: Ayes 8, Noes 4.

Division No. 3]

AYES

Anderson, Lee	Goodwill, rh Mr Robert
Atkins, Victoria	Levy, Ian
Baillie, Siobhan	Philp, Chris
Clarkson, Chris	Pursglove, Tom

NOES

Champion, Sarah	Cunningham, Alex
Charalambous, Bambos	Williams, Hywel

Question accordingly agreed to.

Clause 54 ordered to stand part of the Bill.

Clause 55

Imposing conditions on public assemblies

2.45 pm

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

The Committee divided: Ayes 8, Noes 4.

Division No. 4]

AYES

Anderson, Lee	Goodwill, rh Mr Robert
Atkins, Victoria	Levy, Ian
Baillie, Siobhan	Philp, Chris
Clarkson, Chris	Pursglove, Tom

NOES

Champion, Sarah	Cunningham, Alex
Charalambous, Bambos	Williams, Hywel

Question accordingly agreed to.

Clause 55 ordered to stand part of the Bill.

Clause 56

Offences under sections 12 and 14 of the Public Order Act 1986

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

The Committee divided: Ayes 8, Noes 4.

Division No. 5]

AYES

Anderson, Lee	Goodwill, rh Mr Robert
Atkins, Victoria	Levy, Ian
Baillie, Siobhan	Philp, Chris
Clarkson, Chris	Pursglove, Tom

NOES

Champion, Sarah	Cunningham, Alex
Charalambous, Bambos	Williams, Hywel

Question accordingly agreed to.

Clause 56 ordered to stand part of the Bill.

Clause 57

Obstruction of vehicular access to Parliament

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

Bambos Charalambous: The clause is designed to protect vehicular access to Parliament, and it will amend the Police Reform and Social Responsibility Act 2011. That will ensure that preventing access to the parliamentary estate is prohibited, but it will not give the police powers to arrest those who contravene it.

Clause 58 requires a new controlled area around the temporary locations of Parliament, and the central rules around protests may be imposed around the temporary home of Parliament during restoration and renewal of the Palace of Westminster, whenever that may occur.

Clause 59 replaces the common law offence of public nuisance with the statutory offence of intentionally or recklessly causing a public nuisance. The new statutory offence of intentionally or recklessly causing a nuisance includes the term "serious annoyance", and it is unclear what will constitute a serious annoyance or serious inconvenience. A person does not have to actually suffer any of the above consequences, but only be at risk of suffering them.

The Minister said in the evidence sessions that the term "annoyance" was not dreamed up on the back of an envelope, but follows many centuries of legal development, culminating in the 2015 Law Commission report. However, that does not help to explain or to guide the police as to how to enforce conditions on a protest that puts someone at risk of suffering "serious annoyance". During the evidence session, Chief Constable Harrington, the public order and public safety portfolio lead for the National Police Chiefs' Council, said:

> "On serious annoyance, we need to see what Parliament's decision on the definition of that is and to interpret that accordingly… We will have to see what Parliament decides and whether it is able to give us some clarity about what that means".—[*Official Report, Police, Crime, Sentencing and Courts Public Bill Committee,* 18 May 2021; c. 10, Q8.]

Can the Minister reassure us today by providing some clarity on what "serious annoyance" might mean and what is the threshold for "serious annoyance"?

I will finish on this point: the designated area for Parliament includes Parliament Square, where can be found a number of statues of celebrated pioneers of

[Bambos Charalambous]

struggle and protest, including Nelson Mandela, Mahatma Gandhi and the suffragist Millicent Fawcett. I wonder what they would think about the state limiting people's rights of protest in this way. I think we can all guess.

Victoria Atkins: If I may, Mr McCabe, I shall confine my remarks to clause 57, which deals with "Obstruction of vehicular access to Parliament". I will take up the challenge on annoyance when it comes to clause 59.

Clause 57 delivers a clear recommendation from the Joint Committee on Human Rights, chaired by the right hon. and learned Member for Camberwell and Peckham (Ms Harman). Its 2019 report, "Democracy, freedom of expression and freedom of association: Threats to MPs", refers to

"unimpeded access to the Palace of Westminster for all who have business in either House, or wish to meet their representatives",

and to how vital that is. The report continues:

"Even though there is a special legal regime for the area around Parliament, it is clear that those responsible for policing and controlling that area have not always given the need for access without impediment or harassment the importance it requires. This must change."

We are acting on the recommendations of the Joint Committee and, through clause 57, strengthening and extending the Palace of Westminster controlled area in relation to section 142A of the Police Reform and Social Responsibility Act 2011.

Mr Goodwill: Would my hon. Friend be interested to know that, more than a century ago, precedent was set by the grandfather of the current Lord Montagu? He arrived in a motorcar and the police tried to prevent it from entering the precincts of the Palace, but he insisted that it came in. Precedent was therefore set well over a century ago at the dawn of the age of the motorcar, and I hope that that precedent will be followed.

Victoria Atkins: That is a wonderful example to explain how that fundamental right of our democracy was introduced. I note, of course, that my right hon. Friend has great knowledge and expertise in all matters vehicular, to which I defer.

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

The Committee divided: Ayes 8, Noes 2.

Division No. 6]

AYES

Anderson, Lee	Goodwill, rh Mr Robert
Atkins, Victoria	Levy, Ian
Baillie, Siobhan	Philp, Chris
Clarkson, Chris	Pursglove, Tom

NOES

Charalambous, Bambos	Cunningham, Alex

Question accordingly agreed to.

Clause 57 ordered to stand part of the Bill.

Clause 58

POWER TO SPECIFY OTHER AREAS AS CONTROLLED AREAS

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

Victoria Atkins: The clause provides the Secretary of State with a regulation-making power to designate new "controlled areas" for the purposes of part 3 of the Police Reform and Social Responsibility Act 2011, should Parliament relocate due to restoration and renewal works, or for any other reason. That would include, for example—I am sure we all hope that it does not happen—the House needing to relocate because of a fire or other emergency. We hope fervently that this will not be required for those reasons, but it is the will of the Government, working with the parliamentary authorities, to ensure that the measures relating to controlled areas can be extended to wherever Parliament relocates to ensure the security and safety of parliamentarians in the event of a temporary relocation.

Question put, That the clause stand part of the Bill:

The Committee divided: Ayes 8, Noes 2.

Division No. 7]

AYES

Anderson, Lee	Goodwill, rh Mr Robert
Atkins, Victoria	Levy, Ian
Baillie, Siobhan	Philp, Chris
Clarkson, Chris	Pursglove, Tom

NOES

Charalambous, Bambos	Cunningham, Alex

Question accordingly agreed to.

Clause 58 ordered to stand part of the Bill.

Clause 59

INTENTIONALLY OR RECKLESSLY CAUSING PUBLIC NUISANCE

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

Victoria Atkins: The hon. Member for Enfield, Southgate has made his remarks on the clause, for which I am grateful.

The clause enshrines in statute the long-standing common law offence of public nuisance. As we heard from a number of our policing and other witnesses, codifying the criminal law in this area will provide clarity to the public, the police, prosecutors and others as to the scope of the offence, giving clear notice of what conduct is covered.

The new offence of intentionally or recklessly causing public nuisance has been drafted in line with the recommendations of the 2015 Law Commission report "Simplification of Criminal Law: Public Nuisance and Outraging Public Decency". The Law Commission held a public consultation, which informed the recommendations of its report. It found that it is necessary to keep this offence, as

"human inventiveness being so great, it is desirable to have a general offence for culpable acts that injure the public but do not fall within any specialised offences."

The intention of the clause is to codify an existing offence, not to create a new one. That is in keeping with the intention of the Law Commission. As such, it is appropriate to mirror the language from the common law offence as much as possible. For that reason, we

have retained the use of the terms "annoyance" and "inconvenience" while adding the caveat of "serious", so raising the bar for securing a conviction.

It is clear from case law relating to the existing common law offence that those terms connote something more than merely feeling annoyed or inconvenienced. The term "annoyance" has been applied to acts such as allowing a field to be used for holding an all-night rave or conspiring to switch off the floodlights at a football match so as to cause it to be abandoned—certain colleagues will prick up their ears at my mention of that—and to noise, dirt, fumes, noxious smells and vibrations.

The Law Commission provides the further example of vexatious calls to the emergency services' 999 number or to Childline. Repeated vexatious calls can affect the ability of a local force to respond to genuine emergencies. That gives a flavour of the examples that have long been understood under the common law offence as annoying or inconvenient.

Many of the terms used are well established in law, including criminal law. Indeed, the term "inconvenienced" appears in the Metropolitan Streets Act 1867, "loss of amenity" is used in the Railway Fires Act 1905, and "annoyance" features in the Town Police Clauses Act 1847 —statutes with which I am sure we are all very familiar. These are not vague, untried or untested terms, and I note that the hon. Member for Garston and Halewood is happy to put her name to new clause 2, which concerns kerb-crawling and uses the term "annoyance".

3 pm

Introducing the offence in statute will narrow the scope of the offence. The definition will capture different types of harm to the public or a section of the public, including serious distress, serious annoyance, serious inconvenience and serious loss of amenity. This is a move away from a loss of comfort, which is in scope of the common law offence.

Contrary to some of the misunderstandings about the clause, we are increasing the fault element. This will require that a person must act either intentionally or recklessly, and it is another softening of the original common law offence. The original common law offence required only the lower-fault element of negligence, which does not require awareness from the defendant.

Finally, clause 59 stipulates a 10-year maximum custodial sentence, which is a reduction from the unlimited sentences that are available under the common law offence. Indeed, the chair of the Bar, Mr Derek Sweeting, supported this move when he gave evidence, saying that he welcomes the fact that we have a statutory maximum of 10 years. The Law Commission found that, as the offence is intended to address serious cases for which other offences are not adequate, a maximum sentence should be high enough to cover such cases. A person prosecuted under the clause is also provided with a defence of reasonableness. The clause states:

"It is a defence for a person charged with an offence under subsection (1) to prove that they had a reasonable excuse for the act or omission".

Support for the clause was shared by a number of witnesses in the oral evidence sessions, including policing colleagues, inspectorate colleagues and, as I say, Mr Sweeting from the Bar Council. Clarity is an important facet of criminal law, and the Committee has now heard the careful thinking and consideration behind this important issue not just by the Government, but by the Law Commission. Indeed, there was also a public consultation before it reported. I very much hope that that has served to reassure the Committee about the concerns raised by hon. Members and others, and that it shares with us the intention that the clause stand part of the Bill.

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

The Committee divided: Ayes 8, Noes 2.

Division No. 8]

AYES

Anderson, Lee	Goodwill, rh Mr Robert
Atkins, Victoria	Levy, Ian
Baillie, Siobhan	Philp, Chris
Clarkson, Chris	Pursglove, Tom

NOES

Charalambous, Bambos	Cunningham, Alex

Question accordingly agreed to.

Clause 59 ordered to stand part of the Bill.

Clause 60

IMPOSING CONDITIONS ON ONE-PERSON PROTESTS

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

The Committee divided: Ayes 8, Noes 2.

Division No. 9]

AYES

Anderson, Lee	Goodwill, rh Mr Robert
Atkins, Victoria	Levy, Ian
Baillie, Siobhan	Philp, Chris
Clarkson, Chris	Pursglove, Tom

NOES

Charalambous, Bambos	Cunningham, Alex

Question accordingly agreed to.

Clause 60 ordered to stand part of the Bill.

Clause 61

OFFENCE RELATING TO RESIDING ON LAND WITHOUT CONSENT IN OR WITH A VEHICLE

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

The Chair: With this it will be convenient to discuss clauses 62 and 63 stand part.

Bambos Charalambous: I stand to speak out against clauses 61 to 63. In doing so, I am reflecting the views of the Gypsy and Traveller community, the police, and organisations as diverse as the Ramblers Association and Liberty.

I want to start by thanking Abbie Kirkby from Friends, Families & Travellers for all its help on part 4 of the Bill. Part 4—clauses 61 to 63—would amend the Criminal Justice and Public Order Act 1994 to create a new offence of

"residing on land without consent in or with a vehicle".

[Bambos Charalambous]

It would also amend the police powers associated with unauthorised encampments in the Act to lower the threshold at which they can be used, allow the police to remove unauthorised encampments on or partly on highways, and prohibit unauthorised encampments that are moved from a site from returning within 12 months.

Like the clauses we have just debated on public order, this part of the Bill is controversial and has generated a number of organised campaigns in opposition to it, including an e-petition that garnered 134,932 signatures. The petition called the Government's proposed criminal offence "extreme, illiberal and unnecessary".

Mr Goodwill: Would any of the people who live near one of these illegal camps have signed that petition?

Bambos Charalambous: I do not know who signed the petition, but I am sure it is available. The right hon. Gentleman will have to explore the petition himself to see who signed it.

A broad coalition, from the National Society for the Prevention of Cruelty to Children to Liberty, from Gypsy, Roma and Traveller communities to the Ramblers Association and from the police to Shelter, is united in the view that the proposals put forward by the Government would be wrong and unhelpful, and go against our basic rights.

Lee Anderson (Ashfield) (Con): We have a big problem in Ashfield with the travelling community. They come two or three times a year. I did my own poll of about 2,000 constituents, and 95% agreed with me that the Travellers were creating a massive problem—crime was going up, pets were going missing, antisocial behaviour was going through the roof and properties were getting broken into. My constituents do not want them in our area anymore. That was a survey of 2,000 people, and that was the response from 95% of them. That evidence from my area is a bit more compelling than the petition the hon. Gentleman mentioned, which has probably been signed by 100,000 Travellers.

Bambos Charalambous: One of the problems is that there is less local authority provision for Travellers to go to. That loss of provision, which is partly due to cuts to local government, has caused more problems, meaning that more people are on the road at any given time. However, this issue does not affect just the Traveller community, as the hon. Gentleman will see when I go on to make further points. It also impacts people such as ramblers, birdwatchers and others who want to stay out and sleep in their vehicles while enjoying countryside activities.

Alex Cunningham: My hon. Friend has made the point that there is a failure in our society to provide sufficient facilities for people from the travelling community, be they traditional Gypsies or people who choose to go on the road. Does he agree that the Government, rather than bringing in legislation such as this, should turn their attention to providing local authorities with the resources they need to provide facilities for travelling communities? Does he also agree that that should not be left just to some communities; communities across the country should take a share in providing such facilities so that Travellers can live with them cheek by jowl in a peaceful way?

Bambos Charalambous: My hon. Friend makes an excellent point. That was highlighted by the representative from the LGA in her evidence to the Committee.

As one of the respondents to the Petition Committee's survey on the criminalisation of trespass put it:

"The criminalisation of trespass will simply exacerbate an already fraught relationship."

Ian Levy (Blyth Valley) (Con): Next to my constituency is a Traveller site that has spaces that could be used by people who choose to live a nomadic lifestyle, yet we still have people turning up and using public car parks. People going to do their shopping at the Keel Row shopping centre found that really intimidating and the police had to ask the Travellers to move on. When they did move on, they left a lot of rubbish and the place was really untidy. There was space at the Traveller site, but the Travellers chose not to use it. Does the hon. Gentleman agree that that was wrong?

Bambos Charalambous: I agree that there is no excuse for antisocial behaviour or criminal activity, such as fly-tipping, which is wrong and needs to stop. Equally, where sites are provided, they should be made use of.

Mr Goodwill: Does the hon. Gentleman agree that we must listen to local people in this respect? When sites were proposed in Stockton-on-Tees in 2014, there were 565 individual representations against them, four petitions signed by 850 people and a letter of objection supported by 55 neighbours, so even in Stockton-on-Tees, the constituency of the hon. Member for Stockton North, there is great opposition to having these Traveller sites in their communities.

Bambos Charalambous: Therein lies the problem: many people do not want to have Travellers anywhere near them, and that is partly why there are so few sites. If more sites were made available, that would potentially solve the problem.

Lee Anderson: We have already established that in places where Traveller communities set up, such as Ashfield, crime goes up; we know that there is a direct correlation between Travellers being in the area and crime going up. Does the hon. Gentleman think that crime will come down if we have a permanent site in Ashfield?

Bambos Charalambous: As I have said, there is no excuse for criminality, and the Gypsy and Traveller community is already overrepresented in the prison population, but I do not think that the two issues are necessarily related to what the clause is trying to achieve. The hon. Gentleman is trying to say that the Gypsy and Traveller community is responsible for crime in Ashfield. I do not know the facts and figures in relation to that, but what the clause does is criminalise communities for being in vehicles on public land. While each Member has a concern about their individual constituents, we need to get back to what the Bill is focusing on, which is criminalising anyone in a vehicle, even on their own. I think that is what we need to focus on.

Alex Cunningham: In Stockton, we have had facilities for travelling communities for many years. I am sure my hon. Friend will agree that this is about having proper facilities. Perhaps I can point him to the example of the Appleby horse fair, which attracts thousands of people every year. We see them travelling up, and they stay on the byways and all sorts of places along the way, but when they get to the site they are properly catered for. There is proper rubbish removal, proper facilities for animals, toilets and all manner of facilities, and they are put in place to provide for that particular need. Perhaps if other local authorities across the country took that approach, we would not have the problems that Government Members have described.

Bambos Charalambous: Again, my hon. Friend makes an excellent point. He is right: if more facilities were provided, that would help to solve the problem.

Allan Dorans (Ayr, Carrick and Cumnock) (SNP): Although these clauses do not apply in Scotland, does the hon. Member agree that a significant number of Gypsy Travellers cross the border daily for work, to maintain family ties and for cultural reasons, and that these measures will cause further discrimination and harassment of this ethnic group, which is protected under the Equality Act 2010 as a recognised ethnic group?

3.15 pm

Bambos Charalambous: I entirely agree with the hon. Member's comments. He is right: this measure is targeting a particular group for criminalisation, and that has to be totally wrong. As one respondent to the Petitions Committee's survey on criminalisation of trespass put it:

"The criminalisation of trespass will simply exacerbate an already fraught relationship. Travellers will still camp but there'll be more prosecutions, more distrust, more public money spent on legalities".

Other people with nomadic lifestyles have told me that they feel that they will no longer be able to live on the road in the way that has been seen in this country since the 16th century, and that the Bill risks criminalising their way of life. At a recent meeting of the all-party parliamentary group on Gypsies, Travellers and Roma, we heard from the community about what might happen to them if these clauses become law. It was absolutely heartbreaking to hear from those people that they fear that their whole way of life will be taken from them if the clauses become law.

Can the Minister tell the House this? Under the provisions in the Police, Crime, Sentencing and Courts Bill, what will happen to a Traveller family in a single vehicle who are residing on a highway and have nowhere else to go? Failure to comply with a police direction to leave land occupied as part of an unauthorised encampment is already a criminal offence, but the proposals create a new offence of residing on land without consent in or with a vehicle. The broad way in which it is drafted seems to capture the intention to do that as well as actually doing it, with penalties of imprisonment of up to three months or a fine of up to £2,500, or both. The loose drafting of this legislation invites problems with its interpretation, and it is simply not fair to put that on to the police.

The Opposition's major concern about this aspect of the Bill is that it is clearly targeted at Gypsy, Roma and Traveller communities, and the criminalisation would potentially breach the Human Rights Act 1998 and the Equality Act 2010. When the powers in the Criminal Justice and Public Order Act 1994 were first debated in Parliament, it was stated that the powers were intended to deal with "mass trespass". However, under the Bill even a single Gypsy or Traveller travelling in a single vehicle will be caught by this offence.

These measures to increase police powers in relation to unauthorised encampments are not even backed by the police. When Friends, Families & Travellers researched the consultation responses that the Government had received, it found that 84% of the police responses did not support the criminalisation of unauthorised encampments. Senior police are telling us that the changes in the Bill that relate to unauthorised encampments would only make matters worse: they would add considerable extra cost for the already overstretched police and risk breaching the Human Rights Act.

The views of the National Police Chiefs' Council were clearly put in its submission to the 2018 Government consultation. It wrote:

"Trespass is a civil offence and our view is that it should remain so. The possibility of creating a new criminal offence of 'intentional trespass'…has been raised at various times over the years but the NPCC position has been—and remains—that no new criminal trespass offence is required.

The co-ordinated use of the powers already available under the Criminal Justice and Public Order Act 1994 allows for a proportionate response to encampments based on the behaviour of the trespassers."

At an evidence session of this Bill Committee, Martin Hewitt said on behalf of the NPCC that the group

"strongly believes that the fundamental problem is insufficient provision of sites for Gypsy Travellers to occupy, and that that causes the relatively small percentage of unlawful encampments, which obviously create real challenges for the people who are responsible for that land and for those living around… The view of our group is that the existing legislation is sufficient to allow that to be dealt with, and we have some concerns about the additional power and the new criminal provision and how that will draw policing further into that situation."—[*Official Report, Police, Crime, Sentencing and Courts Public Bill Committee,* 18 May 2021; c. 15, Q20.]

Siobhan Baillie: I have been listening to evidence about whether the existing powers are sufficient, which I challenge. I put it to the hon. Gentleman that if they were sufficient, we would not also have heard evidence about the tens of thousands of pounds that the case in Dartmoor cost. That was a huge cost to the council, thus making the taxpayer pay twice in having to deal with the issues beside them and through the public purse. We also heard countless other examples of what has been happening in communities. Does the shadow Minister think that our current legislation is truly sufficient? I think we need to look again, which is what the Bill is doing.

Bambos Charalambous: Civil remedies would still be available for people who engage in antisocial behaviour, fly-tipping and so on. All we would be doing is criminalising a particular group of people. In my view, the civil remedies would still be there and the cost to the council would still be there if proper facilities were not provided. To me, just criminalising a particular group of people is wrong.

[Bambos Charalambous]

To continue, the NPCC witness said:

"Really, our point fundamentally as the NPCC group is that the issue here is the lack of provision that theoretically should be made, which means that we have this percentage of Travellers who are on unlawful spaces and you end up in the situations that we end up with. Our view is that the current legislation is sufficient to deal with that issue."—[*Official Report, Police, Crime, Sentencing and Courts Public Bill Committee,* 18 May 2021; c. 15, Q20.]

We have to ask: why are the Government determined to lock up Gypsies and Travellers, even against the advice of their own police? As Martin Hewitt clearly stated, existing legislation on police powers and unauthorised encampments is enough to tackle the problem. The police already have extensive powers to move on unauthorised encampments in the Criminal Justice and Public Order Act 1994, and as of January 2020, just 3% of Gypsy and Traveller caravans—694—in England were in unauthorised encampments. Of those, 419 were on sites not tolerated and 275 were on tolerated sites. The police and campaigners tell us the evidence is not there that the new powers are necessary and that many more authorised encampment sites should be provided instead.

Alex Cunningham: I sometimes wonder whether the power to discourage Travellers from moving in is in the hands of communities. Travellers move around the country for work—to pick up scrap, to do all manner of gardening work, such as taking down trees for people, and so on. I have had many an argument with people living in communities who say, "We don't want Travellers here," but they put out their fridge or their scrap metal for them, they let them cut down their trees. They provide them with work and an incentive to be in the area. So perhaps people have it in their own power. Travellers will not come if there is no incentive for them.

Bambos Charalambous: My hon. Friend makes an interesting point, which is worthy of further discussion.

I will run through a series of points the Minister for Crime and Policing made when responding to a Westminster Hall debate on this question. On concerns about the right to roam being threatened, he said the measures will not affect anyone who wants to enjoy the countryside for leisure purposes, but many organisations, such as the Ramblers Association and CPRE the Countryside Charity, are concerned that although the Government might not intend to capture others enjoying the countryside, they could still do so. The legislation is so open to interpretation that it could easily be applied to anyone with a vehicle. For example, how do the Government propose to ensure that the police distinguish between a modified Transit van or Volkswagen camper used at the weekends and one that is lived in? How will they distinguish between a family going on a caravan holiday and a Gypsy or Traveller family with an identical caravan before stopping them and seizing their property because the police suspect that they might stop somewhere they do not have permission to do so?

The Minister for Policing and Crime also said that there is a high threshold to be met before the new powers kick in, but only one vehicle need be involved, whereas section 61 of the Criminal Justice and Public Order Act requires six vehicles. The bar seems to have been significantly lowered in the Bill. The police currently have discretion to decide whether to use their powers under sections 61, 62 and 62A to 62E, in the latter cases where a suitable alternative pitch is available, but under the proposals in part 4 of the Bill, police will be dutybound to act when they are informed that a criminal offence has taken place.

The term "significant distress" is highly subjective. Given the high levels of prejudice and hatred towards Gypsy and Traveller communities, we are likely to see countless reports of criminal offences being committed, based on someone saying that they are significantly distressed by an encampment. Marc Willers QC, of Garden Court Chambers, said in the evidence sessions:

'It seems to me that a lot of the language used is vague and uncertain. There is a reference to causing "significant distress" as one of the conditions that could lead to the criminalisation of an individual who refuses to leave a piece of land. That, in itself, brings inherent problems, because a private citizen could very easily invoke the power and leave a police officer with a fait accompli—in other words, they have no option but to arrest an individual who refuses to leave land in circumstances where the occupier says, "I am being caused significant distress by the very fact that this individual is parking on land that I occupy."'

Alex Cunningham: I am never happier than when I am in my own caravan—always on an official site—travelling around the country and into Europe. I have seen tremendous growth in the number of people driving motor homes, and I see them parked up all over the country, on private land, public land and elsewhere. Those people are also going to get caught up in this particular legislation, are they not?

Bambos Charalambous: Again, my hon. Friend makes a very good point. We want to make sure that people are free to enjoy the beautiful countryside we are lucky to have in the UK without fear of being criminalised in such a way.

Marc Willers QC went on to say:

"That distress can be engendered or underpinned by the prejudice that Gypsies and Travellers face in our society today. It is a widespread and long-standing prejudice, dating back to the first time that Romani Gypsies came to these shores in the 1500s… There may well be unwarranted and unjustified concerns on the part of the occupier, which could lead to the criminalisation of an individual who has nowhere else to go."—[*Official Report, Police, Crime, Sentencing and Courts Public Bill Committee,* 18 May 2021; c. 72, Q104.]

Lee Anderson: At the beginning, the hon. Gentleman made an interesting point about Romani Gypsies coming here more than 500 years ago, but the Gypsy encampments that we are talking about in places such as Ashfield are not the traditional, old-fashioned Gypsies sat there playing the mandolin, flogging lucky heather and telling fortunes. The Travellers I am talking about are more likely to be seen leaving your garden shed at 3 o'clock in the morning, probably with your lawnmower and half of your tools. That happens every single time they come to Ashfield. Does he agree that there is some confusion on the Opposition side as to who these people actually are?

Bambos Charalambous: I have said previously that we certainly do not condone any antisocial behaviour or criminal activity, but this is one of the many prejudices that exist about the Gypsy, Roma and Traveller communities, and it is these sorts of problems that would lead to people invoking some of the clauses in the Bill in order to criminalise people.

Mr Goodwill: Trying to describe this as some sort of inherent prejudice misses the point, in that the activities of some of these people are what cause concern to a community—for example, leaving a load of rubbish behind on a lay-by. In Whitby, we get a lot of Travellers coming for the regatta, and it is quite common for restaurateurs to complain to me that they just walk out of restaurants without paying the bill, or haggle over the price and pay only half, and there is nothing they can do about it. That is the problem. It is based not on inherent prejudice, but on actual experiences of dealing with some of these people. They may be only a small minority of the travelling population, but they do tend to spoil it for the rest.

Bambos Charalambous: The situation that the right hon. Gentleman mentions would not be caught by the clause in this Bill anyway. On his wider point, it is using a sledgehammer to crack a nut. If there is a problem, there is legislation currently available to deal with it. This is entirely unnecessary, and it ends up criminalising a community when the powers to deal with the problem already exist.

3.30 pm

Another point made by the Minister for Policing was that the clean-up costs of the encampments can be huge. This is truly a problem, but it will not be solved by these clauses. Friends, Families & Travellers has pointed out that there are tried and tested ways of saving money while supporting families on roadside camps. Adopting a working, negotiated stopping policy where local authorities provide basic facilities such as toilets, water and rubbish collection, and working with families on encampments to agree suitable temporary locations and lengths of stay, has been proven to significantly reduce the costs attached to encampments. Research from De Montfort University found that a negotiated stopping policy developed in Leeds was shown to be self-financing when financially analysed. The creation of permanent pitches leads to the generation of rent and council tax for a local authority. If there are issues of commercial waste management such as large-scale fly-tipping, local authorities can use the legislation that already exists to deal with that crime. Additional legislation is not necessary.

Lee Anderson: About five years ago, we had Travellers come to a car park in my village and they left a load of rubbish there, which cost the council over £1,000 to clean up. A few weeks later, they came back again, left another load of rubbish that cost another £1,000. I got that fed up with the local council that I hired a JCB and put two concrete blocks there, to stop the Travellers coming back and to keep the beauty spot tidy, and I got a £100 fixed penalty notice from my local Labour authority. Does the hon. Gentleman think that that was the right course of action?

Bambos Charalambous: As I have said, there are powers in place to deal with fly-tipping. Where people feel the need to secure certain sites, it is down to the local authority to deal with those issues. I am certainly not encouraging people to take the law into their own hands and deal with things in the ways they see fit. That would be the road to chaos. I have heard what the hon. Gentleman said, but I am not going to comment on individual situations. The law is there, it is available and it can be used. It has been used quite successfully by many local authorities and the police.

There are other solutions for managing unauthorised encampments such as negotiated stopping whereby arrangements are made on agreed permitted times of stopping and to ensure the provision of basic needs such as water, sanitation and refuse collection. The manifesto commitment and the Government response referred to littering as a problem, but then why do the Government not consider providing more authorised camping sites with proper refuse facilities? Why do the Government think that confiscating someone's home, putting them in prison and fining them is the answer? Why do the Government not instead consider the proposals of my hon. Friend the Member for Chesterfield (Mr Perkins), whose private Member's Bill would make it an offence to demand money to vacate an unauthorised encampment? That, along with a significant increase in permanent site provision, could prevent Gypsy and Traveller communities from being forced to make unauthorised encampments, having nowhere to go, and prevent the small minority of Travellers who demand money to leave sites where they are not entitled to be.

I acknowledge the difficulty that people or businesses can face with unauthorised encampments on their land. The Victims' Commissioner put it well when she said that

"unless there is proper provision of authorised encampments, you have two sets of victims. I quite agree with you that the people who are distressed, damaged or whatever by an unauthorised encampment are victims of that. There is no doubt of it…but I want you to take into account the difficulty of finding somewhere to camp in a lot of places, which forces people into an unlawful place." —[*Official Report, Police, Crime, Sentencing and Courts Public Bill Committee,* 21 May 2021; c. 120, Q193.]

The Policing Minister also claimed that money for sites was available in the £150 million affordable homes programme pot, but the last shared ownership affordable homes programme in 2016 to 2021, with a budget of £4.7 billion, awarded grants for just two Traveller sites across the whole country in the scheme's entire period. They were both just transit sites in Birmingham and Cornwall. That was revealed by Friends, Families & Travellers, which FOI-ed Homes England to find that information. Funding for Traveller sites must be more than warm words.

The Minister also claimed that there has been an increase in the number of caravans on sites from 14,000 in 2010 to 20,000 in 2019, but she failed to point out that the number of caravans counted on sites is different from the actual number of pitches. The 14,000 and 20,000 figures are the total number of caravans counted that are listed as on authorised sites in the caravan count. While there has indeed been a rise from 14,730 in January 2010 to 19,967 in January 2020, the number of caravans on socially rented sites fell by 364.

Small-scale, family-run sites are great for those who have the resources to pull this off, but they are incredibly problematic and inaccessible for those who live in areas where land is at a premium and who have limited finances. It is the number of permanent pitches that can really improve things for Travellers, residents, local authorities and the police. Although there has been a 39.9% increase in transit pitches alone, it amounts to an increase of only 101 pitches—the equivalent of 10 per year over 10 years—with an overall decrease of 11.1% in permanent pitches on local authority and registered social landlord sites. In fact, the Government's published figures show that there has been an overall 8.4% decrease

[Bambos Charalambous]

of pitches on local authority Traveller sites. Nesil Caliskan, the chair of the Local Government Association, told us in the evidence sessions:

"There has to be a commitment from local authorities that those sites are allocated. The statutory legislation that already exists for these protected characteristics needs to be taken seriously. We should be meeting the obligations that are already set in statute, which says that we should have adequate sites for these communities, but we just do not."—[*Official Report, Police, Crime, Sentencing and Courts Public Bill Committee,* 18 May 2021; c. 68, Q99.]

The Government should focus on ensuring that local authorities have the resources they need to provide more space for Traveller communities to legally reside. By taking an enforcement approach to address the number of unauthorised encampments, the Government are overlooking the issue of the lack of site provision.

Part 4 of the Bill would cause harm to Gypsy and Traveller communities for generations. Gypsies and Travellers are already the most disproportionally represented group in the criminal justice system. Part 4 would compound the inequalities already experienced by Gypsies and Travellers and further push them into the criminal justice system, just for existing nomadically. I urge the Government to rethink these harmful proposals.

Victoria Atkins: I am very grateful to Opposition Members for debating this matter, because it gives me the opportunity to clear up some of the misunderstandings that appear to have arisen during the course of the Bill being debated and scrutinised by Parliament, and indeed by organisations outside Parliament.

We know that the vast majority of Travellers are law-abiding citizens, but when damage, disruption or distress is caused where a person resides on land without consent, it can affect local communities as well as landowners. Residents often feel helpless as their land or local amenities are damaged or disrupted, and councils are left with huge clean-up bills in some cases. In 2016, Birmingham City Council incurred costs of £700,000 due to evictions and clean-up costs resulting from harmful unauthorised encampments—that is £700,000 of taxpayers' money. It is only right that the Government seek to protect citizens who are adversely affected by harmful unauthorised encampments, and to deter them from being set up in the first instance.

We have held consultations on this issue. In the 2018 Government consultation on enforcement powers for unauthorised encampments, it was made clear that people want to see greater protection for local communities, and for the police to be given greater powers to crack down on unauthorised encampments. In 2019, we ran a further consultation in which we asked how we should extend those powers. Some 66% of the people responding on behalf of local authorities were in favour of a new criminal offence for intentional trespass. At the start of our proceedings in oral evidence, we heard powerful accounts from PCC Alison Hernandez about the impact of unauthorised encampments in her area of Devon and Cornwall. Only today we have heard from my right hon. Friend the Member for Scarborough and Whitby, and from my hon. Friends the Members for Ashfield and for Blyth Valley, about the impact that unauthorised encampments and harmful behaviour within those encampments have had on their constituencies.

It is that caveat that is critical when we are looking at these clauses. Clause 61 introduces a new criminal offence for people residing on private or public land with vehicles who refuse to leave, without a reasonable excuse, when asked to do so, but only when they have caused, or are likely to cause, significant damage, disruption or distress. That is the key: that is what I kept asking those who spoke against these provisions during the evidence sessions. It is clear that for this offence to be committed, the conditions set out in subsection (4) of the proposed new section must be met: in other words, in a case where the person is residing on the land, significant damage or disruption has been caused or is likely to be caused as a result of P's residence.

Ian Levy: Would the Minister clear a point up for me, just so I can get straight in my head what this Bill is setting out to do? A few years ago, we had the tall ships regatta in Blyth, and all the caravan sites were full, the bed and breakfasts were full, the hotels were full—it was a fantastic time. We had a massive influx of people coming to Blyth Valley. My cousin is a landowner, and he was asked by a group of people who were coming down whether he could turn over part of a field so that people could put their caravans there. About 50 caravans turned up in total. They stayed, they enjoyed the weekend, and they cleared up after themselves—they had a litter pick when they left, putting all the rubbish to one side. My cousin did not charge the group, but they brought toys for the kids and flowers for his wife. The Bill is not setting out to stop tourism, is it? It is not setting out to stop that guy in his caravan or that man with his camper van. It is to stop the unlawful things that go on: litter, breaking into houses, and anything like that. If the Minister could clear that up for me, that would be fantastic.

Victoria Atkins: I thank my hon. Friend for his contribution, and I am really happy to clarify this. I understand the concerns that have been voiced, but there is clearly a great deal of misunderstanding as to how these provisions are intended to act. They are intended to address the criminal, damaging, disrupting or distressing behaviour that arises from some unauthorised encampments—certainly not all; we are caveating this very carefully. Where there are unauthorised encampments in which people are behaving in a way that is causing, or is likely to cause, significant disruption, damage or distress, that is the behaviour we are trying to target.

I have listened very carefully to the arguments from the Opposition, particularly those regarding the provision of authorised encampments, and I am going to come on to the details of the Government's plans for that in due course. However, to say that the answer to this behaviour is to provide authorised encampments is to miss the intention and, indeed, the very drafting of this clause. People can go on to a piece of land without agreement, but this offence will not be committed unless the conditions in subsection (4) are met. That is why I asked some of the witnesses, "What is an acceptable level of distress?" We as constituency MPs need to be able to look our constituents in the eye when we are voting on this legislation and say, "We have weighed up what may be significant disruption, what may be significant damage and what may be significant distress, and have tried to ensure that we are representing your views when we are opining on this piece of legislation."

Mr Goodwill: The Minister will be aware that quite often, this land is agricultural land, which is needed for farmers and landowners to graze their stock. In a dry season, as it was earlier in this season, the last thing that farmers want is land that they can use for their own livestock being taken over and possibly used for the grazing of the horses of people who have come on to their land.

Victoria Atkins: Of course, it will not just be a question of horses. My farmers have the pleasure of farming some of the greatest, highest-quality agricultural land in the country, and they go to great efforts to ensure that their arable fields are ploughed, sowed, and treated to ensure optimum production of crop yields in each and every field that they farm. The use of a large vehicle—or, indeed, many large vehicles—which is not farm machinery and therefore not driven by the person who tends to a field going on to that field can cause damage. At this time of year, when driving around agricultural areas, one will see entrances to fields blockaded with all sorts of large items to try to ensure that they are not trespassed upon in the way that we are trying to tackle in the Bill.

3.45 pm

I draw to colleagues' attention the fact that we have caveated damage, distress and disruption with the word "significant". We have tried throughout the Bill to strike a proportionate balance between landowners' and communities' rights to the peaceful enjoyment of and access to property and land, and Travellers' rights to lead a nomadic way of life in line with their cultural heritage. The qualifying condition of "significant" damage, disruption or distress means that a higher threshold must be met than under the existing powers for tackling unauthorised encampments in the Criminal Justice and Public Order Act 1994, which clause 62 amends. Under the provisions of the 1994 Act, the test is simply causing damage, disruption or distress, so the higher threshold in the Bill helps to ensure that the offence and the powers of arrest, seizure or forfeiture are proportionate.

Alex Cunningham: The Minister places a lot of stock in the word "significant". To play devil's advocate—perhaps against myself—she may be holding out a false promise to some of the communities we have heard described today. If a gang of Travellers turn up with 10 caravans, move on to someone's land illegally—or it would be illegal under the Bill—take their rubbish away and do the work they want to do in the area, they will not be caught by the provision because they will not have caused "significant damage". Communities across the country think that the Conservative Government are about to deliver all-encompassing, "we can move the Travellers on" legislation, but it is simply not the case.

Victoria Atkins: In that scenario, the hon. Gentleman is right, in that we are addressing the behaviour that is set out in proposed new section 60C(4). In the event of a travelling community behaving as he describes, all the existing civil measures that a landowner can rely upon are there to move them on. We are trying to deal with behaviour that causes significant damage, distress and disruption where encampments are unauthorised. We are balancing things carefully because we want to address the serious scenarios that my hon. Friends have described in their constituencies.

As we have touched on in other contexts, the word "significant" is widely used in legislation, for example in section 14A of the Public Order Act 1986 on "Prohibiting trespassory assemblies", which refers to "significant damage". The criminal offence is committed only when a person resides or intends to reside on the land without consent with a vehicle. That avoids criminalising other forms of trespass, for example, the offence does not apply to a hiker, someone who is homeless or someone who inadvertently strays on to private land. I know that many colleagues of all parties have received communications from clubs, associations and people who have taken the time to write to their Member of Parliament or the Home Office on the issue and we very much hope that this will provide them with welcome reassurance. We all have the right to enjoy the beautiful national parks and green spaces that this great country has to offer and we will be able to continue to exercise that right.

The types of harms caught by the offence are defined in clause 61 and cover many of the problems we have been told that residents and landowners face through some unauthorised encampments. These include significant damage to land, property and the environment, as well as threatening behaviour to residents and landowners. Regarding distress, an offence is committed only if significant distress has been caused or is likely to be caused as a result of offensive conduct, which is then defined within the Bill. It is therefore not possible for an offence to be caught if a person is distressed by the mere presence of an unauthorised encampment on the land. That is where the civil measures I referred to earlier will come into play.

I was challenged with an example where a landowner is distressed and demands the police arrest someone. As with every other criminal offence, the police will only arrest someone if they are doing so in the course of their duties under the Police and Criminal Evidence Act 1984. They cannot and must not arrest someone just because a landowner or anyone else happens to demand it. It is important as we are discussing the Bill that we bear in mind the wider checks and balances within the criminal justice system and the wider principles that apply across all criminal offences.

If someone has met the previously mentioned conditions, to be guilty of the offence, they must fail to comply with the request to leave as soon as reasonably practicable and without reasonable excuse. The duties of the police in relation to safeguarding the vulnerable when taking enforcement decisions will continue to apply, as with any other criminal investigation.

The penalties are consistent with squatting legislation and existing powers to tackle unauthorised encampments. The offence is also accompanied by a power for the police to seize the vehicle and other property of the person committing the offence, which ensures that enforcement action is effective and could also have a deterrent effect. Seizure powers are already conferred on the police in relation to failure to comply with a police direction under the 1994 Act. It is right that the police should have equivalent powers in the context of the new criminal offence.

The seizure power is proportionate. Where possible, police decisions to arrest and seize vehicles should continue to be taken in consultation with the local authority which, where possible, would need to offer assurance that it has relevant measures in place to meet

[Victoria Atkins]

any welfare and safeguarding needs of those affected by the loss of their accommodation. The police will continue to undertake any enforcement action in compliance with their equality and human rights obligations.

The shadow Minister set out the police evidence on these new powers. The responses to the 2018 consultation showed a clear desire from the public for the police to be given more powers to tackle unauthorised encampments, but unauthorised Traveller sites require a locally driven, multi-agency response, led by local authorities and supported by the police. There are incentives in place for local authorities to encourage the provision of authorised Traveller pitches. Local planning authorities should continue to assess the need for Traveller accommodation and identify land for sites.

It is only right that the police are given the powers to tackle instances of unauthorised encampments that meet the conditions of proposed new subsection (4). We are very pleased that the Opposition are adopting the position that we should legislate for changes to police powers when requested by the police, because that gives us hope that they will support the measures in part 3, which we have just debated and which have been requested by the police.

This new offence is not targeted at any particular group. Rather, anyone who causes significant damage, disruption or distress in the specified conditions and who refuses to leave without reasonable excuse when asked to do so will be caught by the offence.

Section 61 of the 1994 Act is currently exercisable where any of the trespassers has caused damage to the land or to property on the land or used threatening, abusive or insulting words or behaviour towards the occupier, Under the amendments in clause 62, the relevant harms comprise damage, disruption or distress, including environmental damage, such as excessive noise and litter. The harms do not need to be significant for police to be able to direct trespassers away in the first instance. That will make it easier for the police to direct trespassers away where encampments are causing problems for landowners, communities or businesses.

We have also increased the period in which trespassers directed away from the land must not return, from three months to 12 months. That is designed to strengthen enforcement powers, acting as a greater deterrent in the first place, and to protect more proportionately the rights of landowners and local communities. We are also enabling the police to direct trespassers away from land that forms part of a highway, to ensure that directions can be given to trespassers on roads.

Our overarching aim is to ensure fair and equal treatment for Travellers in a way that facilitates their traditional nomadic way of life while respecting the interests of local residents and the settled community. We recognise that the vast majority of Travellers are law-abiding citizens, but unauthorised sites can often give an unfair negative image of nomadic communities, and cause distress and misery to residents who live nearby. We are equally clear that we will not tolerate law breaking.

Statutory guidance will be issued, as provided for in clause 63, and will outline examples of what might constitute a reasonable excuse for not complying with the request to leave. That guidance will be vital to support the police in discharging those functions and will help to ensure a consistent application of the powers across England and Wales. The police must have regard to the guidance when exercising the relevant functions. We envisage that the guidance will set out, for example, what might constitute significant damage, disruption and distress, and what might constitute a reasonable excuse, where someone fails to comply with a request to leave the land. It will be up to the police and courts to decide whether someone has a reasonable excuse for not complying, depending on the specific facts of that case.

We recognise the rights of Travellers to follow a nomadic way of life, in line with their cultural heritage. Our aim is for settled and Traveller communities to be able to live side by side harmoniously, and we hope that the clear rules and boundaries that we are putting in place will facilitate that. We remain committed to delivering a cross-Government strategy to tackle the inequalities faced by Gypsy, Roma and Traveller communities. The planning policy for Traveller sites is clear that local planning authorities should assess the need for Traveller accommodation and identify land for sites. Local housing authorities are required to assess their housing and accommodation needs under the Housing Act 1985, including for those who reside in caravans. There is wider Government support for the provision of Traveller sites via the new homes bonus, which provides an incentive for local authorities to encourage housing growth in their areas, and rewards net increases in effective housing stock, including the provision of authorised Traveller pitches.

Alex Cunningham: Does the Minister have an idea what the Government's plans are in terms of the number of sites that are likely to be created over the next three to five years?

Victoria Atkins: That is a matter for local authorities. We have the planning policy for Traveller sites, which is down to the local planning authority. In the hon. Gentleman's area, I know not whether his local council agrees with him that there should be more sites, but it would be a matter for the local authority to address with local residents.

We remain committed to delivering the strategy to tackle the inequalities faced by the communities that we have discussed. There is the additional affordable homes programme for local authorities to deliver a wide range of affordable homes to meet the housing needs of people in different circumstances and different housing markets, including funding for new Traveller pitches.

We believe that we have struck the right balance between the rights of those who live a nomadic way of life and the rights of local communities to go about their lives without the significant damage, disruption and distress outlined in proposed new section 60C(4), which, regrettably, some unauthorised encampments cause. I therefore commend clauses 61 to 63 to the Committee.

4 pm

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

The Committee divided: Ayes 7, Noes 2.

Division No. 10]

AYES

Anderson, Lee	Levy, Ian
Atkins, Victoria	Philp, Chris
Baillie, Siobhan	
Goodwill, rh Mr Robert	Pursglove, Tom

NOES

Charalambous, Bambos	Cunningham, Alex

Question accordingly agreed to.

Clause 61 ordered to stand part of the Bill.

Clause 62

AMENDMENTS TO EXISTING POWERS

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

The Committee divided: Ayes 7, Noes 2.

Division No. 11]

AYES

Anderson, Lee	Levy, Ian
Atkins, Victoria	Philp, Chris
Baillie, Siobhan	
Goodwill, rh Mr Robert	Pursglove, Tom

NOES

Charalambous, Bambos	Cunningham, Alex

Question accordingly agreed to.

Clause 62 ordered to stand part of the Bill.

Clause 63

GUIDANCE ON EXERCISE OF POLICE POWERS IN RESPECT OF TRESPASSERS ON LAND ETC

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

The Committee divided: Ayes 7, Noes 2.

Division No. 12]

AYES

Anderson, Lee	Levy, Ian
Atkins, Victoria	Philp, Chris
Baillie, Siobhan	
Goodwill, rh Mr Robert	Pursglove, Tom

NOES

Charalambous, Bambos	Cunningham, Alex

Question accordingly agreed to.

Clause 63 ordered to stand part of the Bill.

Clause 64

CAUSING DEATH BY DANGEROUS DRIVING OR CARELESS DRIVING WHEN UNDER THE INFLUENCE OF DRINK OR DRUGS: INCREASED PENALTIES

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

The Parliamentary Under-Secretary of State for the Home Department (Chris Philp): It is, as always, a great pleasure to serve under your chairmanship, Mr McCabe. The clause fulfils the Government's long-standing commitment to increase the maximum penalty for the offences of, first, causing death by dangerous driving and, secondly, causing death by careless driving while under the influence of drink or drugs from, in both cases, the current maximum sentence of 14 years to life imprisonment.

As members of the Committee will know, in response to the consultation on driving offences and penalties some time ago, the Government proposed to take forward various changes in the law, including these, and all of them received overwhelming public support and support from other consultees. By enacting this clause we are delivering on the result of that consultation and on a long-standing commitment. That means that when sentencing people for these very serious offences, the courts can sentence up to life imprisonment if the judge sees fit.

Many hon. Members will have constituency cases where families have suffered the terrible trauma of a loved one being killed by a dangerous or careless driver who was driving when drunk. I have certainly encountered a number of such cases in the last six years as a constituency MP, as I am sure each and every Member here has. The criminal justice system can never adequately compensate for the grief caused by the loss of a loved one in such terrible circumstances, but these changes will mean that courts now have the power to make sure that the punishment truly fits the crime.

It is appropriate that the maximum sentences for causing death by dangerous driving and causing death by careless driving while under the influence are increased from 14 years to life imprisonment. I commend these measures to the Committee.

Alex Cunningham: I am pleased to offer the Opposition's enthusiastic support for clauses 64 to 66, and particularly for clause 64, which will increase the maximum penalties for the offences of causing death by dangerous driving and causing death by careless driving while under the influence of drink or drugs from 14 years' imprisonment to imprisonment for life.

I pay tribute to my hon. Friends the Members for Barnsley East (Stephanie Peacock) and for Barnsley Central (Dan Jarvis) for their committed work to increase the penalty for those guilty of causing death by dangerous driving to life imprisonment and for the Bill they have promoted and supported. My hon. Friend the Member for Barnsley East has worked alongside the family of Jaqueline Wileman, from Grimethorpe, who was 58 when she was struck and tragically killed by a stolen heavy goods vehicle in September 2018. I offer my sincerest thanks to the Wileman family for their tireless campaign for change, which they are now able to see become a reality.

Other families of victims of these awful crimes have also long campaigned to see these changes, such as the family of Violet-Grace, who died from injuries inflicted as a result of a car crash caused by individuals driving dangerously in March 2017. I hope that this change in the law, which they have fought to bring forward, will provide some small solace that dangerous drivers who kill will, in future, feel the full force of the law.

[Alex Cunningham]

Work to address this important issue has been energetic on both sides of the House, and it was the right hon. Member for Maidenhead (Mrs May) who introduced the Death by Dangerous Driving (Sentencing) Bill in July 2020, as a private Member's Bill co-sponsored by my hon. Friends the Members for Barnsley East and for Barnsley Central. We are therefore fully supportive of the Government's proposal to provide the court with a wider range of penalties to ensure that sentences are proportionate and reflect the seriousness of the offending.

The urgent need for this change is illustrated by the fact that, in 2019, over 150 people were sentenced for causing death by dangerous driving. Of those offenders, around 95% received an immediate custodial sentence, of which over 15 received a sentence of more than 10 years. If 10% of offenders are already being sentenced near the maximum threshold, it seems the time is ripe to provide the court with wider sentencing powers for these offences so that offenders are dealt with consistently and fairly.

Although we are fully supportive of these changes, I note that there has been some delay in introducing them. The Government committed to changing the law on causing death by dangerous driving following a review in 2014—seven years ago. As the Minster said, it has been a long-standing commitment. There was also a consultation in 2016, which the Government responded to in 2017, committing to the legislative changes that are now in the Bill. The private Member's Bill brought forward by the right hon. Member for Maidenhead last year was a real nudge along to the Government, following a perceived dropping of the ball. I would normally say, "Better late than never," but for a measure as serious as this, and with hundreds of families losing loved ones to dangerous drivers in the intervening years, I wonder what held the Government up for so long.

Speaking of delays, Cycling UK said that, although it cautiously supports these proposals, it fears they will do very little to address the many serious problems with the framework of road traffic offences and penalties. I understand that the Government promised a full review of the framework back in 2014, but it has never happened. I would welcome an update from the Minister on the wider review, which could look at the utilisation of driving bans.

We fully support the proposals in clause 65, which introduces the new offence of causing serious injury by careless or inconsiderate driving, and sets the maximum penalty for the offence on indictment at two years' imprisonment.

The Chair: Mr Cunningham, we are still on clause 64.

Alex Cunningham: In that case, I will sit down and address that point later.

Chris Philp: I have nothing further to add to my earlier answers. We keep these matters under continual review. There are no plans to make changes just at the moment, but we do of course keep an eye on these matters.

Alex Cunningham: A review was promised in 2014. Is that review likely to be held soon?

Chris Philp: I am afraid that I have no specific information on that, other than to say that we keep an eye on these matters on an ongoing basis.

Question put and agreed to.

Clause 64 accordingly ordered to stand part of the Bill.

Clause 65

Causing serious injury by careless, or inconsiderate, driving

Chris Philp: This clause has a very similar intention to the previous clause, in that it introduces a new section 2C offence into the Road Traffic Act 1988 to fill a lacuna in the existing legislation. It does that by introducing a new offence of causing serious injury by careless or inconsiderate driving. There is currently no offence that covers this, so we are filling a gap that exists in the current legislation.

The new offence created by the clause is committed if a person causes serious injury by driving a car or another mechanically propelled vehicle on a road or public place without due care and attention or without reasonable consideration for other road users and, while doing so, causes serious injury.

The maximum custodial penalty for the offence on indictment will be two years' imprisonment or a fine. The maximum custodial penalty on summary conviction will be 12 months or a fine. Until such time as section 224 of the sentencing code is commenced, the maximum penalty on summary conviction in England and Wales will be read as six months.

This is an important clause, which fills a gap in the current law and ensures that, where serious injury is caused by someone who is driving carelessly or inconsiderately, there will be an offence that can be prosecuted with an appropriate penalty—in this case, a maximum of two years if tried on indictment. I hope the Committee will agree that this is a sensible measure and will support the clause.

Alex Cunningham: As I prematurely said some minutes ago, we fully support the proposals in clause 65, which introduces the new offence of causing serious injury by careless or inconsiderate driving and sets the maximum penalty for the offence on indictment, as the Minister said, at two years' imprisonment.

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 and the Criminal Justice and Courts Act 2015 made provision for new offences for dangerous and disqualified driving, but left the gap the Minister referred to in the law, relating to careless driving that results in serious injury. As I said before, we welcome the sensible proposal in clause 65, which fills that gap and will allow for a penalty that recognises the high level of harm caused by these incidents. As a result, the Opposition support clause 66 and schedule 7, which make minor consequential amendments as a result of clauses 64 and 65.

4.15 pm

The Minister will hear me ask about the impact that many of the measures in the Bill will have on the prison system. I will start here. The Opposition would welcome further information from him about the impact on the

prison system. I note that the impact assessment estimates that the changes to road traffic offences will result in about 1,300 offenders per annum receiving longer sentences. How does he see foresee that affecting prison numbers as a whole in the coming years? Can he say anything further about what sentence increases for those 1,300 offenders the Government are basing their modelling on? I raise that because the impact assessment estimates that the combined impact of the Bill's sentencing provisions for adults will result in

"a total increase in the adult prison population of around 700 offenders in steady state by 2028-29 although this impact will begin to be felt from 2021-22 with just over 200 additional prisoners".

The impact is to be felt very shortly indeed, and at a time when our prison services are recovering from the exceptional operational difficulties of the pandemic.

We know that, despite a building programme, many of our prisons remain unfit for the vast population of prisoners they now have to accommodate. We also know that increased violence—both prisoner on prisoner and prisoner on prison officer—and drugs remain a constant problem for our hard-working governors and prison officers to deal with. Given all the additional prisoners that the system will have to cope with in not just seven or eight years' time but as early as next year, how will the Government ensure that our prisons do not become even more overcrowded and unsafe? While the Minister offers reassurance on that, will he also outline how the Government will ensure that prisons are properly equipped to carry out important rehabilitative work with offenders?

Chris Philp: Debates about conditions in prisons are probably somewhat outside the scope of our discussion, save to say that the Prisons Minister works on a daily basis to ensure that our prisons provide the right sort of environment, including for rehabilitative purposes.

The shadow Minister asked about the prison population and drew attention to the overall impact assessment for the Bill. As he said, the impact assessment, in which these measures are listed as measures A to C for driving offences, estimates that 1,300 offenders may be affected. The impact on prison places obviously depends on how judges sentence the new offence—measure C in the impact assessment—and how sentences vary under clause 64, which we discussed previously, given that the maximum is being increased from 14 years to life. However, that is all included in the overall figure of 700 places that covers the entire Bill.

The shadow Minister asked about the availability of prison places in the light of the pandemic. That again is more a matter for the Prisons Minister, but the overall prison population today is materially lower than prior to the pandemic—I speak from memory, but I think it is 5,000 or 6,000 lower—for a variety of reasons that I am sure the shadow Minister is aware of. Therefore, the pressures on the prison population coming out of the pandemic may be a little less severe than one might have feared.

I repeat my support for the clause, which fills an important gap in the law.

Question put and agreed to.

Clause 65 accordingly ordered to stand part of the Bill.

Clause 66

ROAD TRAFFIC OFFENCES: MINOR AND CONSEQUENTIAL AMENDMENTS

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

The Chair: With this it will be convenient to consider that schedule 7 be the Seventh schedule to the Bill.

Chris Philp: Clause 66 and schedule 7 introduce a number of minor consequential amendments to be made to other Acts as a result of the offence we discussed in the previous clause. The consequential amendments to proposed new section 2C to the Road Traffic Act 1988 —causing serious injury by careless, or inconsiderate, driving—are among those. It inserts a new section 3ZB and 3ZC into that Act, and tidies up various other anomalies. In essence, they are minor, inconsequential amendments that follow the previous clause.

Question put and agreed to.

Clause 66 accordingly ordered to stand part of the Bill.

Schedule 7 agreed to.

Clause 67

COURSES OFFERED AS ALTERNATIVE TO PROSECUTION: FEES ETC

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

Victoria Atkins: Clause 67 provides a specific statutory power for the current charging arrangements for education courses offered for minor driving offences as an alternative to a fixed penalty or prosecution. Those courses help to improve road safety and reduce the burden on the criminal justice system. The provisions in this clause will not change the way in which courses are offered, administered or run, but will provide greater transparency over the way that fees are set. A local policing body may charge a fee to cover the cost of the approved course, but also include an uplift as a contribution towards the cost of promoting road safety, including road safety partnerships and speed cameras.

The clause will also allow the Home Secretary to prescribe in secondary legislation the types of courses in which motorists may be charged, the maximum amount that may be charged and the way that the charge can be used. It will allow provision to be made to prevent courses from being offered to repeat offenders. That means that any potential repeat offenders will face the deterrent of fixed penalty fines and penalty points on their licence. Equivalent provisions are made for Northern Ireland, and there are allowances for corresponding or similar provision for Scotland, following consultation with the Lord Advocate.

Bambos Charalambous: We support clause 67 and welcome that the charging regime for courses offered as an alternative to prosecution will be placed on a statutory footing. It makes a lot of sense that a course cannot be offered to repeat offenders, but I would like to ask the Minister a question about proposed new part 4B, section 91G, which states:

"A fee may be set at a level that exceeds the cost of an approved course and related administrative expenses, but any excess must be used for the purpose of promoting road safety."

[Bambos Charalambous]

Can the Minister provide an example of why a fee would be set at a level that exceeds the cost, and how much that could be? How much do the fees vary across police forces? Police forces can decide which courses to offer, so not all courses will be available in all areas. The same offence committed in different force areas may be dealt with in different ways.

What will the clause do to ensure that there is a consistent application of diversionary courses across the country? If the courses are to be effective methods of deterrence and rehabilitation of offenders, it is important that their use be consistent. In its 2016 report, the Transport Committee said of diversionary courses:

"There are clearly concerns about the transparency of the operation and funding of diversionary courses, reinforced by the variations in fees between force areas and the profits earned by providers."

It also recommended that:

"the costs for diversionary courses should be standardised nationwide unless there is a clear and convincing reason not to do so…so that the public can be confident in the transparency of these courses."

Although clause 67 allows the Secretary of State to specify in regulations the level of fees, use of fee income and how fees are to be calculated, can the Minister tell us whether a standardised cost may be considered in secondary regulations?

Victoria Atkins: As I said, the clause permits charges to be laid in excess of the cost of the approved course, but will also permit a contribution towards the cost of promoting road safety, including road safety partnerships and speed cameras. In principle, that seems to be a good approach; if one falls foul of driving legislation, a contribution to the costs of keeping our streets safe locally seems to be a proportionate response.

The current course fee is approximately £100, but that can vary according to local course arrangements. The types of course offered and course costs can be found on the national driver offender retraining scheme, which is available online at www.ukroed.org.uk. The type of course offered and the costs can vary by police force and supplier, but we want to ensure that there is greater transparency in the way that fees are set, enabling the setting of maximum amounts that can be charged to provide, run and administer such courses. There is no immediate intention to introduce standard fees unless it is considered appropriate after consultation with relevant stakeholders.

Question put and agreed to.

Clause 67 accordingly ordered to stand part of the Bill.

Clause 68

CHARGES FOR REMOVAL, STORAGE AND DISPOSAL OF VEHICLES

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

Victoria Atkins: The police have the power to remove vehicles that are illegally, dangerously or obstructively parked, broken down or abandoned, including after theft or a road traffic collision. The cost of the recovery, storage and disposal of such vehicles should not fall to the police or the taxpayer.

Clause 68 will clarify the legal basis for the police's charging for vehicle recovery under the Road Traffic Regulation Act 1984. That will ensure that the police can continue to recover the cost of removing, storing and disposing of vehicles, including those causing an obstruction or danger—for example, vehicles damaged in a road traffic collision. The clause will also ensure that all appropriate authorities covered under the 1984 Act can continue to recover such costs, which includes the Secretary of State and Highways England.

Bambos Charalambous: Clause 68 is described in the explanatory notes as being intended

"to return to a statutory footing"

the legal basis for charging for removing or impounding vehicles. However, in an article in the *Daily Mail*, it has been described as fixing an "incredible legal gaffe".

The powers to charge for vehicle removal, storage and disposal were actually introduced in 1984, but the explanatory notes explain that

"the police's power to charge for the removal, storage and disposal of vehicles within the meaning of 'civil enforcement areas for parking contraventions'"

seems to have been inadvertently removed due to a drafting error. At the same time, the power of local authorities, the Secretary of State and strategic highways companies to charge for the removal, storage and disposal of vehicles were also inadvertently removed.

I want to ask the Minister about the implications of the error, and what changes or problems the passing of clause 68 might bring. Will the many drivers who for the past 30 years have been charged when the legal basis for that charge did not actually exist be able to take legal action? Will the Government review what has happened?

Howard Cox, of the motoring pressure group FairFuelUK, has said:

"Drivers who in the last 30 years have been charged illegally should demand their vehicle confiscation costs be repaid in full. They should be checking that they have the historic paperwork to mount a legal challenge. This is not a question of their offences being right or wrong—it is down to the government's incompetence that is off the scale. The authorities and those responsible must pay for this idiocy."

Jeanette Miller, of the Association of Motor Offence Lawyers, told the *Daily Mail* that it was

"a major error in the legislation that has resulted in goodness knows how many millions being charged to motorists without any lawful basis".

She added:

"Where this leaves motorists in terms of seeking refunds is difficult to say. There is a limitation period of six years in pursuing civil claims, but this can start from the date of the breach or, crucially, the date of knowledge."

The fees for storage and release of vehicles can be hundreds of pounds. The police and other bodies can charge £150 to tow a vehicle, and car-owners can also be charged up to £20 a day for storage of a car and up to £75 to dispose of it. The Government's impact assessment says:

"There are no impacts associated with this measure. The new provision returns to a statutory footing the position as it applied before the inadvertent removal of these powers due to a drafting error. There will be no additional impact beyond that."

It is hard to believe that there will be no impact if potentially millions of people have been charged for the storage and release of vehicles when there was no legal basis for that charge.

There is not simple data collection on the number of impounded vehicles, so could the Minister provide us with some figures for how many people she estimates have been affected by this error since 1991?

I also ask the Minister what this will mean for our cash-strapped police forces, local authorities and highways agencies. They could face huge bills if they are forced to compensate drivers for their legal costs, so this error could have serious, wide-ranging consequences. I hope the Minister can reassure the Committee that the Government will be taking swift action to come up with a solution, so that this mistake does not become a national scandal.

4.30 pm

Victoria Atkins: I thank the hon. Gentleman for setting out the history of the regulation and its drafting. The police have other powers to charge for the removal of vehicles used in a manner that is causing alarm, distress or annoyance, or being driven without a driving licence or insurance. The only power affected was the power to charge for the removal of vehicles that were abandoned or broken down.

This provision clarifies the statutory basis of the ability of the police, Secretary of State or strategic highways companies to charge for vehicle recovery. Local authorities were not affected, as the amendment to the 1984 Act focused on the powers of local authorities and inadvertently removed other powers to charge. We believe it has been right for the police to continue to charge for vehicle recovery: that has avoided costs being borne by the taxpayer, and has allowed the police to continue removing abandoned vehicles to keep roads safe for other drivers and pedestrians. If the police were unable to deal with vehicle removal, significant inconvenience would be caused to the travelling public and commerce by the obstruction of highways by vehicles.

The hon. Gentleman stated some of the fees that can be charged. It is important to explain the thinking behind those: police contracts require operators to deal with a range of different vehicles, provide a guaranteed speedy response, and to have specialist equipment and secure storage facilities. Vehicles are often accident-damaged, do not free-wheel and are difficult to access—or they may require forensic examination, and must therefore be removed and stored with the highest standards of professionalism. I believe that is all I can do to assist the hon. Gentleman with his queries.

Question put and agreed to.

Clause 68 accordingly ordered to stand part of the Bill.

Clause 69

PRODUCTION OF LICENCE TO THE COURT

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

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

Clauses 70 to 73 stand part.

That schedule 8 be the Eighth schedule to the Bill.

Clause 74 stand part.

That schedule 9 be the Ninth schedule to the Bill.

Clause 75 stand part.

Victoria Atkins: Clauses 69 to 74 and schedules 8 and 9 update the law in relation to the production and surrender of driving licences, so as to streamline the processes for the electronic endorsement of driving licences by removing the need for the physical licence to be produced. They also strengthen the rules for the surrender of driving licences where a driver faces disqualification.

The current legal requirement to produce and surrender the driving licence as part of the endorsement process is now outdated. In 2015, the paper driving licence counterpart, which previously recorded the endorsement, was abolished, and the information is now only recorded on Driver and Vehicle Licensing Agency electronic drivers' records. There is therefore no need for a physical driving licence to be produced and surrendered for an endorsement to be recorded on an individual's driving record. The only need for a licence to be produced and surrendered is when the driver may be sentenced to disqualification or is actually disqualified. The clauses and schedules bring the law up to date, removing any need for individuals to deliver or post their licence before a hearing, and leaving only a duty to take their licence to court if there is a hearing and if they attend.

Clause 70 provides the Secretary of State—in practice, the Driver and Vehicle Licensing Agency—with the power to require the surrender of a driving licence to the agency where a court has ordered disqualification. Failure to do so would be a summary offence, carrying a maximum penalty of a level 3 fine—currently £1,000. Where an individual is disqualified, the court will notify the DVLA and forward the licence to it when it has been surrendered at court. When it has not been surrendered at court, the DVLA will follow up production of the licence with the disqualified driver using the new power.

The clauses also remove the need for the production and surrender of the driving licence and allow police constables and vehicle examiners to issue a fixed penalty notice without checking and retaining a physical driving licence.

Clause 75 is included at the request of the Scottish Government. Its objective is to make better use of police and judicial resources in Scotland. Currently, the police throughout Great Britain have the power to issue a conditional offer of a fixed penalty notice under sections 75 to 77A of the Road Traffic Offenders Act 1988. The scheme was introduced in 1989 as an alternative to prosecution for certain low-level road traffic offences. Once a conditional offer of a fixed penalty is issued, an individual has 28 days to accept the offer and make payment. In Scotland, if the offer is not accepted or the recipient fails to take any action, the police will submit a standard prosecution report to the Crown Office and Procurator Fiscal Service for consideration of whether a prosecution should take place.

Clause 75 grants the power to issue fixed penalty notices on the spot in Scotland for minor road traffic offences. That power is already available in England and Wales. In contrast to the position with conditional offers of fixed penalty notices, when the recipient of a fixed penalty notice fails to respond it simply becomes a

[Victoria Atkins]

registered fine at one and a half times the original penalty. That approach is attractive to the Scottish Government as a means of reducing the burden on the police, prosecutors and courts while preserving the recipient's right to challenge a fixed penalty notice, should they wish to do so.

The clause will apply in the first instance to the police, but the Scottish Government want to be able to consider its potential extension to traffic wardens and vehicle examiners at their own pace and following further consideration.

I commend the clauses and schedules to the Committee.

Alex Cunningham: The Opposition also support the remaining clauses in part 5. They are sensible, helpful and well evidenced, and we are glad to offer our support for them. Currently, when a fixed penalty notice has been issued, a driver must surrender their licence to the relevant authority, but since the paper counterpart licence was abolished in 2015, there is no need for a driving licence to be produced for an endorsement to be recorded against a driver's driving record.

Clauses 69 to 74 will finally remove the redundant requirement for a physical driving licence to be produced when a fixed penalty notice has been issued and they will also strengthen the rules for the surrender of driving licences when a driver faces disqualification.

Clause 69 will amend section 27(1) of the Road Traffic Offenders Act 1988 to provide that courts are no longer required to oblige licence production. Instead, the courts will be provided with powers that they may exercise at their discretion. This power will apply both where the court proposes to disqualify and where it disqualifies a licence.

Clauses 70 and 71 make further amendments to the 1988 Act, the effect of which, when taken together with clause 69, is to remove the need to produce a driving licence from the fixed penalty process. This streamlining is welcome and hopefully will in some small way reduce the administrative burden on our under-resourced and overstretched courts system, as it will no longer need to handle the physical licence where a driver faces endorsement, but not disqualification.

In recent years, attempts have been made to update the law in this area through private Members' Bills, which have had Government support. The attempt made by the hon. Member for Mid Dorset and North Poole (Michael Tomlinson) fell after its Committee stage because of the 2017 general election. The attempt made in the 2017-to-2019 Session by the right hon. Member for Dumfries and Galloway (Mr Jack) did not even manage to progress past its First Reading. I am glad that the Government are at last introducing the measure in a Government Bill in Government time.

We are also content with clause 75, which extends the police power that the police in England and Wales currently have to issue on-the-spot fines for certain moving traffic offences to police in Scotland. I am aware of the Department for Transport's joint consultation with the Scottish Government on this topic from 2018. Doesn't it take a long time for things to happen in law? The majority of the responses to the consultation supported the proposed changes and seemed to indicate the need for fixed penalty notice reform in Scotland for suspected road traffic offences, which the Government are sensibly introducing here.

Allan Dorans: I wish to confirm that the Scottish Government welcome the clauses that affect Scotland.

Question put and agreed to.

Clause 69 accordingly ordered to stand part of the Bill.

Clauses 70 to 73 ordered to stand part of the Bill.

Schedule 8 agreed to.

Clause 74 ordered to stand part of the Bill.

Schedule 9 agreed to.

Clause 75 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned. —*(Tom Pursglove.)*

4.41 pm

Adjourned till Thursday 10 June at half-past Eleven o'clock.

Written evidence reported to the House

PCSCB24 Travelling ahead: Wales.

PCSCB25 The Magistrates Association

PCSCB26 Iryna Pona, The Children's Society (supplementary submission)

PCSCB27 Howard League for Penal Reform

PCSCB28 Fair Trials

PCSCB29 Chief Superintendent Paul Griffiths, President, Police Superintendents' Association (supplementary submission)

PCSCB30 Local Government Association (supplementary submission)

PCSCB31 Dr Robert Jones, Lecturer in Criminology, University of South Wales

PCSCB32 British Transport Police

PCSCB33 Maureen Martin et al (re: Reject New Clause 43)