

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

CRIME AND COURTS BILL [*LORDS*]

First Sitting

Tuesday 22 January 2013

(Morning)

CONTENTS

Programme motion agreed to.
Written evidence (Reporting to the House) motion agreed to.
CLAUSE 1 under consideration when the Committee adjourned
till this day at Two o'clock.

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The Committee consisted of the following Members:

Chairs: † MARTIN CATON, NADINE DORRIES

- | | |
|---|--|
| † Barwell, Gavin (<i>Croydon Central</i>) (Con) | † Lopresti, Jack (<i>Filton and Bradley Stoke</i>) (Con) |
| † Browne, Mr Jeremy (<i>Minister of State, Home Department</i>) | † McCabe, Steve (<i>Birmingham, Selly Oak</i>) (Lab) |
| † Burrowes, Mr David (<i>Enfield, Southgate</i>) (Con) | † McDonald, Andy (<i>Middlesbrough</i>) (Lab) |
| † Chapman, Jenny (<i>Darlington</i>) (Lab) | † Paisley, Ian (<i>North Antrim</i>) (DUP) |
| † Creasy, Stella (<i>Walthamstow</i>) (Lab/Co-op) | † Rutley, David (<i>Macclesfield</i>) (Con) |
| † Elphicke, Charlie (<i>Dover</i>) (Con) | † Syms, Mr Robert (<i>Poole</i>) (Con) |
| † Goggins, Paul (<i>Wythenshawe and Sale East</i>) (Lab) | † Vara, Mr Shailesh (<i>North West Cambridgeshire</i>) (Con) |
| Green, Damian (<i>Minister for Policing and Criminal Justice</i>) | † Vaz, Valerie (<i>Walsall South</i>) (Lab) |
| † Hanson, Mr David (<i>Delyn</i>) (Lab) | † Wilson, Phil (<i>Sedgefield</i>) (Lab) |
| † Heald, Oliver (<i>Solicitor-General</i>) | † Wright, Simon (<i>Norwich South</i>) (LD) |
| † Jones, Andrew (<i>Harrogate and Knaresborough</i>) (Con) | Neil Caulfield, John-Paul Flaherty, <i>Committee Clerks</i> |
| | † attended the Committee |

Public Bill Committee

Tuesday 22 January 2013

(Morning)

[MARTIN CATON *in the Chair*]

Crime and Courts Bill [Lords]

8.55 am

The Chair: Before we begin, I have a few preliminary matters to go through. Members may, if they wish, remove their jackets during Committee sittings. Please would all Members ensure that all electronic devices are turned off or switched to silent mode during our meetings. The Committee will first be asked to consider the programme motion on the amendment paper, for which debate is limited to half an hour. We will then proceed to a motion to report written evidence, which I hope we can take formally.

The Minister of State, Home Department (Mr Jeremy Browne): I beg to move,

That—

(1) the Committee shall (in addition to its first meeting at 8.55 am on Tuesday 22 January) meet—

- (a) at 2.00 pm on Tuesday 22 January;
- (b) at 11.30 am and 2.00 pm on Thursday 24 January;
- (c) at 8.55 am and 2.00 pm on Tuesday 29 January;
- (d) at 11.30 am and 2.00 pm on Thursday 31 January;
- (e) at 8.55 am and 2.00 pm on Tuesday 5 February;
- (f) at 11.30 am and 2.00 pm on Thursday 7 February;
- (g) at 8.55 am and 2.00 pm on Tuesday 12 February; and
- (h) at 11.30 am and 2.00 pm on Thursday 14 February;

(2) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clause 1; Schedule 1; Clauses 2 and 3; Schedule 2; Clause 4; Schedule 3; Clauses 5 to 7; Schedule 4; Clause 8; Schedule 5; Clauses 9 and 10; Schedule 6; Clause 11; Schedule 7; Clauses 12 to 14; Schedule 8; Clauses 15 and 16; Schedules 9 to 11; Clause 17; Schedule 12; Clause 18; Schedule 13; Clause 19; Schedule 14; Clauses 20 to 31; Schedule 15; Clause 32; Schedule 16; Clauses 33 to 36; Schedule 17; Clause 37; Schedule 18; Clause 38; new Clauses; new Schedules; Clause 39; Schedule 19; Clauses 40 to 42; and remaining proceedings on the Bill; and

(3) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 14 February.

I am delighted to serve under your chairmanship, Mr Caton. Thank you for that dispensation as to what it is appropriate for us to wear, although dispensing with our overcoats might be our first priority this morning. I am also looking forward to serving under your co-Chair. I look forward to detailed discussions of the provisions in the Bill with my right hon. and hon. Friends on the Government Benches and with Opposition Members, including two former Ministers in my Department who will be familiar with much of the subject matter before us. I will be supported by my right hon. Friend the Minister for Policing and Criminal Justice and the Solicitor-General, who between them will cover the provisions in part 2 of the Bill.

I believe that the resolution before us provides more than adequate time to make possible proper scrutiny of this important and wide-ranging Bill. The resolution provides for up to eight days in total, on Tuesdays and Thursdays from now until Valentine's day next month—a romantic conclusion to our deliberations. Judging by the contributions from Members on Second Reading,

we can anticipate some lively and well-informed discussions around the provisions on the National Crime Agency, community sentencing, self defence and drug-driving, to name but a few. I do not wish to detain the Committee further, so I invite the Committee to agree to the resolution.

Mr David Hanson (Delyn) (Lab): I welcome you to the Chair, Mr Caton, along with your co-Chair, Ms Dorries. You and I both represent constituencies in Wales, and Ms Dorries and I were both born in the city of Liverpool, six weeks apart, so I am sure that we are going to get on fine.

I am content with the programme motion. The informal Programming Sub-Committee met yesterday, and the Opposition have no objection. We will seek to be constructive in relation to this Bill. I am pleased to see that a number of right hon. and hon. Members who have expressed interest in some of the topics of the Bill are on the Committee; I know that we will have scrutiny. There may be some areas of division, but our purpose in many of the amendments tabled so far, and that we will table in the future, is to test the Government's thinking on some of the key issues. I look forward to a constructive dialogue with the Minister and his colleagues in due course.

Question put and agreed to.

Mr Hanson: On a point of order, Mr Caton. I hope that this will be helpful. Will you clarify something as to the status of the Bill Committee today? I know that all right hon. and hon. Members have received cards notifying them of today's sitting and the Committee's membership, but it is normal practice for a Public Bill Committee to be mentioned on the Order Paper of the House of Commons. This morning I looked at today's Order Paper, and there was no mention of this Committee sitting at either 8.55 am or 2 pm today. I mention this not to be difficult, but simply to ensure for clarification that the absence of notification of this sitting on the Order Paper does not affect our deliberations today and make them invalid.

I would like clarification of that in case, at some point somewhere else, perhaps on the Floor of the House, any Member who is not on the Committee raises the fact that this sitting was not on the Order Paper. I will have been in this place for 21 years in April, and I cannot remember a time when a Bill Committee has not appeared on the Order Paper. I appreciate that it may be an oversight, but I just want your clarification, Mr Caton, that all is in order and that we will not waste our time today with any comeback in due course.

The Chair: Thank you, Mr Hanson. Your eagle-eyed observation is absolutely correct. I am assured that it is a one-off error and will not happen again. It certainly does not affect our deliberations today in any way.

Resolved,

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—(*Mr Browne.*)

9 am

The Chair: Before we begin our line-by-line consideration of the Bill, some brief explanation may be useful to those relatively new to Public Bill Committees. The

selection list for today's sitting is available in the room. It shows how the amendments that have been selected for debate have been grouped together. Amendments grouped together are generally on the same, or a similar issue. A Member who has put their name to the leading amendment in a group is called first. Other Members are then free to catch my eye to speak on the amendments in the group. A Member may speak more than once in a single debate. At the end of a debate on a group of amendments, I will call the Member who moved the leading amendment again. Before they sit down they will need to indicate whether they wish to withdraw the amendment or whether they seek a decision. If any Member wishes to press any other amendment in a group to a vote, they need to let me know. I will work on the assumption that the Government wish the Committee to reach a decision on all Government amendments.

Please note that decisions on amendments do not take place in the order in which they are debated, but in the order that they appear on the amendment paper. I will use my discretion to decide whether to allow a separate stand part debate on individual clauses and schedules following the debates on the relevant amendments. I should like to tell Members that, as a general rule, I and my fellow Chair do not intend to call starred amendments, which have not been tabled with adequate notice. The required notice period in Public Bill Committees is three working days. Therefore, amendments should be tabled by the rise of the House on Monday for consideration on Thursday, and by the rise of the House on Thursday for consideration on the following Tuesday. I hope that is helpful.

We now begin our line-by-line consideration of the Bill.

Clause 1

The National Crime Agency

Mr Hanson: I beg to move amendment 1, in clause 1, page 1, line 6, leave out from second 'the' to end of line 7 and insert—

'strategic direction and control of a board to be known as the NCA Board.

() There shall be a Director General, who is to be one of the NCA officers, and shall be responsible for the exercise of the NCA's operational and administrative functions.

() Schedule "*The NCA Board*" has effect.'

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

Amendment 37, in schedule 1, page 45, line 0, after second 'the', insert—

'Home Secretary, the NCA board and the'.

Amendment 10, in schedule 1, page 46, line 23, at beginning insert 'Ministers in'.

Amendment 11, in schedule 1, page 46, line 32, before 'The', insert—

'The Director General is to be employed by the NCA Board and'.

Amendment 12, in schedule 1, page 47, line 10, at end insert—

() the Chairman of the NCA Board; and

() the Association of the Police and Crime Commissioners.'

Amendment 13, in schedule 1, page 47, line 18, at end insert—

() send a copy of the written explanation to the Chairman of the NCA.

() publish a copy of the written explanation in a written ministerial statement to Parliament'.

Amendment 2, in clause 3, page 3, line 38, leave out from second 'the' to end and insert 'NCA Board'.

Mr Hanson: Once again I welcome you to the Chair, Mr Caton. Clause 1 establishes the National Crime Agency. I should say at the outset that the Opposition are not opposed to the principle of the National Crime Agency. The Government state:

"The National Crime Agency...will be a powerful new body of operational crime fighters with a clear focus on public protection."

When the Bill was introduced in another place in May 2010, the Government expressed clearly their view about the future of crime fighting, and they set out the role of the National Crime Agency.

The National Crime Agency will have four main areas of activity: it will tackle organised crime, strengthen our borders and tackle border force issues, fight fraud and cybercrime, and protect children and young people. The National Crime Agency will build on the excellent work of the previous Government, who established the Serious Organised Crime Agency and the Child Exploitation and Online Protection Centre. It will also take on some of the major functions of the National Policing Improvement Agency.

Paul Goggins (Wythenshawe and Sale East) (Lab): I am sorry to interrupt my right hon. Friend so early in his speech. He touched on the record of the Serious Organised Crime Agency. Does he share my frustration that, during the Second Reading debate and earlier debates, the Home Secretary and Ministers seemed to downplay and underestimate the achievements of the Serious Organised Crime Agency? Will he say a little more about what he considers to have been the key achievements of SOCA and the Child Exploitation and Online Protection Centre since 2006?

Mr Hanson: I am grateful to my right hon. Friend for his intervention. Clause 1 will establish the new body, the National Crime Agency. However, we need to place on record, as my right hon. Friend has done, a tribute to the work of the staff and officials of both the Serious Organised Crime Agency and the Child Exploitation and Online Protection Centre. Over the past 15 to 20 years, many new challenges have come forward in the world of serious organised crime. We have had the emergence of internet child grooming and exploitation and the advance of serious organised crime in general. The previous Government's efforts in sorting the establishment of the Child Exploitation and Online Protection Centre recognised the issue, and we took steps to ensure that we tackled it effectively. The Serious Organised Crime Agency, which Members on both sides praised on Second Reading, established some key benchmarks in tackling serious organised crime on an international basis, on issues that were unthought-of and untackled 15 to 20 years ago, such as drugs, confiscation of assets and human trafficking. While we are discussing the establishment of the National Crime Agency today, we should not overlook the fact that it is a successor to precursor bodies and organisations.

Paul Goggins: My right hon. Friend mentioned the recovery of criminal assets, something that was barely touched on on Second Reading. He will know that the previous Government introduced legislation—the first Government to do so—to set in place a framework for the civil recovery of criminal assets. We established the Assets Recovery Agency, which became part of SOCA. Will he underline the importance of that approach to assets recovery?

Mr Hanson: I certainly will. I know that my right hon. Friend has held positions in both the Home Office and the Northern Ireland Office; in fact, we have mirrored each other in that path over the past few years. The work of SOCA on the recovery of assets has been extremely important. I know that we will turn to some amendments tabled by my right hon. Friend to focus on some of those issues.

The NCA will be an important feature in crime-fighting and the Government's ability to tackle serious organised crime in the next few years. We certainly need it, because organised crime is estimated to cost the UK Government between—this is a big gap between the figures—£20 billion and £40 billion. Organised criminal groups cross boundaries and do not take any interest in or concern themselves with what national Governments do. There needs to be co-operation between internal crime-fighting agencies in Scotland, in Northern Ireland and in England and Wales, and with European and international crime-fighting agencies. I believe that the NCA will deliver that, and therefore we are not opposed in principle to the NCA.

Indications are that the NCA will operate with four commands; again, we will return to them in due course. At the moment, Ministers have indicated that there will be an organised crime command, tackling organised crime groups across local, national and international borders and working with police forces; the Border Force, which will move from the Border Agency to the NCA to look at border work, mutually agreed priorities, illegal goods, illegal immigration and the work of organised criminals in ports up and down the country, which could be a sensible suggestion; an economic crime command, looking at improved capability to deal with the growing areas of international fraud and economic crimes committed by organised criminals; and CEOP, which will look at the growing issues of protection of children from sexual abuse, bringing offenders to account and dealing with a whole range of issues in areas already tasked by the Government, such as the north Wales child abuse inquiry in my area, the type of events that led to the allegations regarding Jimmy Savile's behaviour, and organised paedophile rings.

Those issues are all important. We will debate and discuss them, but in broad principle, if the NCA means that we will have a more effective crime-fighting capability and co-ordination between the Border Force and people fighting against serious organised crime, child exploitation and economic crime, I will give it a fair wind and say to the Minister that it could be a valuable contribution to crime-fighting capability.

The Minister knows that Mr Keith Bristow has been appointed as director general of the National Crime Agency. Again, any comments that I make about the

work of the agency and its accountability will not reflect on Mr Bristow's abilities as a police officer. I worked with Keith Bristow when I was a Minister in the Home Office and he was a chief constable in Warwickshire. He has a long history in policing. He has been appointed to the National Crime Agency and in my view he will do a good job. I welcome his appointment and I wish him a fair wind in developing the agency. Any subsequent comments that I make about governance issues are not related to his ability to do the job. He has my full confidence in being able to blend together this important mix to increase our crime-fighting capability.

Amendment 1 relates to governance of the National Crime Agency. That is an important matter because clause 1(2) establishes the agency under

“the direction and control of one of the NCA officers, who is to be known as the Director General of the National Crime Agency.”

So the powers of the NCA are vested in the director general. In governance terms, the director general reports directly to the Home Secretary, the right hon. Member for Maidenhead (Mrs May), who will have sole direction for setting the strategic responsibilities of the NCA.

My arguments will not be new to the Minister, given that the Bill was introduced in another place, where the arguments on governance were rehearsed extensively by my noble Friend the Baroness Smith of Basildon. As I have said, the Serious Organised Crime Agency currently deals with drugs, money laundering, fraud, human trafficking, organised crime groups, people smuggling, identity crime, and firearms. The National Policing Improvement Agency—some of its functions have been split off and repatriated to the Home Office—was dealing with big issues such as the police national computer; the national firearms licensing management system; the National Ballistics Intelligence Service; crime operational support deployment; uniform support deployment; support for chief constables and police authorities; Airwave communications digital radio; firearms codes of practice; and proceeds of crime. All those are important issues.

Under clause 1, the director general of the National Crime Agency, Mr Keith Bristow, will have executive power to deal with whatever areas—we need clarification from the Minister—end up under the responsibility of the agency. He will report directly to the Home Secretary, who, under clause 2, may “determine strategic priorities”, and under clauses 3 and 4 will have a relationship with the director general of the National Crime Agency to look at the matters.

I have tabled amendment 1 because it is important to establish the concept of scrutiny of such important work. Under the Bill, all the important areas of serious organised crime that I have mentioned will be the responsibility of the director general, and the Home Secretary will set, potentially through Home Office Ministers, a direction of travel. We need to look at the current governance and scrutiny of that work. Amendment No 1 would establish a strategic direction and control of a board to be known as the National Crime Agency board. It would allow a director general who will be one of the National Crime Agency officers to be put in place as the operational head of its administrative function. The idea of that amendment and our initial amendments is to ensure that a National Crime Agency board will give greater scrutiny, transparency and accountability to the running of a National Crime Agency.

9.15 am

Our amendment would allow a board to sit between the National Crime Agency and the director general, meaning that the strategic direction and implementation of the strategic priority was handled and contributed to by a range of experts who would help to oversee the work of the National Crime Agency.

Ian Paisley (North Antrim) (DUP): I find the Member's proposal interesting. Will he explain the position further and say whether the oversight would simply be oversight or would go beyond that and tell the agency what it and the director general had to do? Where would the ultimate power rest?

Mr Hanson: Ultimately, the director general, rather like the chief constable of a police authority, as was, and now the police and crime commissioner, will have the independence to determine how overall strategy is implemented. It is important that Ministers and a board—a matter that I shall come back to in a moment—have an opportunity to question, check, monitor and to look at performance. I welcome my hon. Friend the Member for North Antrim (Ian Paisley) to the Committee. Given his experiences in Northern Ireland, he will know that the Northern Ireland Policing Board fulfils that function by setting a strategic priority and direction of travel while, at the same time, checking performance on matters such as budgets and outputs, and could give a level of scrutiny to the work of the National Crime Agency.

Ian Paisley: I thank the Member for giving way again. Scrutiny and accountability, the role that he is outlining, is actually the role of Parliament. He mentioned Northern Ireland and, while there is a Policing Board, that has now been juxtaposed with a Justice Committee and there is tension between those two organisations as to who really holds who to account. Perhaps the real place for accountability is at Parliament, not on a board.

Mr Hanson: My hon. Friend, if I may call him that—

Ian Paisley: I expect it.

Mr Hanson: Indeed. My hon. Friend has made a strong point. Ultimately, all aspects and avenues of government, including the work of the National Crime Agency and the Home Secretary's role in monitoring it, are subject to Parliament. He and I can table parliamentary questions; we can debate and raise particular issues, and we can legislate. I speak from experience of being a Minister at a Department that we are now scrutinising. We will have an opportunity as Ministers to meet, discuss and monitor the work of the agency because we will be accountable to Parliament for its work, even with co-operation and independence of the director general of the agency.

I refer my hon. Friend to the fact that we are not just creating a new National Crime Agency with a direct structure, with the Home Secretary being accountable for the work of the agency and its director general reporting to the Home Secretary, but removing the current structure of the NPIA and SOCA. For example, the NPIA has a board of members with experience who

challenge the chief executive of the NPIA about budget control, priorities and implementation, and who intervene and engage in discussions about such issues on a regular basis.

The Serious Organised Crime Agency has a board. The Government's drive was to remove quangos. It could be argued that they are not going to the wall defending quangos, but the SOCA board and the NPIA board are quangos that the Government wish to remove. The Minister might bring forward a mitigating defence in due course, but I want to explore in detail the current role of those boards—that important point was raised by my hon. Friend—and why the Government feel they need to remove them.

I will put my cards on the table: it may be that the Government are right to remove the boards. We will test that during our debate today and we will hear from the Minister. It is important that we, as the Opposition, do not just allow the Minister to say, just like that, "We will abolish the boards of the NPIA and of SOCA and we will bring the Border Agency aspect in-house into the new National Crime Agency, and that will report to the Home Secretary." It is important that we test what the role is of the boards that monitor two of those three agencies, what they do, who does it and why the new proposals will be better, although still accountable, as my hon. Friend has mentioned, to Parliament in due course.

Steve McCabe (Birmingham, Selly Oak) (Lab): Surely what we need is some insight into Government thinking and the consistency of Government thought. If we have all the paraphernalia of police and crime commissioners and police and crime panels to bring democratic accountability, we cannot at the other end have a national policing agency that does not seem to be accountable to anyone other than the Home Secretary.

Mr Hanson: My hon. Friend has hit a very strong nail very firmly on the head. One of the contradictions that I want to test in this short debate is that, while policing in England and Wales was localised in November through the election on an abysmal turnout of police and crime commissioners—they are accountable locally to their electorate, but are checked and balanced by local panels made up of individuals from local authorities and independent sources—some of these issues are being nationalised through the merger of SOCA, the NPIA and the Border Agency under clause 1's proposal of a National Crime Agency. Also, the challenge boards for SOCA and the NPIA are melting like the snows of winter outside this door and being sucked into the Home Office under the direct control of the Home Secretary.

The Minister can do that. We may yet not vote on this—I am not giving any indication, because I do not know; we want to hear what he says—but he has to justify to the Committee in due course why that model is appropriate for the Home Secretary and how it is accountable, as my hon. Friend the Member for North Antrim has said, to Parliament. The Minister and I both know that being accountable to Parliament means many things. The Government can and do sometimes not answer questions in the fullness of time, as they would wish to do. They can give information differently and be subject to scrutiny, but scrutiny is also subject to

[Mr Hanson]

information and Parliament does not always get as much information about some issues as a board member may get. It is important that the Minister begins to justify the change.

Let me, if I may, run through some of the people who were on the NPIA board before it was abolished late last year. These are people who were given the task by Ministers in both this Government and the previous Government to scrutinise the work of the NPIA, dealing with many of the issues that now fall within the remit of the National Crime Agency. For many years the chairman of the NPIA board was Peter Holland, managing director of Reuters Europe. He was on the board of the Police Information Technology Organisation, a member of Hertfordshire police authority, vice chairman of the Association of Police Authorities, where he led on IT matters, an independent member of the telecommunications ombudsman service and chairman of the audit committee of St John Ambulance. Peter Holland's experience of police authorities, business, telecommunications and IT presumably brought something to the work of the NPIA.

Another member of the board was Nick Gargan, who was recently appointed chief constable of Avon and Somerset, so congratulations to him. At the time he was chief executive officer of the NPIA—a senior police officer, dealing with senior matters. Stephen Webb, a Home Office member, was director of finance and performance directorate in the crime and policing group at the Home Office; he has executive responsibility in the Home Office and is accountable to Ministers and is bringing that executive responsibility in a formal sense to the board of the National Policing Improvement Agency.

Vic Hogg—good old Vic—has been working hard at the Home Office for many years on these matters and was a Home Office member until May 2010. He is deputy director general of the crime and policing group at the Home Office, responsible for policing and crime reduction, and a civil servant of long standing. On the board, he exercises powers on behalf of the Home Secretary in an open and transparent way.

Sir Hugh Orde, OBE, QPM, will be well known to my hon. Friend the Member for North Antrim and my right hon. Friend the Member for Wythenshawe and Sale East. As the current president of the Association of Chief Police Officers, and previously Chief Constable of the Police Service of Northern Ireland, he has a lot of serious policing experience. Sitting on the board of the National Policing Improvement Agency, he deals with a lot of issues and brings his experience to the work of the agency.

Tim Godwin, OBE, deputy Commissioner of Police of the Metropolis until August 2012, was working from the Metropolitan police on those key issues. Councillor Rob Garnham, who is not a member of my party, is a Conservative councillor from Cheltenham, and was for a while chair of the Association of Police Authorities.

The previous Government, and indeed, until they abolished the National Policing Improvement Agency, this Government, determined that the Association of Police Authorities had a role in helping to provide part of the governance and experience of how policing is delivered, by putting the leader of that organisation on the board of the National Policing Improvement Agency.

Rob Garnham brought to the board not only his own experience but also that of all the chairs of police authorities across England and Wales, who had various issues about serious organised crime, child exploitation, and other NPIA concerns on their desks. There was a direct link in terms of input into both the strategy and some of the operational discussions. It did not interfere with operational accountability, but they could say to the chief executive of the NPIA, "You said you are going to do this, but what does it mean? How is it accountable? What happens?" They were getting reports back and having an interface with officials.

I put this on the table because under the Bill none of those people will have any direct input into the work of the National Crime Agency. It will be the executive responsibility of the director general, who reports directly to the Home Secretary. That interface has gone. It is incumbent on the Minister to say why the model he is proposing—or the Government are proposing—is better. We need to examine the issues in detail.

It is not only Rob Garnham. Mark Burns-Williamson, who was recently elected as the police and crime commissioner for West Yorkshire, sat on the NPIA board, having been chair of West Yorkshire police authority for 10 years. Again, the Government have chosen to discard that model; there will be no board members under their proposed model. The Minister needs to justify to me and to the Committee why that is the best way forward.

I could go on: Alan Edwards, independent member until June 2012, director general of the Chartered Institute of Public Finance and Accountancy; Chris Hughes, independent chair of the Learning and Skills Network; David Marshall, fellow at the Centre for Leadership Studies at the University of Exeter. Those people brought things to the table of the NPIA board. There was also a board of SOCA, as there still is at the moment, from September 2012. The previous but one chair of SOCA was Sir Stephen Lander, who served as director general of the British Security Service, MI5, from 1996 to 2002. He retired a couple of years ago and was replaced by Sir Ian Andrews, who was permanent secretary at the Ministry of Defence. They are serious individuals who bring serious experience to tackling serious and organised crime. The post of director general of MI5 brings with it a level of experience that adds value to the work of tackling serious and organised crime. A permanent secretary at the Ministry of Defence, even though that particular appointment caused a frisson of discussion in the Select Committee on Home Affairs at the time, is a serious appointment.

9.30 am

The current board members of SOCA include Peter Clarke, a trustee of Crimestoppers and former Metropolitan police officer; Sue Garrard, senior vice-president of Global Communications and former non-executive board member of Directgov UK; Francis Plowden, a former commissioner and chair of the audit committee at the Judicial Appointments Commission and former head of government sector at PricewaterhouseCoopers; and Martyn Thomas, a non-executive director of the Health and Safety Laboratory and of the Office of the Independent Adjudicator for Higher Education, with 40 years' experience in the computer industry.

The model in clause 1 will discard that level of oversight. Is that simply about culling quangos, or is it that those people, who include a director general of MI5, a senior police officer, a permanent secretary at Defence and people with business and outside interests, have had no input of any value to the previous work of SOCA or the NPIA? If that is the case, I return to the question asked by my right hon. Friend the Member for Wythenshawe and Sale East at the start of the debate: did they do a good job? Those individuals have not been included in clause 1, and I ask the Minister to justify that.

I speak from my own experience as a Home Office Minister. I was Minister for Policing and Counter-Terrorism in the last year of the previous Government, and have worked in Justice and Northern Ireland over many years; in total, I was a Minister for 12 years. Part of my responsibility in that final year was to have oversight of the NPIA's work. So much work was there that not only was I dealing with that and other matters, but my hon. Friend the Member for Tynemouth (Mr Campbell), who was Under-Secretary, had oversight of SOCA's work. We spent time meeting the chair of each of those bodies individually. As Ministers we had regular meetings to deal with them, and we set strategic directions for those bodies.

However, I was not able to spend every day of every week, or every week of every month or year, overseeing how the agency was performing. While the NPIA was an important aspect of ministerial responsibility, and while, as my hon. Friend the Member for North Antrim said, I accounted to Parliament for its activities, the pressures of ministerial life meant that I did not spend every week sitting on the chief executive, asking, "What is your budget? Are you meeting your objectives? How are you progressing a particular issue? How are we going with strategic challenges? What are the strategic issues you are facing this week? What are the main operational challenges?" I was also dealing with police and crime authorities and legislation in the House, accounting for a crime reduction budget, and dealing with international terrorism issues.

If the boards are removed from SOCA and the NPIA, as is proposed by the Bill, what assurances can the Minister give the Committee, by dint of my question, regarding the challenges that Keith Bristow will face in relation to the operational budget and strategy? Under the Bill, Keith Bristow will report to the Home Secretary, who is responsible for issues relating to terrorism, national crime, police and crime commissioners, immigration and every other aspect of Home Office business.

I want to know from the Minister how the Home Secretary intends to deal with those challenges and get those levels of scrutiny and direction in the absence of the wide-ranging experience that the boards bring to discussions. We are not just talking about this Home Secretary, but about future Home Secretaries, so it is important that we get that flavour from the Minister. When he proposes a new structure, it is his duty to explain to the House what it will mean.

We have tabled other amendments. Amendment 10 is particularly important because it mentions the dreaded words "police and crime commissioners." It is no secret that the Labour party did not support the introduction of police and crime commissioners. *[Interruption.]* There is some feigned surprise from Government Members on

that point. It was not one of our manifesto commitments, and we argued against it during the passage of the Bill. But like the good democrats we are, when it was agreed we took up the baton, we picked candidates, we fought the election—we fought it hard—and we tried to increase the turnout. *[Interruption.]* My hon. Friend the Member for Sedgefield says that, thanks to the Labour party, the turnout probably doubled; it reached the massive levels of between 13% and 15%, depending on the area.

At the end of the day, police and crime commissioners were elected, and I am pleased to say that there are 13 Labour commissioners, predominantly for large forces such as the West Midlands, which my hon. Friend the Member for Birmingham, Selly Oak represents, Greater Manchester, Cleveland, and Durham. We did not quite manage to win in north Wales, but most of my colleagues on the Committee had police and crime commissioners elected.

The reason I mention the issue is that police and crime commissioners are an important part of the delivery mechanism for tackling serious organised crime, and partnership is an issue later in the Bill. Clause 4 enables relationships between the NCA and other agencies to be established.

Steve McCabe: Does my right hon. Friend share my view that one of the concerns about police and crime commissioners is that the Home Secretary, after establishing them, appears not to wish to take any further interest in them? As a result, there are no Home Office plans to review their performance in the years ahead. There is no automatic reporting mechanism to the Home Secretary about their behaviour. There is not even a national register of their interests. Were the same approach to be applied to the Bill, we would set up the National Crime Agency and the Home Secretary would simply wash her hands of all responsibility for its performance.

Mr Hanson: My hon. Friend makes a very good point. There is still time for us to explore the issue in Committee. I feel for the Minister on this issue. Between us—it is our secret, Mr Caton—I know that the Minister's party did not really support police and crime commissioners either.

Mr Shailesh Vara (North West Cambridgeshire) (Con): May I just say that there is a process of accountability? It is called the elections, in which the PCCs will have to stand in due course.

Mr Hanson: There is indeed. The hon. Gentleman will accept that, for all our faults, the Labour party threw ourselves into those elections, fought them seriously, and we increased the turnout—marginally. There may or may not be a chance for police and crime commissioners to go back to their electorates in 2016. I say that because there will be a general election before 2016, and we still have to examine governance options for policing.

Let me return to the point. The Minister's party did not really support police and crime commissioners. The Liberal Democrats did not put up candidates in a large number of areas; they were slightly frit of being smashed. General nods of agreement from some Government Members suggest that would have been the case. They did not get any commissioners elected. That aside, it is a

[Mr Hanson]

Government policy, and the Minister speaks for his colleagues in the Home Office as a whole. The point that I am making in relation to amendment 10 is that there is no mention in the governance arrangements of the role of police and crime commissioners. There is no discussion of their role, except for a cursory mention in small parts of the Bill. With amendment 10, we want to ensure not just that the appointment of the director general of the National Crime Agency is a matter for the National Crime Agency board that we hope to establish, but that the association of police and crime commissioners is embedded in the national organisation. If, having listened to the debate, the Minister wants to bring back proposals on Report, I am happy to discuss what the board would look at.

Tomorrow, the association of police and crime commissioners will take a decision as to what form it decides to operate in. All the police and crime commissioners will meet, and the independent, Conservative and Labour members will decide how they want to take forward their involvement as a national body. If the association is established—I do not know whether it will be—there would be a role, rather as Rob Garnham and Mark Burns-Williamson had under the National Policing Improvement Agency, to engage with the Home Office on key issues of strategy, governance and the direction of travel. Under clause 1, the director general of the National Crime Agency has direction and control and, under other clauses, reports directly to the Home Secretary, so again there is no element of the local being married to the national. The partnership itself, under later clauses, does not really reflect that. I hope that the Minister can reflect on those issues accordingly.

Amendment 12 would ensure that the Secretary of State has to consult the chairman of the NCA board—if it was appointed—and the association of police and crime commissioners before calling upon the director general of the NCA to retire or resign. The Bill gives tremendous powers to the Home Secretary not just to appoint and set strategic direction, but to remove. If we are serious about fighting organised crime, we need more involvement from agencies in the appointment of the director general, which our amendments would ensure, in the strategic direction of the director general's team, in challenging the system on day-to-day activities concerning budgets and other issues, and in the removal of the director general from post.

Under the Bill, the Home Secretary can remove the director general from post with no reference to anyone else. That may be a good power, but let us hear the Minister justify it. As my hon. Friend the Member for North Antrim mentioned, that removal would be accountable to Parliament. We could have an Adjournment debate on why the director general had been removed and ask questions, or we could have a Select Committee hearing; but it would always be post the event. Amendment 12 seeks to put in a little challenge and break, so that the association of police and crime commissioners and/or the board would have to be consulted by the Home Secretary before the director general was removed.

Amendment 13 would ensure that before issuing an annual plan, the director general must obtain the consent of the NCA board. That would give the proposed NCA board the opportunity to comment on and contribute

to the strategic direction. I come back to my original point: as the Bill stands, the Home Secretary will set the annual plan in conjunction with the director general. The Home Secretary and the Home Office will take the defining strategic operational decisions about where the strategic directions lie. Although the Home Secretary may consult police and crime commissioners or outside bodies and may have some external interest, none of those things is guaranteed. Amendment 13 would ensure that an NCA board would be able to contribute to the strategic direction.

9.45 am

If, as I have tried to indicate, an NCA board had among its members someone representing Northern Ireland or Scotland, as well as national figures from England and Wales, there would be an opportunity for a wide discussion. I accept that in later clauses there is an attempt to formalise consultation and annual plans, but we need to examine in detail the need for a board that offers challenge and some establishment, and gives some direction to Keith Bristow as the new chair.

Those are my initial comments on the amendments. The Minister knows, as he gently titters at the thought of discussions, that Oppositions challenge; it is our job, statutorily, as Her Majesty's Opposition, to test what the Government do. It is only fair that we try to do that in relation to the Bill. The Minister is sitting where I have sat, and I have sat where he is sitting. We know what this business is about. Our job is to ensure that he justifies to the Committee why the Home Secretary should have direct control of these matters, given their importance.

I might refer to other points later, but I would appreciate hearing from the Minister or indeed from any of my hon. Friends.

Paul Goggins: It is a pleasure to serve under your chairmanship, Mr Caton. I look forward to our deliberations in the coming days. I pay tribute to my right hon. Friend the Member for Delyn, who made a fine speech. He has great experience. He says it is the job of the Opposition to test Government thinking, but he has done more than test; he has posed relevant and important questions. It will be interesting to hear the Minister's response to the sensible—indeed, modest—suggestions that my right hon. Friend made.

May I reiterate the point made by my right hon. Friend? Any criticism of anything in the Bill is not at all a criticism of Keith Bristow. He is chief constable of Warwickshire police and a very able and experienced police officer. He is ideally suited to take on this demanding role to lead the fight against organised crime in our country. I pay tribute to him and I wish him nothing but the best in the role that he will play. It is a huge responsibility.

Clause 1(2) states:

“The NCA is to be under the direction and control of one of the NCA officers, who is to be known as the Director General of the National Crime Agency.”

That is it. He is then accountable to the Home Secretary. We need to think about the enormity and complexity of the task. My right hon. Friend's amendments and suggestions that a board be put in place are sensible. A board of experienced people can bring their experience

to bear. Their strategic thought and their experience of other aspects of government, and indeed other aspects of business and society in general, can be brought to bear in thinking through the approach that the National Crime Agency will need to take.

It is worth reflecting that when SOCA was established in 2006, it was a very complex organisation that brought together the National Crime Squad, the National Criminal Intelligence Service and elements of Customs and Excise and the immigration service. I pay tribute to those who brought together those disparate organisations and formed them into one body, but we must remember that the National Crime Agency will still be a complex organisation that will have to deal with police forces throughout the United Kingdom. The breadth and complexity of such relationships require a body at the top of the organisation that has the capacity and experience to support the director general with strategic thinking and planning. I hope that the Minister will reflect on the complete absence of such a board in his current plans.

Ian Paisley: I am starting to be taken more and more by the idea of a board. I have served on the Northern Ireland Policing Board. Does the right hon. Gentleman agree that the only way such a board can work is if the director is accountable to the board *ex post facto*? The director must have the power, and must take the decisions; the buck has to stop with the director, so that he cannot pass the blame to the board.

Paul Goggins: My hon. Friend makes an important point. I pay tribute to his role as a member of the policing board in Northern Ireland over many years and to his great and active support of law enforcement in Northern Ireland. He puts his finger right on it: the director is there to direct. In the end, it is his responsibility, as with the Chief Constable in Northern Ireland. Yes, the policing board is there to hold him to account, but in the end he is operationally responsible for what happens, and the same will be true for Keith Bristow as the director of the National Crime Agency. Nothing that I am saying or that my right hon. Friend the Member for Delyn suggested detracts from that. Having a strategic board will help develop thinking and strategy and help to ensure that the director general has proper support, from people with real experience.

One of the things that puzzled me about the Government's approach is not the switch they want to make from a non-departmental public body to a non-ministerial Department, which is in effect what they are doing—it is the difference between the National Crime Agency and the Serious Organised Crime Agency—because we know that the Government wanted a bonfire of quangos. It did not turn out to be the bonfire they predicted, but it is what lies behind the change. Although we do not necessarily agree with all the decisions that they have made, we understand where they are coming from.

What is very interesting is that just because the National Crime Agency is a non-ministerial Department does not mean that it should not have a board. I am sure the Minister is well versed in the guidance from the Cabinet Office published in April 2011, "Categories of Public Bodies: A Guide for Departments", which makes it clear that non-ministerial Departments are usually headed by a statutory board. The Minister needs to offer us a

convincing explanation why, although the organisation has changed from a non-departmental public body to a non-ministerial Department, it is doing without the board that another Department of his Government is recommending it should have in most cases. We need the Minister to give us a proper explanation of that.

My final point supports amendments 10 and 12, which were tabled by my right hon. Friend and would give the association of police and crime commissioners a consultative role. I find it somewhat ironic that on the same day as the Home Secretary announced plans for the National Crime Agency, she stood at the Dispatch Box and announced plans for police and crime commissioners. That was to be the new policing plan from the new coalition Government, yet here we have a Bill that does not even mention police and crime commissioners. Indeed, I find it somewhat ironic that the Opposition, who opposed police and crime commissioners, are bringing that point to the attention of the Minister and the Committee and are trying to add them to the Bill.

The fact of the matter is that police and crime commissioners are now the head figures of local policing in terms of strategy and accountability. The idea that the National Crime Agency, which is to head the fight against organised crime, will have no relationship with police and crime commissioners is beyond belief. The Minister needs to address that in his response to my right hon. Friend. He would do well to breathe deeply, reflect carefully and, if not through these amendments, find some other way of putting the role of police and crime commissioners in the Bill. Through legislation brought forward by the Government, police and crime commissioners are part of the policing landscape. They are very important. Their national association will give them strategic importance and the idea that they will have no relationship whatsoever with the fight against organised crime is preposterous. I urge the Minister to give serious thought to my right hon. Friend's suggestions.

Steve McCabe: My right hon. Friends the Members for Wythenshawe and Sale East and for Delyn have already drawn attention to the work of SOCA. That attention was sadly lacking when the Home Secretary made her Second Reading speech.

One thing that struck me as a member of the Home Affairs Committee is how highly regarded SOCA is by police and crime agencies in other parts of the world. I hope that as the Minister attempts to put these measures into effect, he will do his level best to ensure that the reputation that SOCA has acquired will not be lost in the reorganisation. Will he give serious thought to the SOCA brand abroad and whether there is some way that it can be kept? If external crime agencies identify with the brand, it would be a mistake to throw away the opportunity of retaining it.

I am worried that although the National Crime Agency will have four commands, its budget will be similar to that of SOCA. It will be asked to do considerably more with much less, perhaps more than £100 million less. On that basis, the Committee needs to know much more about the measures that will be used to judge the performance of the NCA as well as knowing much more about the accountability measures about which my right hon. Friend the Member for Delyn has already spoken.

[*Steve McCabe*]

As we heard, there are some real questions to be asked about police and crime commissioners and their relationship with the NCA. The posts were mainly invented to give people a say over local policing, but it now seems as though police and crime commissioners will be overruled by the NCA. They will be directly bypassed by the director general of the NCA.

Mr Hanson: Is that not even more reason why, if the Bill remains as drafted, the police and crime commissioners through a board should have a voice in helping to appoint the director general, look at the strategic plan and monitor performance on a regular basis?

Steve McCabe: Yes, that is absolutely the case and why it is really important to identify and probe the Minister's intentions. Under the Bill, the director general will bypass police and crime commissioners by directly commanding the actions of chief constables. Irrespective of the local policing plan, if the director general determines that he wants x amount of resource and activities, he can simply bypass the locally elected commissioner and command the chief constable to comply with his wishes.

Finally, because there is so little detail, can the Minister tell us whether we will see the NCA framework before the Committee concludes its business? It has been promised for some time. The shadow Home Secretary made little of the modified version on Second Reading, but the Government have promised that framework as a source to fill in some of the detail.

Mr David Burrows (Enfield, Southgate) (Con): Although I recognise the premise of the points made about the successes of SOCA, should we not have the humility to recognise the problem? Given that in 2009 Her Majesty's inspectorate of constabulary said:

"There is a need for a more coherent and consistent approach to the attack on organised crime across England and Wales", should we not recognise that there is still a problem and that it needs to be tackled? Is there recognition, understanding and support in principle that the NCA is an answer?

Steve McCabe: Let me be clear. I am not opposed to the development of the NCA. It should build on the successes of SOCA rather than engage, as we saw with the health service, in a wholesale reorganisation for the sake of it. I am sceptical about whether we could do more with less, and I am cynical about whether the Government's intention in not bringing forward proper performance measures is that that they realise that, too, which is why they have created the agency in such a way.

Will we see the framework before the Committee concludes its business? Will we see it in time for us to consider it? That is one of the absent pieces from the Government's plans today.

10 am

Mr Browne: Many people might regard me as unfortunate, neither representing a Welsh constituency nor having been born in Liverpool. I am grateful to you for your impartial chairmanship, Mr Caton, and for giving ample opportunity to the right hon. Gentleman to raise all the constructive points he wished to under the group of amendments that we are discussing.

Before I get on to the amendments, let me also recognise the significant contribution to national security and crime-fighting that SOCA has made to this country. Although I am one of, I think, three people who have been a Home Office Minister currently in the room, I am the only person in the room who has been a Foreign Office Minister. As well as seeing SOCA's role here in the United Kingdom, I had the opportunity, during my two and a half years as a Foreign Office Minister, particularly covering Latin America, to see a lot of its international work and the high regard with which it is held in many of the countries where we assisted the domestic authorities in their crime-fighting arrangements, and in international partnerships.

I meet regularly with Sir Ian Andrews, Trevor Pearce and others in SOCA, and I recognise the contribution that many distinguished figures have made to public life through SOCA and the NPIA, which was also mentioned in some of the earlier speeches. One can think that there are better organisational arrangements for tackling serious and organised crime in the United Kingdom and internationally, while at the same time recognising the significant contribution that has been made by many distinguished individuals over a number of years.

I will not be drawn into speaking at length about the NPIA, because not all of its functions are transferring to the NCA. It will be dealt with specifically under clause 14. Given that there is rather a lot of material in the amendments about the governance of specifically the NCA, perhaps that is the subject to which I should devote some fairly lengthy comments, to reassure members of the Committee that the Government are going in the right direction.

As the right hon. Member for Delyn explained, his amendments seek to provide for a National Crime Agency board, in effect replicating the governance arrangements of SOCA, which he was extolling on behalf of the Opposition. The Government considered carefully what the right governance arrangements for the agency should be in order to maximise its effectiveness and democratic accountability and minimise bureaucracy. The arrangements must be appropriate for an operationally-focused organisation, with a demanding mission to fight serious and organised crime and protect the public. We believe that the Bill as it stands gets that balance right, allowing for strategic oversight by the Home Secretary and effective operational leadership by the director general.

The director general will lead and direct the agency. I am grateful for the tributes paid, particularly by two former Ministers of the Department, to Mr Keith Bristow, in whom we have great confidence in performing that role. He will be directly accountable to the Home Secretary and, through her, to Parliament. That is entirely consistent with the tried and tested arrangements in place in many non-ministerial Departments, including law enforcement agencies such as the Serious Fraud Office and the Crown Prosecution Service. I hope that I will reassure members of the Committee who are nervous about adventuring into unfamiliar territory that the arrangements are a tried and tested model.

Steve McCabe: I accept that the model is tried and tested; it is the traditional model. However, is it not the whole thrust of this Government's approach to policing

that they want a different model of accountability? That is what the whole argument about police and crime commissioners revolved around.

Mr Browne: I am grateful for the intervention and I take the hon. Gentleman's point. I will get to police and crime commissioners, but a person wandering into the Committee's deliberations or watching us on television could be forgiven for believing that with the NCA we are setting up an organisational structure that is without precedent, and that the board model that SOCA has, which was championed by the right hon. Member for Delyn, is the only tried and tested model. Other Government bodies, however, including some in the field of law enforcement, such as the Serious Fraud Office and the Crown Prosecution Service, have a governance model in line with that which we are proposing for the NCA.

Amendments 1 and 11 would instead create an NCA board to lead and direct the agency in a similar way to SOCA, with the director general employed by and accountable to the board, rather than directly to the Home Secretary as we are proposing. That is of course the traditional quango structure for a public body, and SOCA was set up with such a structure by the Labour Government under the Serious Organised Crime and Police Act 2005. The right hon. Gentleman is effectively arguing that SOCA's structure should be recreated for the NCA, instead of the simpler and more straightforward structure that we have proposed, which, as I said, works well for organisations such as the CPS.

I recognise that the SOCA chair and board are excellent individuals who have done a good and professional job. I have had the opportunity to see their good work throughout the world, and no doubt the right hon. Members for Delyn and for Wythenshawe and Sale East can, from their time at the Home Office—they have reminded the Committee this morning of their exposure to the work of SOCA—similarly vouch for their predecessors' good work. We believe, however, that SOCA's structure is not the ideal one for a law enforcement agency. Instead of the clear and direct accountability of the director general to the elected Home Secretary, SOCA's director general reports to the SOCA board and chair, who then account to the Home Secretary for progress. That arrangement has led to more bureaucracy and less accountability than would be the case with the proposal in the Bill.

Paul Goggins: May I say at the outset that I was grateful to hear the Minister's generous remarks about those who have been part of SOCA over the past six years? They have played an important role and it was good that he made such an unequivocal statement about that from the beginning.

The Minister is talking about the model proposed for the National Crime Agency as a non-ministerial Department. He is explaining why there is no board and praying in aid the Crown Prosecution Service. The CPS, however, has a board with four non-executive directors. How does he explain that? How will that be replicated in the model for the NCA?

Mr Browne: I will come to that very point so, if the right hon. Gentleman will bear with me, I will address it directly.

Mr Hanson: I am interested in whether the Minister can give us some idea of how the Home Secretary will provide the challenge, the scrutiny and the oversight of a board that was reporting to him or her. As Ministers—myself and in due course my hon. Friend the Member for Tynemouth—we gave such a challenge to the chair of the board, so the board was doing that day to day, with expertise brought in effectively to give that level of challenge some intensity. Will the Home Secretary give the same level of scrutiny and challenge as the existing board does for both bodies?

Mr Browne: This is the crux of our deliberations. The model that we are proposing is, essentially, the model that seems to have become more attractive to Opposition Members, which is that there is an elected leadership figure who sets the strategic direction—in police forces that is the PCC, in the new NCA that is the Home Secretary. Then, serving under that strategic direction, there is a crime-fighting leader. In the police force it is the chief constable, and for the NCA it will be Mr Keith Bristow, whom we have just been talking about.

I will come to the provisions for greater oversight. The question is whether the crime-fighting leadership of the NCA reports to a board, or whether—as is our view—it has the cleaner and more accountable reporting structure of reporting to an individual, the Home Secretary, who is an elected Member of Parliament and accounts to Parliament almost daily, either directly or through her ministerial team. The Government strongly believe that the NCA should be led by an operational crime fighter, not a non-executive chair and board, as is the case with SOCA. Police forces are led by chief constables, the Crown Prosecution Service is led by the Director of Public Prosecutions and the National Crime Agency should be led by its director general.

Of course, it is vital that chief constables and other leading crime fighters are held properly to account on behalf of the electorate, but people want to see effective accountability, not bureaucratic accountability. That is why we have ensured that chief constables are directly accountable to a single directly elected police and crime commissioner in their force area, who is visible and can be held to account and removed by local communities if they so wish, in the same way that the Home Secretary is a visible, elected leader who holds her office at the discretion of the electorate. The director general will be accountable to the Home Secretary, who has the democratically elected mandate to ensure that the public are protected from crime at a national level. They will be held to account by the taxpayer, the electorate and Parliament. In our view, this is more straightforward, less bureaucratic and will provide more real democratic accountability.

Naturally, we agree that the NCA should have sensible, transparent internal governance arrangements in place. Although it is right that the director general is ultimately charged with leading the organisation, in doing so he will want advice and challenge from other experienced leaders, both inside and outside the NCA—a point that was raised by the right hon. Member for Wythenshawe and Sale East. The NCA will have a non-statutory management board—that has been usual practice in government for many years—to advise the director general on the strategic direction of the organisation. It will oversee good governance, for example by ensuring that proper audit and risk arrangements are in place.

[Mr Jeremy Browne]

To avoid confusion, the director general will not report upwards to a board, but will himself chair a board that will have senior internal members of the NCA on it, as well as outside members who will be able to ensure that proper audit and risk arrangements and good governance are in place. The outline of the NCA framework document clearly provides for such a board to be established under the chairmanship of the director general, rather than above his head. We see no reason for that management board to be set in statute, particularly since other non-ministerial Departments such as the CPS function very well with non-statutory arrangement.

Mr Hanson: I am grateful to the hon. Gentleman for contributing those great thoughts. Will he explain to the Committee where the framework document is, so that we can look at these matters? My understanding is that it has not even been published yet. I am grateful to him for shedding light on these matters, but it would be helpful if he publishes the framework document so we can see who comprises this so-called non-statutory board.

Mr Browne: I am grateful to the right hon. Gentleman for saying my deliberations are great. I did not think that they had quite reached that level—I was just warming up. Sarcasm does not show in *Hansard*.

It is my understanding that the framework document can only be published in full once the Bill receives Royal Assent. The Bill establishes the mechanics and the detailed organisational arrangements for the NCA. We do not seem to have a shortage of issues on clause 1 alone to get our teeth stuck into, so the Committee will not be deprived of an opportunity to gain a full understanding of how the NCA will work in practice.

10.15 am

Mr Hanson: With due respect—and I hope that what I am about to say does not appear strange in *Hansard*—I am not psychic. I cannot see the future in relation to what the framework document may or may not say. My noble Friend Baroness Smith of Basildon asked in another place for the publication of the framework document. If the Minister were referring to what the document might contain about governance arrangements, it would be helpful to all members of the Committee if we had sight of it. Such matters are critical to what we are worried about, which is oversight and governance of what will be a strategic role in delivering major public services in the fight against crime.

Mr Browne: I am grateful again to the right hon. Gentleman but, at the risk of repeating myself, the NCA framework document can be published only following Royal Assent of the Bill. I am holding in my hand a substantial Bill, which outlines under clauses and schedules how the NCA will be structured. We are deliberating those issues this morning, including the governance arrangements. I am being open by saying that the NCA will have different governance arrangements, assuming that it receives the support of the Committee and Parliament more generally, than exist currently with the Serious Organised Crime Agency. I have explained why we consider that those more streamlined, efficient,

accountable arrangements offer better value for the taxpayer and better prospects of direct and effective leadership.

Mr Hanson: May I help the Minister? I accept that the Committee is not discussing schedule 2, but that schedule refers to the framework document and annual report, and states that the Secretary of State must “issue a framework document”. I accept that that can be done only after Royal Assent, but would it help the hon. Gentleman if he were to issue a document with the word “draft” written on it, so that members of the Committee who are worried about governance arrangements may examine it to see whether clauses 1, 2 and 3 meet the proper governance objectives of serious issues?

Mr Browne: The right hon. Gentleman is seeking to create the impression that a great act of concealment is taking place, but not only is the Committee considering a substantial Bill, which the right hon. Gentleman has clearly read carefully and diligently, but an outline framework document has been provided to Parliament. It includes various undertakings, such as on the Child Exploitation and Online Protection Centre, which he mentioned earlier in his deliberations.

The right hon. Gentleman says that he does not have the knowledge to enable him to scrutinise the Government’s arrangements for the NCA, yet he has made a detailed 45-minute speech on a whole series of amendments that he has tabled on the precise arrangements that the Government are proposing for the governance of the NCA. A finalised framework document will be provided in due course, following Royal Assent—assuming, of course, that the Bill receives it. However, it is not reasonable to say that the Bill does not provide sufficient detail for our deliberations.

Steve McCabe: Will the Minister give way?

Mr Browne: I was hoping to turn my attention to the amendments that all other members of the Committee, except me, have had the opportunity to discuss.

Steve McCabe: Given what the Minister said about the framework document, I am not clear what has to be determined after Royal Assent. Presumably, the Committee is sitting to scrutinise the detail of the Government’s proposals. It is reasonable for the final framework document to be published after Royal Assent, when everything was agreed and considered, but we are being asked to legislate purely as an act of faith when details are being withheld that are crucial to the understanding of how the Bill will operate.

Mr Browne: Let me have one final go and then I will move on to the amendments. I do not accept that, if the hon. Gentleman holds this substantial green document in his hand and looks at the outline framework document, he is being asked to legislate on faith alone. There is plenty of material for him to get his teeth stuck into. That is why we have a group of amendments on clause 1 alone, which I will now turn my attention to.

Ian Paisley: Will the Minister give way?

Mr Browne: Let me make a little progress and then I will give way to the hon. Gentleman.

Amendment 3 provides that the NCA board would need to give its consent to the NCA's annual plan. Clearly, that requirement falls away if there is no NCA board in statute—I am recommending that there should not be—and the director general is the clear, sole leader of the organisation. I fully expect that the director general will discuss the annual plan with his management board, as happens routinely in other non-ministerial Departments. Indeed, it would be odd if he did not draw on their expertise in that regard, but that is not a concern for statute. We do not wish to micro-manage him through law. Ultimately, it will be the director general as the operational leader who bears the responsibility for determining the final plan and is best placed to do so on the basis of his or her crime-fighting experience.

Amendments 10 and 12 seek to revise the arrangements set out in schedule 1, which confer on the Home Secretary the responsibility for appointing the director general and, if necessary, calling on him or her to resign. In the first place, the amendments require the Home Secretary to consult the NCA board about the appointment or dismissal of the director general. I think we can dispense with this point, because, at the risk of repetition, we do not regard the NCA board as a suitable model. If the Committee agrees that we should not have an NCA board, obviously the Home Secretary would not be able to consult a board.

Secondly, amendments 10 and 12 also call for the Association of Police and Crime Commissioners—a body of men and women now greatly admired by the Labour party and its leadership—to be consulted on the appointment or proposed dismissal of the director general. The Bill as drafted provides for the Home Secretary to appoint the director general in consultation with the devolved Administrations, and similarly provides that she may call on him or her to resign, subject to clear safeguards and, again, consultation with the devolved Administrations.

It is right that the Home Secretary, who ultimately has responsibility for public safety and protection from crime, should make the final decision about who should hold this critical position in leading the national fight against serious and organised crime. Equally, it is important that she should seek the views of the devolved Administrations to reflect their interests, because the agency's work will deal with a mix of reserved and devolved matters.

However, it is not the view of the Government that the Association of Police and Crime Commissioners should be added to the list of consultees. The Government have championed the need for more responsive, democratically accountable local policing, and we have implemented fundamental systemic reform to make that happen in the shape of the new locally elected police and crime commissioners. On the other side of the coin there is a need, which we have always stressed, for the Government to have a firm grip on tackling serious and organised crime at a national level. It is the Home Secretary, not police and crime commissioners, who has the national-level responsibility and who should therefore choose the right person to lead the UK's fight against serious and organised crime.

Clearly, police and crime commissioners will be key strategic partners for the NCA, and the director general will want to engage with them both as individuals and collectively via the Association of Police and Crime Commissioners, but it does not follow that they should have a say in who gets his job.

Ian Paisley: I agree that the director general should be the sole leader of the organisation. Indeed, he should feel emboldened in that role to do it right, and I do not think that anyone would disagree with that. I welcome the fact that there must be consultations with the devolved regions. I assume that the structure of the consultation will be flexible to allow the director general to consult, for example, the Justice Minister or the Justice Committee in Northern Ireland, or the Northern Ireland Policing Board, depending on what is appropriate in the circumstances.

On the point that the Minister has made about the framework, there is going to be a board in that framework to address the different and unique governance arrangements that he has now identified. Would it not make sense to put that board in the Bill?

Mr Browne: I apologise to the hon. Gentleman for not giving way earlier.

Ian Paisley: I am a forgiving soul.

Mr Browne: I wanted to move on, but as that was the first time that the hon. Gentleman had sought to intervene, after saying that I would not give way I felt rather lacking in charitable spirit, so I am grateful for his contribution, and I endorse the need he spoke of for the NCA and its leadership to consult all parts of the United Kingdom.

I am not sure what I can add to what has been said already on the framework document. The legislation puts into effect the arrangements for a new national crime agency. Some of the practical nuts and bolts will obviously be introduced once we know that Parliament endorses the concept of a national crime agency. There is plenty of detail in the Bill, which is why we are spending Tuesdays and Thursdays for the foreseeable future discussing it. There is also an outline framework document, so I do not think that there is a lack of material for Members to get their teeth stuck into.

Andy McDonald (Middlesbrough) (Lab): That is the point on which I rise. I have not seen the draft framework document—does it exist and may I have sight of it?

Mr Browne: I trust that if the hon. Gentleman were to make his way once the Committee has finished—or, indeed, now if the Whip will permit him—he would be able to get a copy from the Vote Office.

Amendment 13 would require that the Home Secretary's reasons for calling upon the director general to resign be shared with the NCA board and with Parliament. The NCA board requirement falls away if the Committee agrees that there should not be a board, as I have recommended. She would obviously not be able to share her views with an organisation that did not exist.

The Solicitor-General (Oliver Heald): As my hon. Friend knows, I am not supposed to speak on this part of the Bill. However, I was enjoying his rhetoric so much that when he mentioned the Serious Fraud Office

[*The Solicitor-General*]

and the Crown Prosecution Service I was reminded that it is the Attorney-General who superintends the Director of Public Prosecutions and the director of the Serious Fraud Office. Would my hon. Friend agree that colleagues in this place seem to find no difficulty in asking questions about the way in which these Departments work at Attorney-General's questions, in debates on the Floor of the House, and so on? There seems to be a very clear governance structure there.

Mr Browne: I am not a stickler for parliamentary convention, particularly when the Committee is so enlightened and well informed by interventions of that type. I wholeheartedly endorse my hon. Friend's observations, which I am sure will reassure Opposition Members who may not otherwise have been minded to enthusiastically endorse this section of the Bill.

Paul Goggins: On a point of order, Mr Caton. The Minister has referred several times to the draft framework document, and he has just advised my hon. Friend the Member for Middlesbrough that if he is fortunate enough he may just be able to get hold of a copy from the Vote Office. Should the Committee not have copies available with the other documents that we have, and are there copies of the draft framework document in the room that my hon. Friend and others could see in order to check what the Minister is saying against what is actually written down?

The Chair: I think it would be useful if the Minister could clarify the situation with the draft framework document.

Mr Browne: My understanding is that the Home Office website has the document, and although I have not this morning been to the Vote Office and asked for a copy, I see no reason why we should not make it available to everybody. However, I am not able to do that and simultaneously address amendment 13 if it requires me to leave the room, Mr Caton.

The Chair: It is not a point of order whether it is in the room or not, and it is the decision of the Government which of their own papers they make available to the Committee.

10.30 am

Mr Browne: This is not a secret document—everybody is getting far too excited. I will ensure that copies are available for this afternoon's sitting. I am sure that Members who wish to read the document before then will be able to find it easily.

As I was saying, amendment 13 would require the Home Secretary to share her reasons for calling on the director general to resign with the NCA board and with Parliament. Of course, if there is no NCA board, she will not be able to share her thinking with it. More generally, it is clearly the Home Secretary's role to ensure that the right person holds the post of director general. If she has serious concerns about the incumbent's efficiency or effectiveness, or believes him or her to be guilty of misconduct, it is right that she should set those

concerns out in writing to the director general and offer him or her the right of reply. That is the same power that the Home Secretary holds at the moment with regard to the director general of SOCA.

The Serious Organised Crime and Police Act 2005, passed by the previous Government, includes a similar safeguard, requiring the Home Secretary to set out her reasons in writing, but does not mention reporting them to Parliament. Evidently, the Opposition did not consider that necessary when setting up SOCA. We agree with them and do not regard that to be a necessary requirement for the NCA. Such a requirement would be unfair to the director general, given that he or she would not, at that stage, have had the chance to exercise the right of reply. If the Home Secretary did decide, following any representations made by the director general, to call on him or her to resign, she would obviously inform Parliament swiftly in the usual way and set out the reasons for the decision at that point. I have no doubt that there would be plenty of opportunity for Parliament to scrutinise the Home Secretary's decision.

Schedule 1 will place the director general under a duty to ensure that resources are allocated in the most efficient and effective manner. Amendment 37 proposes to extend that duty to include the Home Secretary and the NCA board. Of course, as I have just said, if there is no NCA board, that part of the amendment will not apply. However, on the proposal that the Home Secretary should be subject to the duty, I remind the right hon. Member for Delyn and others who tabled the amendment that it is not for the Home Secretary to interfere with the day-to-day running of the NCA. I have tried to draw a parallel between police and crime commissioners and chief constables in police forces, and the Home Secretary and the director general in the NCA.

The role of the Home Secretary is to set the strategic priorities for the agency, whereas the director general is best placed, as the agency's operational head, to implement those priorities in the most effective and efficient way possible. It would both undermine the operational independence of the director general and lead to confused lines of accountability if the duty set out in paragraph 2 of schedule 1 were to be split between the director general and the Home Secretary.

I have argued that the National Crime Agency should be led by an experienced crime fighter, not a committee, and that he or she should be directly accountable to the elected Government of the day. Furthermore, I have stressed that the arrangements for appointing and dismissing the director general are a matter for the Home Secretary, with appropriate safeguards already in place and a requirement to consult the devolved Administrations.

Ian Paisley: For the avoidance of doubt, however, there will be a board—the Government are putting it into the framework document. Is that not what the Minister is saying? It will not be called the NCA board.

Mr Browne: The director general will have a board in the same way that chief executives of lots of organisations have a board or committee that includes the senior management of the organisation and outside representatives. However, the director general will chair that board; he will not be accountable to it. The board will sit below rather than above him. He will be accountable to the Home Secretary, not to a board under a chairman, as exists currently with SOCA and Sir Ian Andrew's

chairmanship. An organised group will advise the director general, and that will include outside representatives as well as the departmental leaders in the NCA.

I hope that I have dealt with all the amendments in sufficient detail. I encourage the right hon. Member for Delyn and the Committee not to support the amendments and to leave the Bill unamended.

Mr Hanson: I appreciate the Minister's contribution. He has tried to defend the proposals in clause 1, but I am not convinced, because these are strategic matters of great importance to national security. While I have great faith, as my right hon. and hon. Friends have also indicated, in Keith Bristow—this is no criticism of him—and while I may have great faith in current and future Home Secretaries to be able to direct and interface with the director general, wider experience needs to be brought to the table. We need to make the issues of organised crime feel shared and owned by stakeholders in the community at large. We also need to ensure that the Home Secretary, whoever he or she may be, has the capability, time and commitment to offer the challenge to the National Crime Agency—for as long as it exists—that is being done by a board to SOCA and was being done by a board to the NPIA. That was not the case for the Border Agency.

I expect the Minister to listen to what we have said, but not necessarily to share my aspirations on these matters, because that is the nature of our debates and discussions. If he will not listen to me, however, will he listen to Lord Condon, former Metropolitan Police Commissioner? In the other place, in the debate on this clause, he said:

“It would be good to have reassurance around the notion of a management board, a supervisory board, an advisory board or some board mechanism that allows both stakeholder interest and independent voices to contribute to the health and well-being in the future of the NCA so that issues such as value for money, good governance, priorities and so on could somehow be part of a wider debate within that family than just between the DG and the Home Secretary.”—[*Official Report, House of Lords*, 18 June 2012; Vol. 737, c. 1563.]

That was a former senior police officer, independent of political parties, saying in the Lords that there is a case for the type of board that we have proposed.

If the Minister will not listen to the former Metropolitan Police Commissioner, perhaps he will listen to the Association of Police Authorities, which has 13 Labour members, 16 Conservative members and 12 independent members. It does not have a Labour majority. As part of the discussions, it has said that it believes we should have a board and that the board's function should be to link the local with the national. Police and crime commissioners are elected locally and have the ability to do what they want, but they also have a role to feed in their concerns on serious organised crime. Keith Bristow of the National Crime Agency has been charged with looking at the historic child abuse issues in my area in north Wales and is working closely with local police forces there. Does the Minister not want the police and crime commissioner to have an input as a part of these proposals?

Mr Browne: To clarify for the Committee, the police and crime commissioners will be key strategic partners of the National Crime Agency. The right hon. Gentleman is rather giving the impression that the police and crime

commissioners will be completely dislocated from the NCA. They will be consulted on the strategic priorities and the annual plan, which is in clause 3, and are included in the definition of strategic partners. That consultation, however, is different from requiring the director general of the NCA to account to a wide-ranging committee for strategic leadership. Clearer accountability is provided by the elected Home Secretary, who is accountable to Parliament.

Mr Hanson: There is the nub, because when the NPIA was in place—the National Crime Agency will take over a number of its roles and responsibilities—the Government were happy for Councillor Rob Garnham, a Conservative member, to sit on the NPIA's board and contribute to its discussions on what the strategic plans should be and also on holding the director general to account on the delivery of that strategic plan. We are now expected to believe that the Home Secretary solely, the person incarnate, will both set a strategic plan under clause 2 and sit on—I will use that phrase—the objectives of that plan to ensure they are delivered. They will have to monitor the budgets, ensure that objectives have been delivered and interface with the director general on a regular basis. I think we are going to end up with less scrutiny of the role, not the same amount or more scrutiny.

Steve McCabe: The problem with the Minister's argument is that police and crime commissioners are directly accountable to the local electorate for the local policing plan and the use of local police resources, but they will have no say about parts of the policing plan or the local resources that are superseded by decisions of the director general. There is no obvious accountability for how that will happen.

Mr Hanson: I am grateful to my hon. Friend for his intervention. I will simply point out that clause 4(5) states:

“The Director General may direct any of the following persons to perform a task specified in the direction”—and it specifies:

“The chief officer of an England and Wales police force.”

So there is the power for that to happen, although I accept that it would happen only in extremely unusual circumstances because there will be co-operation.

I am not committed to quangos, and I am not saying that we should have quangos all the time, but this is a serious matter. The National Crime Agency will exercise very serious functions. It will take on some of the activities of the Border Agency and the Border Force, it will take on aspects of the work of the National Policing Improvement Agency and it will take on the activities of the Serious Organised Crime Agency. Previously, Governments accepted—and the Opposition did not criticise this when I was a Minister—that a wide range of organisations should contribute to the governance of those bodies, and it is not for Ministers, who ultimately account for the performance of the board to Parliament, to be solely responsible for the undertakings of those agencies.

David Rutley (Macclesfield) (Con): I understand the right hon. Gentleman's concerns about accountability, but does he agree that the Home Affairs Committee has a role to play? I think the director general of the NCA has been before it, or could be before it in the future.

Mr Hanson: I was a Minister for 12 years, and I can say that Parliament is very important—written questions will be tabled, Ministers will have to appear before Select Committees and legislation will have to be justified in Bills like this. But Parliament scrutinises from a position outside the organisation. We in Parliament are not inside the Home Office. The Minister is, but the Home Affairs Committee and Back-Bench Members are not. Our questions are tabled on the basis that we do not have internal information. It is our job to stand outside the building and ask questions about what is happening inside the building. In the building is the Home Secretary, who is the political master of the organisation, and is able to hold the director general to account, ask questions, deliver things and give strategic direction.

The point of a board is to have an external challenge that gets information on a regular basis and can ask the Secretary of State and the director general for reports. The role of the board is not to be the director general. It is to hold to account, to give direction, to test budgets, to challenge and to do all that in much greater depth than a Minister can, with all due respect, given their wide range of responsibilities.

David Rutley: But the external board members are not physically in the building, if I understand the right hon. Gentleman's point. They come from different parties, and perhaps even outside Government. They have the same sort of access to information as Members of Parliament and members of the Home Affairs Committee.

Mr Hanson: No, that is not the case. The Serious Organised Crime Agency or the National Policing Improvement Agency have access to board papers that are not necessarily in the public domain. I think it is important that we have an effective challenge. Lord Condon, a former Metropolitan Police Commissioner, believes that. The Association of Police Authorities—which does not have a Labour majority—says that we should link the local with the national, facilitate relationships, enable tripartite relationships and provide public reassurance. Liberty, which I do not quote very often, said:

“We are concerned that the Bill provides for insufficient oversight and accountability for the work of a body which will have responsibility for a wide range of policing functions.”

The body must have public confidence. I accept that the Home Secretary can be responsible directly to Parliament but, on reflection, I shall not withdraw amendment 1.

10.45 am

Mr Browne: I do not have a point to make that is specific to the Bill. It is much more general and about whether the right hon. Gentleman shares my observation that, in the past decade or two, there has been a trend for politicians of all parties to have diminishing confidence in themselves and their powers as elected tribunes of the people, but greater confidence in appointees who are not accountable to the people. We can put in place different management models, but I quite like politicians and Governments who accept leadership and responsibility, and do not try to push off all the tasks to people who the public generally do not know, have never heard of and have not had a chance to select.

Mr Hanson: There is a slight difference between me and the Minister. I fully accept that argument, but Ministers in the previous Government who were responsible for SOCA and for the National Policing Improvement Agency did not sit back and say, “Over to you, guv: get on with it.” They talked to chairs of the boards and offered challenges; they set strategic directions and did so as part of a wider look at their responsibilities. The chair of SOCA or of the NPIA would have a much more day-to-day handle on matters and much more expertise to accept challenges on a regular basis.

I, as the Minister who was responsible for the NPIA, and my hon. Friend the Member for Tynemouth who was responsible for SOCA, accounted to Parliament, offered challenges, met the chairs, had discussions with the boards, approved the plans, published them for Parliament and set the overall direction, but we allowed the boards to have day-to-day management of issues and to report to us if performances were not satisfactory. The Minister is now saying that, under the model we are considering, the Home Secretary will undertake all such issues, presumably with officials from his or her department at the Home Office fulfilling the function of challenge. There might not be the same level of scrutiny and challenge with one Minister—the Home Secretary—who has myriad other responsibilities, as there would be with having someone else under his or her direction who he or she can sack, replace or challenge to do the job.

Steve McCabe: It is indeed the Minister's position that politicians should take more direct responsibility rather than shuffling it off to unelected officials. Does my right hon. Friend consider that he will have difficulty later in supporting the Home Secretary's proposals to transfer responsibilities for dealing with extradition considerations to judges, rather than dealing with them herself and taking the responsibility directly?

Mr Hanson: My hon. Friend makes a good point. Perhaps the Minister can tell me whether he will introduce a Bill to scrap the board of Ofgem, the board of the UK Statistics Authority or the board of Her Majesty's Revenue and Customs. Indeed, perhaps he can say when he will scrap the board of the Home Office, which includes non-executive directors. I shall not put any comments on record to save certain members of the Committee from embarrassment, and I hope that I shall be returned the favour in due course.

Those organisations to which I have referred follow, as the Library notes, exactly the same model as SOCA and the NPIA did. The work of those organisations is important, valuable and impacts on our communities. Indeed, it impacts on all constituents of each member of the Committee. Given that he has a port in his constituency and the Border Agency that deals with crime, smuggling, people trafficking and other issues, I look forward, in particular, to hearing the hon. Member for Dover explain why he is willing just to allow a future Home Secretary, who—although he might not be here to see it—might be a Labour Home Secretary, to have direct power over such matters.

Charlie Elphicke (Dover) (Con): The right hon. Gentleman makes an important point about the process of how the so-called independence of the organisations

is set up. He gave the example of HMRC, which he seems to think is so wonderful. However, that independence has led to that organisation suffering greatly because it has not received the level of direction and support from which it could have benefited. Indeed, it was the creation of a botched merger by the previous Government of two organisations that used to work well and which together have been a complete disaster. He is arguing against his own case.

Mr Hanson: The provisions that the Minister has introduced under clause 1 effectively set a new model for governance on SOCA and NPIA functions, in direct contrast to the model that operates in similar bodies elsewhere in the Government. I am simply asking whether, if it is good enough for the National Crime Agency, the Minister will introduce the same model for other parts of Government?

Charlie Elphicke: Will the hon. Gentleman give way?

Mr Hanson: I was trying to finish on that point, but, as the hon. Gentleman is so kind and is only going to be here for a short time, I will certainly give way.

Charlie Elphicke: The right hon. Gentleman is premature in his felicitations; I intend to be here to trouble him for some years, even decades, yet. He asked whether I would rather trust and question the executive decisions of the Home Secretary or some faceless bureaucrat. Of course I would trust the Home Secretary first, not least because, as a Back-Bench Member of Parliament, I can question her in this House at departmental questions, in debates and after statements. I cannot question a faceless bureaucrat in that way, which is why holding Ministers to account and ministerial responsibility is a really important principle.

Mr Hanson: I wish the hon. Gentleman well in his career, genuinely. However, if we had a board in place, nothing would stop him, as the hon. Member for Dover, questioning the Home Secretary. The board would be there to bring in advice, spread the involvement of the community in policing serious organised crime and give more challenge on a more regular basis than the Home Secretary could. The Home Secretary would ultimately still appoint the board and be accountable to Parliament for all those things. Nobody ever stopped Members who were then in opposition questioning Ministers in the Home Office about the work of SOCA because we had a board in place. Ministers still answered questions and debated.

Mr Burrowes: The right hon. Gentleman tempts me, because I was one of those who regularly asked questions about SOCA. One cannot hold it up as a paragon of complete openness and transparency, giving answers when questions were asked. I remember trying desperately to get answers. I eventually managed to get the privilege of a shrouded, cloak and dagger meeting with the head of SOCA, after seeking opportunities many times. It was very difficult to get answers, and I regularly had to rely only on an annual report, which did not wholly get to the truth of things. So let us hold on to a little caution as to whether there is complete openness, transparency and accountability in the present arrangements.

Mr Hanson: I am sorry that the hon. Gentleman's customer experience of SOCA was not great; I am sure that we will look at improving that for him in the future, and perhaps the Minister will take on board what he said.

We seem to have reached one of these impasses that occasionally occur in Committees, Mr Caton. We have had nearly two hours of good debate on this topic. Although not always attached to quangos, I am fairly convinced that the way in which SOCA and the NPIA were governed had merit, and that we should attempt to replicate that for the National Crime Agency in order to give assurances to the public. I would therefore like to press amendment 1 to a vote to test the Committee and see whether Members have been swayed by the power of our arguments.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 11.

Division No. 1]

AYES

Chapman, Jenny	McDonald, Andy
Creasy, Stella	Paisley, Ian
Goggins, rh Paul	Vaz, Valerie
Hanson, rh Mr David	Wilson, Phil
McCabe, Steve	

NOES

Barwell, Gavin	Lopresti, Jack
Browne, Mr Jeremy	Rutley, David
Burrowes, Mr David	Syms, Mr Robert
Elphicke, Charlie	Vara, Mr Shailesh
Heald, Oliver	Wright, Simon
Jones, Andrew	

Question accordingly negated.

Mr Hanson: I beg to move amendment 21, in clause 1, page 2, line 9, at end add—

‘() The Secretary of State shall in consultation with the Director General of the NCA report to Parliament a definition of subsection 5(b) within 12 months beginning with the day on which this Act is passed.’.

The amendment probes subsection (5)(b). The provision is part of the establishment of the powers of the National Crime Agency. Subsection (5) states:

“The NCA is to have the function...of gathering, storing, processing, analysing, and disseminating information that is relevant to any of the following—(a) activities to combat organised crime or serious crime; (b) activities to combat any other kind of crime”.

Basically, I want to know what the Minister means by “any other kind of crime”.

The purpose of the current SOCA and of the NCA as proposed is to ensure that we tackle serious organised crime. There is a focus on serious organised crime as a whole.

In the previous debate, I listed a whole range of SOCA's functions that the NCA will, under clause 1, become responsible for: people trafficking, drugs, border work and a range of issues regarding policing, gangs, regional and national criminals and international crime. It is perfectly proper and right that they are reflected in subsection (5)(a), which will give the NCA the responsibility

[Mr Hanson]

for gathering, storing, processing, analysing and disseminating information relevant to any of the activities to combat organised and serious crime.

My worry, however, particularly given later clauses, is that subsection (5)(b), which talks about activities to combat any other kind of crime, will give the director general the remit to look at any other type of crime. In my view, the purpose of the NCA is to focus on serious organised crime: people trafficking, border control, drugs, prostitution and a whole range of serious national crime issues.

The amendment is genuinely only a probing amendment, and I will not be pressing it to a vote, so Members can relax on that score. However, I want to hear from the Minister what

“any other kind of crime”

might be. What will the director general be doing on any other type of crime? In theory, the way the paragraph is phrased will give the director general, if he so wishes, the power to look at shoplifting, for example. There could be small, regional gangs of shoplifters committing retail crime across the country—yesterday it was reported that retail crime rose while reporting fell. Shoplifting is a big issue and matters to people in the community, but is it serious organised crime or serious crime? What are the Minister’s definitions of serious organised crime and serious crime? What is his definition of “any other type” of crime?

Steve McCabe: Does my right hon. Friend share my concern that, as with other legislation—I suppose the Regulation of Investigatory Powers Act 2000 springs to mind—there is always a danger that good intentions may be lost as people over-interpret the scope of the legislation? Subsection (5)(b) as it stands would be perfect for every media campaign or moral panic over any kind of crime that momentarily attracts attention to divert resources from serious and organised crime towards the whim of the day. Is there not a capricious potential to it and is that not something that we should be guarding against?

11 am

Mr Hanson: I am grateful to my hon. Friend, because he makes the sort of point that I am trying to explore with the Minister. We need to examine the focus of the new National Crime Agency. To me, the focus is on combating organised and serious crime, not necessarily on, to quote subsection (5)(b),

“activities to combat any other kind of crime”.

I want to test what the Minister means by any other type of crime. It is particularly important, because of other clauses that I must refer to now since they relate to subsection (5)(b). For example, clause 4(5) on the relationships between the National Crime Agency and other agencies, which my hon. Friend the Member for Walthamstow will be dealing with, states:

“The Director General may direct any of the following persons to perform a task specified in the direction—

- (a) the chief officer of an England and Wales police force;
- (b) the Chief Constable of the British Transport Police.”

Again, I want to test the Minister. I believe that many chief constables would regard the

“any other kind of crime”

in clause 1(5)(b) as their responsibility. The Mayor of London, as I look to the hon. Member for Croydon Central, or the police and crime commissioner for Durham, as I look to my hon. Friend the Whip, or indeed the police and crime commissioner for Somerset and Avon, as I look to the Minister, would regard

“any other kind of crime”

as their day-to-day bread-and-butter issues. So, without dragging the matter out extensively, what does the Minister mean by serious organised crime and

“any other kind of crime”?

Where does the delineation arise?

Again, the key point is that the director general of the National Crime Agency may task or may ask. The director general may charge or may encourage. He may do all sorts of things. I simply want to get a flavour of where the boundary lies. The Government have what seems to be a localising police agenda, which we have discussed and heard views on. That is the direction of travel, yet at the same time the Government have a centralising tendency in terms of bringing the National Crime Agency under the control of the director general and under the direct management, since the amendment has been rejected, of the Home Secretary.

Under clause 2’s strategic priorities,

“The Secretary of State may determine strategic priorities for the NCA.”

Let us say, for example, that the Home Secretary is beset by a plague of shoplifting, which is a serious crime. It costs billions of pounds, but does it fall into the category of serious organised crime as defined by the work that SOCA currently does? It may or may not. The Home Secretary could, for example—under clause 2’s strategic priorities—direct that the National Crime Agency should look at shoplifting, and the director general may say, “Actually, in operational terms, shoplifting is another type of crime, but I have the power to deal with it.” I want to test where the dividing line is.

Are we talking about a national crime-fighting agency dealing with the serious issues of prostitution, people trafficking, drugs, major international crimes, fraud and cybercrime, or is it an organisation that, if it wants to, will look at any other types of crime? There may be a simple explanation. It may just be a catch-all. It may just be giving cover. However, it is important that the Minister explains to the Committee his view on the difference between (a) and (b) and why the director general, under the direction of the Home Secretary, should be dealing with (b) when it might properly be the responsibility of local forces and local officers.

Mr Browne: The right hon. Gentleman asked whether the National Crime Agency is concerned with macro-level crime—I think he cited prostitution, people smuggling, drug smuggling, fraud or money laundering—or whether it is diffusing its responsibilities into areas of micro-level crime. The short answer is (a). It is concerned with big-picture crime. Let me explain how we envisage the role working in practice, and get to the nub of the right hon. Gentleman’s amendment. Although he says that it is a probing amendment, it raises an entirely valid

question, essentially to test the meaning of the phrase, “other kind of crime” in terms of the criminal intelligence function of the National Crime Agency, what that could mean in practice, and why we included that phrase in the Bill. I am happy to explain why its function has been drafted so as to go beyond serious and organised crime.

For the avoidance of doubt, first I will explain our approach to the agency’s crime reduction and criminal intelligence functions. The terms of those functions have been drafted broadly to ensure that the agency has the necessary flexibility to respond to the changing threat picture. The National Crime Agency will be a crime-fighting agency tackling serious and organised crime, as set out in clause 1(4), and as such, it must be able to undertake the necessary operational activity to have the maximum impact on criminal gangs. Sometimes, the most effective route to tackling an organised crime group may be through disruption and through tackling lower-end activity, which stops the group operating or functioning effectively.

While the agency is being set up with the remit to tackle serious and organised crime, its activity can extend to other types of crime, if that delivers the agency’s function of tackling serious and organised crime. That is provided for in paragraph 5 of schedule 1. In other words, sometimes, it is the smaller crimes, or auxiliary activities, that can be most vulnerable to detection or disruption by the National Crime Agency, and so wider, more serious and organised crime can be thwarted.

The amendment is also linked to the criminal intelligence function of the National Crime Agency, which will underpin the important work of the intelligence hub. That function must be broad in scope so that the NCA can access all the intelligence that it needs to fight those criminals who commit serious and organised crime. It is critical that the information the agency can collect is not limited solely to such crime, so that it can gather intelligence on all criminal activities, even if it is low-level crime, because in some circumstances, such crime can create intelligence links to more serious, organised crime groups. We do not want to build in a dislocation between the two.

Organised crime groups are diversely arranged, and are often involved in crimes right across the crime spectrum. Seemingly stand-alone crimes can lead to links to wider organised crime networks. It is only by being able to gather information about any kind of crime that the full extent of criminal networks can be mapped, exposed and tackled. For example, intelligence related to crime that is not serious or organised can lead to important links to organised crime groups that otherwise would not be possible to spot. That may then identify other opportunities to disrupt and interfere with the activities of an organised crime group.

One of the strengths of the Serious Organised Crime Agency that the National Crime Agency will build on is its intelligence function. I am sure that will be welcomed by right hon. and hon. Members across the Committee. The National Crime Agency, however, will go further with its new intelligence hub, which will sit at the heart of the NCA, and will support and drive operational activity as it collects and oversees intelligence, identifies threats and develops targets.

The intelligence hub will house the single, shared national intelligence picture of serious, organised and complex crime, and it will generate an authoritative picture of the national crime threats to the United Kingdom by drawing on its access to intelligence from UK police forces and other law enforcement partners. It is important that we make sure that our efforts are targeted where they have the most effect in protecting the public and cutting crime. It is certainly not our intention that the NCA should concern itself with stand-alone micro-level crime. We want that breadth of function because, as I said, if we seek to map organised crime, to disrupt the auxiliary function and to get to the nub of serious and organised crime, it may sometimes be necessary to work out how the shoplifters are funding more serious aspects of crime, or how relatively minor fraudulent activities are funding more serious levels of crime. Without that complete picture and the ability to concern ourselves with issues that may not on first inspection immediately look like serious and organised crime, we will hamper the NCA’s ability to have the maximum impact on serious and organised crime that we all wish it to achieve.

Andy McDonald: Is there not potential for conflict between what is delivered locally and the discharge of the NCA’s function, as well as the potential to tread on toes, if the director general has the ability to become involved in and direct tasking activities that appertain to any other crime? Where does supremacy lie?

Mr Browne: The hon. Gentleman raises an entirely valid point. We will get on to the tasking function later in our deliberations, because it will be an important power of the director general of the NCA. All I can say is that we did not set up police and crime commissioners and give greater freedom to individual police forces to solve the problems in their immediate communities only to second-guess what they were doing on a micro level. We are trying to give them greater discretion.

Hon. Members will recognise that serious and organised crime is not completely dislocated from other types of criminal activity. There may be a serious crime involving firearms, for example, and the getaway car may have been stolen or not taxed properly; there may be all kinds of related activities that in themselves would not qualify as serious or organised crimes, and through those routes we may be able to better understand the nature of the criminal group and its activities and better able to reach the source of the serious and organised crime and tackle it. We want to do that in conjunction with individual police forces or, in many investigations, across myriad different police forces.

Say we had, for example, weapons being smuggled in through the constituency of my hon. Friend the Member for Dover that were then used in armed robberies in London, Birmingham or Manchester. We might wish to have an NCA operation working in liaison with Kent police, the Metropolitan police, West Midlands police and Greater Manchester police. The NCA might be interested in the intelligence provided by all those police forces, including on relatively minor crimes that help facilitate the type of activity that ends up with a gun being discharged in an armed robbery in a big city. Some of that intelligence might be provided by Kent police on minor crimes committed in Kent, which on first

[Mr Jeremy Browne]

inspection did not look like serious and organised crime, but could help us to prevent serious and organised crime in Greater Manchester.

Steve McCabe: The Minister makes a fair and reasonable point, with which I have no criticism. I am reminded, however, of the recent experience we have had with the police planting undercover officers in environmental groups and the questions that arose on the operation of that policy and the difficulty some of us had in uncovering details. The encounters of the hon. Member for Enfield, Southgate with SOCA seem mild in comparison. As the Minister rightly describes, low-level crime can lead to other things and there can be good reasons for the activity he describes, but how will we know that those decisions are valid and how will we find out exactly who made them and what they were based on?

Mr Browne: I am grateful to the hon. Gentleman for his broad support for the analysis I was laying before the Committee. I will get to the nub of his question, but this is probably as good an opportunity as any in our deliberations to say something very briefly about crime.

11.15 am

Crime is evolving to quite a large degree. Our constituents are always concerned by the local, immediate, day-to-day crime, inconvenience and antisocial behaviour that blights their lives in ways that are immediately apparent to them. However, globalisation is happening in business and globalisation is happening in criminal activity. The internet is a very obvious manifestation of that, because it means that crime is not geographically contained to any practical degree. There is a lot of criminal activity around drug smuggling—cocaine and heroin are not produced in this country, so are by their nature smuggled in. There is gun smuggling and people trafficking, and there are other manifestations of the internationalisation of crime. We need a level of resilience to high-level macro-crime that matches the scale of the threat, in the same way as we need effective community policing that matches the scale of the threat to individual communities.

There is a link between the two, which we were discussing earlier. That is why we want the NCA to work with individual police forces. The teenager who is absenting themselves from school in order to sell contraband cigarettes in a community in one of our constituencies may not think of themselves as the end point in an organised crime chain, but they certainly are. They are probably the final part of a massive illegal smuggling operation, which is potentially funding other types of extremely dangerous and violent crime. We obviously want to do what we can to try to protect the public from that.

The hon. Member for Birmingham, Selly Oak asked about accountability. The direction of control of all NCA operations rests with the director general; he is the boss and it is his job to make operational decisions. The use of undercover agents is subject to oversight by the surveillance commissioner under RIPA, but as the hon. Gentleman said, such arrangements have not always been conducted to his and others' satisfaction in the past. We are not dealing with a perfect situation, but the director general of the NCA will make operational

decisions. I hope that the Committee is sufficiently reassured, and, more specifically, that the right hon. Member for Delyn is sufficiently reassured that he feels able to withdraw his amendment.

Mr Hanson: The Minister has helpfully delineated the difference between paragraphs (a) and (b) of subsection (5), and I am content with that. Before I withdraw my amendment I have one final question. There was some debate in the other place with regard to terrorism and the responsibility of the National Crime Agency. Will the Minister give an indication that subsection (5)(b), being

“activities to combat any other kind of crime”,

would not effectively negate the wish of the other place, which was that terrorism would not be the responsibility of the director general of the NCA? Given that there was a long debate in the other place about where the responsibility for terrorism management lies, will the Minister confirm that subsection (5)(b) could not be a mechanism whereby the director general of the NCA could undertake a role investigating terrorism? The other place has removed that responsibility from the Bill.

Mr Browne: It is not our intention that the phrase be sufficiently catch-all to include terrorism. The Home Secretary said that she is open-minded about whether, in time, the counter-terrorism function could be housed in the NCA, which may be a natural place for it, rather than the existing arrangements, but she is genuinely open to consideration once the agency has bedded in. No decision has been made on that, and no decision will be made until the NCA is up and operational. The reference in the Bill to “any other kind of crime” is aimed at the type of activity that I sought to illustrate with an example to the hon. Member for Birmingham, Selly Oak, rather than the counter-terrorism function that the right hon. Gentleman mentioned.

Mr Hanson: The Minister has helpfully clarified both that point and the terrorism point. With that, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Paul Goggins: I beg to move amendment 35, in clause 1, page 2, line 9, at end add—

“(5A) The NCA is to have the following four commands—

- (a) organised crime command;
- (b) border policing command;
- (c) economic crime command; and
- (d) child exploitation and on-line protection command.

(5B) The Secretary of State may, by order, in the form of statutory instrument—

- (a) close existing commands; and
- (b) open new commands.’.

After our difference of opinion about the board we have clearly entered a period of more conciliatory consensus in the Committee's deliberations. In that spirit, I wish to address amendment 35.

I simply want to put on the face of the Bill what Ministers have said about the way that the National Crime Agency will be structured. On the Home Office website, there is a clear statement from Ministers that

the National Crime Agency will be made up of four separate commands. It lists those commands, and I have listed them in the amendment: the organised crime command, the border policing command, the economic crime command and the child exploitation and online protection command. That seems to be a sensible way to set out the work that the National Crime Agency will do. I will briefly run through those commands.

The organised crime command will target the organised criminal gangs that operate, as the Minister indicated, at the local, national, international and global levels. It requires a level of co-operation and co-ordination with local police forces, the police forces and law enforcement agencies of other countries, and Europol and Interpol. Those relationships will be formed and that work will be led from that command. While it is true, as the Minister said, that contraband cigarettes and other illegal products of organised crime are on street corners, the genesis of that criminality is often thousands of miles away in a different part of the world. We have to have an organised crime strategy that is able to confront that.

The second command, the border policing command, has already been touched on. It is increasingly important to have the ability to seize illegal drugs and combat illegal migration and the heinous crime of human trafficking. It is a very important command. The economic crime command deals with fraud and economic crime, and is something we welcome. Members on both sides of the House will see the fourth command, the child exploitation and online protection centre, as vital. It will protect children from sexual abuse and bring offenders to account.

I hope that the Committee will forgive my giving a little history, but as such an important step is being taken by the Government in moving from SOCA to the

National Crime Agency, it is important to put some of these things on the record and, indeed, to hear the Minister's response. When I was first appointed a Minister in 2003, I assumed responsibility for chairing a taskforce on child protection on the internet. It was an innovative way of getting to grips with an increasing problem and an increasing risk for our children and young people.

Young people were being targeted. Indecent and illegal images were put on the internet in a manner that was highly abusive to children. The internet and mobile telephones were being used to groom children and young people for sexual exploitation. At that stage, those problems were becoming increasingly high profile and we felt the only way we could deal with them was through a taskforce that brought together all the different elements of child protection. There were law enforcement agencies on the taskforce. The industry was represented; there were companies such as Microsoft and internet service providers and mobile phone companies. We had a range of children's organisations, such as the National Society for the Prevention of Cruelty to Children and Barnardo's, which were able to bring their perspective to bear. We also had Government officials and representatives of other key agencies. It was a way to learn quickly and co-ordinate the initiatives that each of those different sectors was taking to protect our children. It did help, but it became very clear to members of the taskforce that more was needed, and that we needed a more robust organisational response to that increasing threat.

11.25 am

The Chair adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at Two o'clock.

