PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

CRIME AND COURTS BILL [*LORDS*]

Thirteenth Sitting

Tuesday 12 February 2013

(Afternoon)

CONTENTS

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Saturday 16 February 2013

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY FACILITATE THE PROMPT PUBLICATION OF THE BOUND VOLUMES OF PROCEEDINGS IN GENERAL COMMITTEES

The Committee consisted of the following Members:

Chairs: † Martin Caton, Nadine Dorries

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

Neil Caulfield, John-Paul Flaherty, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 12 February 2013

(Afternoon)

[Martin Caton *in the Chair*]

Crime and Courts Bill [*Lords*]

The Chair: When the sitting adjourned this morning, Mr Goggins was moving new clause 3.

New Clause 3

Child maltreatment

'Section 1 of the Children and Young Persons Act 1933 (Cruelty to persons under sixteen) is hereby repealed and replaced as follows—

"**1 Child maltreatment**

(1) It is an offence for a person with responsibility for a child intentionally or recklessly to subject that child or allow that child to be subjected to maltreatment, whether by act or omission, such that the child suffers, or is likely to suffer, significant harm.

(2) For the purposes of this section:

(a) 'recklessly' shall mean that a person with responsibility for a child foresaw a risk that an act or omission regarding that child would be likely to result in significant harm, but nonetheless unreasonably decided to take that risk;

(b) 'responsibility' shall be as defined in section 17;

(c) 'maltreatment' includes—

(i) neglect (including abandonment),

(ii) physical abuse,

(iii) sexual abuse,

(iv) exploitation, and

(v) emotional abuse (including exposing the child to violence against others in the same household);

(d) 'harm' means the impairment of—

(i) physical or mental health, or

(ii) physical, intellectual, emotional, social or behavioural development.

(3) Where the question of whether harm suffered by a child is significant turns on the child's health or development, that child's health or development shall be compared with that which could reasonably be expected of a similar child.".'.—*(Paul Goggins.)*

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

2 pm

The Chair: I remind the Committee that with this we are discussing amendment 72, in title, line 6, after 'driving', insert

'to amend the law relating to children and young persons;'.

Paul Goggins (Wythenshawe and Sale East) (Lab): I am grateful for that welcome, Mr Caton. I was actually being challenged by my hon. Friend the Member for Birmingham, Selly Oak not so much to probe but to pursue Ministers on new clause 3, and although I may lack the legal experience of some who put their name on the new clause, I hope that I will be able to do that.

The new clause deals with a substantial concern, which is shared by both sides of the House, as is evident from the names on the new clause, including my hon. Friend the Member for Darlington. The Committee should make no mistake: this would be a major change in the law and would change legislation that has been on the statute book for 80 years. When a shared concern is coupled with a major change in the law, it is right to seek engagement and discussion with Ministers and to consider such things carefully and with outside experts as well as Members of Parliament. If the Minister says that new clause 3 does the trick and he is happy to accept it, I would be delighted, but if he says there is food for thought that he would like to debate and discuss further both with hon. Members and with experts from outside, I would be equally pleased.

There are strong arguments for change. There is a need to modernise and to update the legislation on child neglect. As I mentioned, the current law was set in statute in the Children and Young Persons Act 1933, but that legislation was based on an Act from 1868. If we are still applying in 2013 definitions that applied in 1868, with all that we now know about child neglect, it may suggest that the definition has stood the test of time, but we should at least examine it.

One thing that we suggest in new clause 3 is to replace "unnecessary suffering" with "significant harm". That is not just about changing the words; it reflects a fuller and wider understanding of what constitutes child cruelty and neglect. It is understandable that in Victorian England when poverty was widespread, and even in 1933 when the current definition was put into law, neglect was understood by Members of Parliament, professionals and the courts as predominantly physical. These days, however, we know that a child, who by the standards of the 1930s may not be materially neglected, may be neglected emotionally or psychologically, and the law needs to take account of that. The 1933 Act refers to

"loss of sight, or hearing, or limb, or organ of the body".

It is a physical understanding of harm, rather than the wider definition that we propose in new clause 3.

A helpful report was published last week by a panel of experts gathered together by Action for Children—an excellent children's organisation, from which hon. Members of all parties receive briefings and with which many Members are involved in local projects and initiatives. Page 3 of the report includes three examples from recent serious case reviews of the wider understanding of what constitutes harm, such as

"parents knowing that their child had consumed a drug and not seeking timely medical assistance, resulting in death; children in the care of an intoxicated parent who died as a result of an accident, which could have been avoided had they been supervised; and a child with poor attachment to their mother witnessing domestic violence and subsequently going on to commit a serious sexual assault."

I am not saying that we did not have domestic violence, intoxicated parents or drug misuse in the 1930s and before, because we may have done. I am arguing that the definition of neglect in the 1933 Act does not fully take such neglect and abuse into account. The consequences can be horrific; the third example I quoted referred to a child witnessing domestic violence and going on to become a perpetrator of domestic abuse and sexual violence themselves.

It is my contention that we need a wider definition in legislation.

Steve McCabe (Birmingham, Selly Oak) (Lab): I do not know whether my right hon. Friend is drawing to a close, but in the event that he is, let me press the point that the Clerks have made it clear that the Bill, which my right hon. Friend previously referred to as a Christmas tree Bill, is the perfect vehicle for making this change, and there are precious few other opportunities in the parliamentary schedule to do so. If this is a pressing matter, it is incumbent on the Minister to do something about it now. I urge my right hon. Friend to seek from him an assurance that if he will not accept the new clause, he will at least agree to reflect on the detail, with a view to introducing an appropriate provision on Report.

Paul Goggins: I will indeed press the Minister on that. I am very hopeful, not least from conversations I have had with him, that he wants to engage on this issue. I am not putting words in his mouth about accepting the new clause, but I think that he understands the importance of the issue and, from indications he has given so far, that he is prepared to engage on it. I therefore look forward to what he will say shortly. My hon. Friend is right that on an issue such as child neglect, none of us should sit on our hands if there is an opportunity to improve the law and, therefore, the protection of children.

I hope I do not disappoint my hon. Friend when I say that I have not quite got to the end of my remarks, but I shall try not to detain the Committee too long. Another issue on which I would be interested to hear the Minister's comments is that there seems to be a growing disparity between the civil and criminal definitions of child neglect. That is leading to serious difficulties, and the issue was covered in the report by the expert panel that Action for Children brought together. Social workers and family courts are interpreting child neglect in a broader way and including, for example, children's psychological needs and emotional harm done to children, whereas the police look more to the criminal law and may sometimes be slightly cautious and anxious about intervening. Indeed, the expert panel says of the consultations it carried out:

> "The main concern raised by social workers was that the current offence limits the extent to which Police are able to respond in cases of non-physical neglect. They reported that police generally only intervene when there is tangible physical evidence".

If we have a creeping gap between what the police interpret as neglect and what the courts and social services interpret as neglect—nobody is criticising them for that, because they are working to different codes—it is incumbent on the Government and Parliament to try to achieve some clarity and consistency.

There is also a need to update the law to reflect the 1981 Sheppard ruling. Those who are versed in the law will understand the significance of that. My understanding is that the ruling exposed the limitations of the word "wilful", which is the word used in the 1933 Act. The ruling dealt with the lack of clarity as to whether "wilful" applies to the action or lack of action taken by a parent or carer, or, rather, to their failure to foresee the consequences of that action or inaction. It made it clear that the word had to apply to both the understanding of the potential consequences and the decision to go ahead and take the risk by acting in a particular way. It is therefore important to update the law to reflect the Sheppard ruling and also to enable the Crown Prosecution Service and the courts to have greater clarity in relation to those cases in which a parent or carer may lack the mental capacity to understand the consequences of their action. Clearly, if parents or carers understand and they go ahead and something serious happens, they deserve the full force of the law being brought down on them, but obviously in cases in which parents lack the intellectual or emotional capacity to understand the consequences of their action or inaction, they need help. The new definition that new clause 3 presents would help the courts, the CPS and the agencies that want to intervene to do so on stronger grounds.

I assure the Committee that it is not in the mind of the drafters of new clause 3 to criminalise every parent or have every parent hauled in front of the court if there is any suspicion of child neglect. The latest estimates that I have seen suggest that 1.5 million children may be being neglected to one extent or another. We need an approach that, yes, has the law and the force of law at one end, but has interventions from other agencies right the way through, so that people who have a particular lack of capacity or understanding can have that skill developed, perhaps by an intervention from an organisation such as Action for Children or a social services agency. It is important that we get the appropriate help to parents, and I think that clarity in the law would assist agencies in doing that.

In conclusion, if we look at new clause 3, there are just three words to emphasise. The first is "recklessly". I have explained that we want the word "reckless" to replace the word "wilful" in a way that reflected the Sheppard ruling. Secondly, the new clause defines what we mean by "maltreatment". It is a wider definition—not just physical harm, but emotional abuse. New clause 3 makes that absolutely clear. It is also crystal clear, towards the end of the new clause, that "harm" means the impairment of physical or mental health, or physical, intellectual, emotional, social or behavioural development. That makes it absolutely clear that we are taking a wider view.

I hope that is a helpful introduction to new clause 3. I very much look forward to what colleagues will say, and obviously to the Minister's response.

Jenny Chapman (Darlington) (Lab): It is a pleasure to be able to support the new clause. I can sum up in four reasons why I think that I should do that. First, the current law is clearly out of date. The issue of emotional neglect needs to be reflected in the law. We know far more now about child development and the impact of neglect over long periods than we ever could have done in the 1930s. Also, emotional neglect and non-physical violence are now recognised in the law when it comes to adults and domestic violence. That is quite a recent change, and it seems a little odd that the same protection is not afforded to children. It should be noted that the new clause has cross-party support and that the issue is of great concern to people outside Parliament, too.

The hon. Member for South Swindon (Mr Buckland) obviously tabled the new clause as a coalition Back Bencher. I have worked with him in the past on issues such as stalking and I have huge respect for him. The new clause is also in the names of the hon. Member for Enfield, Southgate and my right hon. Friend the Member for Wythenshawe and Sale East. I found the way in

[Jenny Chapman]

which my right hon. Friend just explained the need for the new clause very persuasive. I hope that the Minister is also of that mind.

Neglect is a very serious and, upsettingly, prevalent issue. I know from my role as lead council member for children's services in my constituency before being elected to the House just how common it can be as a form of child abuse. The term "neglect" not only covers abandonment and physical maltreatment but, importantly, includes cases of emotional neglect, which we know can be critically damaging to children and can have long-lasting effects, well into adult life. It therefore seems pretty obvious that the law as it stands is in need of re-examination, as it has not been updated for many years and does not afford proper protection to children at risk of maltreatment.

2.15 pm

Our understanding of neglect has thankfully developed hugely since the 1860s and since the 1930s when the current law was framed. The problems with the current law are several. It does not recognise emotional neglect as an offence and the language is outdated and ill-defined. Things have moved on an awful lot since the law was passed, making it difficult to prosecute offences and hard to defend vulnerable children. Civil law already recognises the full range of physical and emotional harm and is at odds with the outmoded criminal law, making it harder for the police and social services to navigate cases together. As I mentioned previously, it was welcome when guidance was announced for the prosecution of domestic violence cases, which for the first time now allows non-physical harm of a victim to be recognised as a criminal offence. If new clause 3 is not adopted, that leaves us in a situation where we are prepared to offer protection against emotional abuse to victims over the age of 16, but not to children, which seems odd.

New clause 3 has been cannily drafted and effectively updates the law, incorporating emotional maltreatment and bringing criminal law on child neglect into line with other statutes. We need the law to be fit for purpose. I recognise that there are concerns regarding the undesirable effect of criminalising vulnerable parents, but that has been taken into account, as my right hon. Friend the Member for Wythenshawe and Sale East made clear in his remarks, in the drafting of the new clause, which specifies that the offence is a reckless—which is clearly defined—act of neglect or omission of care.

It is evident from this Committee and from the names on the new clause that the matter is of concern and that progress is needed. That view is shared by many from all parts of the House. If the Minister feels unable to commit the Government to including the new clause at this stage, we strongly urge him to meet colleagues with an interest in the matter and to reassure us that the Government intend perhaps to bring something forward on Report. That would be well received by members of the Committee and those with an interest from outside Parliament. I look forward to hearing the Minister's thoughts in response to the new clause.

The Minister for Policing and Criminal Justice (Damian Green): I am not sure whether I am being probed or pursued, but either way, I am happy to acknowledge at the outset of my remarks that the issue is serious and important and that it clearly engages colleagues on both sides of the House. It is extremely worth while for the Committee to engage in this subject, and we will continue to do so in the coming months.

I am aware of the concerns raised by Action for Children in its report published last year. I want to thank Action for Children not only for its work on this issue, but for its continuing engagement with officials in discussions about the best ways of tackling this important issue. I am also grateful to the right hon. Member for Wythenshawe and Sale East for moving the motion in the absence of my hon. Friend the Member for Enfield, Southgate.

It is clearly not a matter of debate that the ill-treatment of children, whether physical, emotional, sexual or through neglect, can have major, long-term, damaging effects on all aspects of a child's health, development and well-being. The Government are committed to doing everything they can to support children to grow up in a safe environment, and thereby achieve their full potential. To that end, we are seeking to address the concerns that Action for Children raised. I know that my colleagues at the Department for Education are continuing to work to shift the focus on to earlier intervention, recognising that the earlier help is given to vulnerable children and families the more chance there is of turning lives around and protecting children from harm. Early intervention is often the key to addressing problems to prevent them escalating, thus protecting vulnerable children from neglect and cruelty.

As many on the Committee know, Action for Children has made recommendations in respect of the existing offence of child cruelty, the focus of this new clause and amendment, as set out by the right hon. Gentleman and the hon. Member for Darlington. They want to remove section 1 of the 1933 Act and in place propose an offence of child maltreatment, which would apply to conduct that impairs or is likely to impair the health or development of a child. I readily acknowledge that the new clause is well-intentioned. To accept the new clause, the Committee would need to be persuaded that the existing offence is no longer fit for purpose and to have a clear picture of how the new offence might work in practice.

Steve McCabe: On that point, I have a question for the Minister. I understand that the CPS has indicated support for the measure. Prior coming to Committee, did the Minister or any of his ministerial colleagues have any contact with the CPS? That might help us.

Damian Green: If the hon. Gentleman can hold his hand for a bit, I am about to come to the CPS view. As he would expect, I and my colleagues, and certainly the Attorney-General's office, are in constant contact with the CPS. This matter is one of many we discuss. We need to be persuaded of two things: one, that the existing offence no longer works and, secondly, how a new offence would work in practice.

The offence of child cruelty under section 1 of the 1933 Act already covers a wide range of behaviour. The offence is committed where any person over the age of 16 with the responsibility for a child

"wilfully assaults, ill-treats, neglects, abandons, or exposes him, or causes or procures him to be assaulted, ill-treated, neglected, abandoned, or exposed, in a manner likely to cause him unnecessary

suffering or injury to health (including injury to or loss of sight, or hearing, or limb, or organ of the body, and any mental derangement)".

I accept that some of the language in the 1933 Act may now be considered old-fashioned. However, it is difficult to point to maltreatment, which should be subject to the criminal law, that is not caught by the existing offence. Terms such as "ill-treatment" and "neglect" can be—and are—interpreted quite broadly by the law enforcement agencies and the courts. Crucially, given the important point made by Opposition Members about emotional abuse, which is not specifically mentioned and is one of the developments in child psychology that has emerged in the intervening 80 years, the courts have applied the provisions to cover serious forms of emotional abuse.

Moving on to the CPS, its current guidance provides:

"To assess seriousness, the precise nature of the offence must be established before considering factors such as the defendant's intent, the length of time over which the cruelty took place, and the degree of physical and psychological harm suffered by the victim."

So the CPS guidelines explicitly refer to psychological harm. The CPS told us that it is not aware of any evidence that the current law is a barrier to prosecutions. In addition to the CPS guidance, the sentencing guidelines make it clear that for the purposes of the offence,

"'neglect' can mean physical and/or emotional neglect",

so the sentencing guidelines deal with the point that is at the heart of the new clause, which is that the old-fashioned language in the 1933 Act is not fit for purpose in the modern age. As I said, that is what the CPS is telling us.

However, we are clear that we must not underestimate the importance and seriousness of the issue of child neglect. We must be confident that we have a legislative framework capable of providing support and early intervention to those parents who need it, and, as a backstop, workable criminal offences capable of addressing serious child neglect.

The right hon. Member for Wythenshawe and Sale East and I will shortly be meeting, along with my hon. Friend the Member for South Swindon, Baroness Butler-Sloss and representatives of Action for Children. Obviously, we will be discussing these issues in much more detail. Before and after that meeting takes place, my officials will continue to work with Action for Children to consider any evidence it has that the current law is not working. Obviously, that examination will continue, and until we have got to the bottom of this, I should be grateful if the right hon. Gentleman would agree, on behalf of my hon. Friend the Member for Enfield, Southgate, to withdraw the new clause.

Paul Goggins: I will withdraw the new clause, because our intention is to have a meeting of minds here. I am encouraged by what the Minister has said, but only so far. I take his point that the courts can interpret legislation over time so that what appears to be old-fashioned language can have an up-to-date and modern meaning. I accept that point, but there has to be a limit to that. There has to come a point at which a fresh look is needed. I simply say this. The Sheppard ruling is an important ruling that has implications for the word "wilful", which is in the existing legislation. There are strong grounds to believe that that needs to be amended.

My hon. Friend the Member for Birmingham, Selly Oak referred to the view of the CPS. Its most recent view on this issue must be taken fully into account. Again, it argues that now is the time to make the change.

The expert panel that Action for Children brought together reported last week. We must look very carefully at the findings of the members of that panel. They are very experienced practitioners. They make the point about the need to bring the civil code and the criminal code together, because at the moment local authority social services are using a different definition of neglect from the one that the police sometimes use. That is very serious. If we are to prevent some of the horrendous cases that we know about from happening, we must have early intervention and every agency must have the confidence to intervene early.

Finally, if someone with all the experience that Baroness Butler-Sloss has as a former and highly experienced judge—indeed, President of the family division of the High Court—has come to the conclusion that now is the time to change the law, that view should count very highly indeed. I am delighted that the Minister has said that when we meet, she will be with us and we will be able to take her experience into account. I look forward to further discussions with the Minister. I think that his intentions here are perfectly proper and positive and I hope that when we come to Report, we will have something to show for this debate. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 6

CHIEF EXECUTIVE OF THE SUPREME COURT OF THE UNITED KINGDOM

'(1) The Constitutional Reform Act 2005 is amended as follows.

(2) In section 48 (Chief executive) omit subsection (2).

(3) After subsection (1) insert—

"(2) The President of the Supreme Court shall appoint the Chief Executive in accordance with the arrangements for the time being in force for the selection of persons to be employed in the civil service of the State.".

(4) In Section 49(2) (Officers and staff), omit the words "with the agreement of the Lord Chancellor".'.—*(Jenny Chapman.)*

Brought up, and read the First time.

Jenny Chapman: I beg to move, That the clause be read a Second time.

The new clause is very straightforward, colleagues will be pleased to know. It is about the way in which the chief executive of the Supreme Court is appointed. The point of it is to mature the way in which we think about the Supreme Court. It has been a success in most people's minds. We want now to take it forward to the next stage. The change would be very simple but quite important. The new clause would amend an anomaly. That is how we would describe it.

At present, the power to appoint the chief executive of the Supreme Court lies with the Lord Chancellor, but new clause 6 would provide that that power of appointment was transferred to the President of the Supreme Court. That would ensure a complete separation of powers between the Court and the Executive. As

[Jenny Chapman]

Members will know, that was the rationale behind the establishment of the Supreme Court. Section 4 of the proposed new clause, in the same vein, provides that the chief executive, who has responsibility for ensuring the effective use of the Court's resources, is enabled to appoint staff and officers to the Court without the need to obtain the Lord Chancellor's agreement, as currently needs to happen. It is very straightforward.

2.30 pm

The proposed new clause has widespread support and attends to the central issue of the independence of the Supreme Court. The separation of powers, ensuring that the Court is and is seen to be independent of the Legislature and the Executive branch, is a key objective of the Supreme Court. Establishing the Court was an excellent achievement of the previous Labour Government, and it was right that the initial years were spent in getting it off to a successful start.

We think it is now right for it to take on more of its own powers. First and foremost would be responsibility for appointing its own chief executive. The change has significant supporters, as I know the Minister is aware, including the incumbent President of the Supreme Court, Lord Neuberger, and the Lords Constitution Committee. The chair of that Committee, Lady Jay, put the argument very succinctly when she wrote:

"The Supreme Court's independence, and the perception of its independence, requires that the Chief Executive owes her primary loyalty to the President of the Court, rather than a Minister."

She goes on to say:

"The Chief Executive is best placed to determine the staffing requirements of the Court, and…should as a matter of constitutional principle be accountable to the President and to Parliament for such issues, and not a Minister."

This is an issue of significant constitutional importance, and it is right that we take this opportunity to make progress. The Government begged the patience of noble Lords in another place on the assurance that meaningful discussions on the matter were alive and well, with a view to addressing this issue as soon as possible. We are keen to see this happen and are minded to divide if that should be necessary. I hope the Minister will not disappoint us when he updates the Committee on his progress.

Damian Green: An end-of-term feeling is taking over. In response I can be relatively brief and, I hope, relatively sympathetic. The only point where I part company from the hon. Lady is when she described the new clause briskly as very straightforward. Sadly, it is not as straightforward as that.

As she knows, the Government are open-minded on the measures. She referred to debate on Third Reading in the other place, where we said we were actively engaged in discussion with the Supreme Court with a view to resolving concerns about the exercise of the Lord Chancellor's functions. I have to disappoint her in that we have been unable to progress those matters to a conclusion, though I am happy to assure her that the discussions are still going on and are genuinely constructive.

There are, as she says, important constitutional issues in play but there are also practical aspects that need to be resolved. For example, all the staff and officers at the Supreme Court, including the chief executive, are civil servants. Therefore, it is important that whatever arrangements are instituted for their appointment and management are in alignment with general civil service practices. The hon. Lady will recognise that as a way of being fair to those currently doing those jobs. I can reassure the Committee that we are taking serious steps and that we hope—indeed, we need—to reach a conclusion on the matter soon.

I hope the Committee will accept that a full and detailed examination of the issues with the Supreme Court, as we are now undertaking, is a proper and reasonable course to take. In that context, I hope that although I may have disappointed her in some things, the hon. Member for Darlington will be content to withdraw her new clause on the clear understanding that we continue to examine the issues it raises with the President of the Court, with the view to reaching an agreed position very soon. I do not rule out bringing a Government amendment on Report to that end. I ask her to bear with us on this for a little longer.

Jenny Chapman: What the Minister has said is reassuring. He has hinted, if I understood him correctly, that he may be willing to bring something forward on Report. We are a little disappointed because the Bill has been in Parliament since May 2012 and the issue has been raised throughout the Bill's passage so far; we would say that the Government have had quite a long time to get their ducks in a row on this. I am not going to withdraw the clause today, and I would like to test the Committee's view on it.

Charlie Elphicke (Dover) (Con): In light of the Minister's assurances, would it not be better for this, and the will of the House, to be tested on Report rather than today?

Jenny Chapman: No, I don't think so. I think we are here to make these sorts of decisions. I thank the hon. Gentleman for his intervention, but I would like to disagree with that, and press the clause to a division.

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

The Committee divided: Ayes 7, Noes 11.

Division No. 8]

AYES

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

NOES

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

Question accordingly negatived.

New Clause 9

EUROPEAN ARREST WARRANT

'(1) The NCA is to have the function of ensuring efficient and effective use of the European arrest warrant as it relates to serious organised crime affecting the UK.

(2) The Government shall publish a report 12 months after Royal Assent of this Bill on the NCA's use of the European arrest warrant and annually thereafter.

(3) The Director General of the NCA must be consulted by the Secretary of State on any policy decision by Her Majesty's Government regarding changes to the use of the European arrest warrant.'.—*(Mr Hanson.)*

Brought up, and read the First time.

Mr David Hanson (Delyn) (Lab): I beg to move, That the clause be read a Second time.

I hope the new clause will allow a discussion of the role of the National Crime Agency, particularly around its functioning with the European arrest warrant and related issues. If the clause were passed, the NCA would have effective and efficient use of the European arrest warrant; it would allow for the Government to publish a report 12 months after Royal Assent, and annually thereafter on the use of the European arrest warrant; and it would ensure in statute that the director general of the NCA is consulted by the Secretary of State formally on policy decisions relating to any change of use of the European arrest warrant.

You may have gathered, Mr Caton, that this discussion is part of testing where the Government are in relation to the European arrest warrant. I am just trying to gather from looking around the room which Minister will reply to the debate. Good; it is the hon. Member for Taunton Deane. I am very pleased that he is replying to the debate, because I know for a fact that the party to which he and the hon. Member for Norwich South belong went into the general election saying that they wanted to keep the European arrest warrant and keep UK membership of Europol and Eurojust. Therefore, they will certainly, I am sure, support the principle of ensuring that the NCA is responsible for it, and that we have clear consultation with the chief police officer, effectively in this case, of the NCA in the event of any particular changes in the discussions around the crime warrant over the next few weeks and months.

I mention that because the proposed new clause is designed to put the focus on the European arrest warrant and related European co-operation matters, and to allow for reporting of its usage and for consultation with the director general.

On 15 October, the Home Secretary announced that the Government were looking at which pre-Lisbon police and criminal justice matters they would opt out of. In the statement on 15 October, she went on to say that the Government, who include both parties on the Government Benches, would negotiate with the European Commission and other member states to opt back into individual measures that it was in the national interest to rejoin.

It may help the Committee if I indicate the measures available through the European arrest warrant at the moment. It has led to more than 600 criminals being returned to Britain to face justice, including terrorists and most recently the teacher suspected of abduction. The European arrest warrant and associated matters ensure minimum standards across the EU for counter-terrorism co-operation, skills and expertise; customs and business co-operation to combat drug trafficking; and cross-border co-operation and a central organisation to deal with organised crime. We now share criminal and DNA records, so, for example, we can track known sex offenders travelling to member states.

The European arrest warrant and associated measures also ensure that we have conventions to protect member states' financial interests in the event of major international crime. They include minimum standards of collection of customs and police information to tackle cross-border crime. They have led to co-operation between member states on the identification of laundered money and in tracing and freezing criminal assets. Europol, headed by the British former Serious Organised Crime Agency officer, Rob Wainwright, tracks serious organised crime.

Member countries exchange information to combat the counterfeiting of travel documents. Eurojust collects evidence to prosecute serious organised crime. We have a European network of persons co-operating to deal with genocide, crimes against humanity and war crimes. We share intelligence. We use joint measures to tackle racism and xenophobia across Europe. Members downstairs in the main Chamber are discussing horsemeat, but Eurojust and others are looking into the criminal conspiracy of horsemeat being fraudulently provided to British consumers.

By any definition, such matters fall under the heading of serious organised crime, for which the National Crime Agency is responsible. Because we have yet to hear from the Home Secretary post her 15 October statement, I am not clear which of the options on the menu the Government do not want to participate in on a Europe-wide basis. I will certainly withdraw the new clause if the Minister says today that all those things are on the table, and that the Government support them and will continue to sign treaties, work with European police forces and crack down, as I think they should, on serious organised crime across Europe.

At the moment, one wing of the coalition is vaguely flirting with the Eurosceptics, saying that they will opt out of certain aspects of the European arrest warrant, but there is no clarity over which aspects they are likely to be. I am pleased that the Minister who will respond stood on a manifesto that wanted to keep aspects of the European arrest warrant, and keep our membership of Europol and Eurojust; I am interested to hear how he squares the circle of Eurosceptic withdrawal from criminal justice matters in one part of the coalition with a full, unadulterated, 100% love-in for all European matters from two members of the coalition here today.

Looking at the matters I listed, most of my constituents would say, "Good on you. Well done. Go and co-operate with Europe." I put that on the table as a personal observation. Freezing assets and sharing intelligence about counterfeiting, organised crime and sex offenders, and information about drugs and DNA, stop crime on the streets of Walthamstow, Sedgefield, Darlington and Delyn, to name but four random constituencies represented by members of the Committee. That the Secretary of State and the director general of the National Crime Agency should ensure the functioning and efficient and effective use of the European arrest warrant and other European co-operation matters, as currently constituted, is an important aspect of our discussions.

2.45 pm

I would be interested if, 12 months after Royal Assent, we could publish a list of the National Crime Agency's use of those European powers.

The Solicitor-General (Oliver Heald): Will the hon. Gentleman give way?

Mr Hanson: Absolutely. I thought that the Minister was answering, but if the hon. Gentleman would like to contribute, by all means.

The Solicitor-General: The right hon. Gentleman said that his constituents would thank him for these matters. When was the last time that happened?

Mr Hanson: It is funny that the hon. Gentleman should mention that; a number of ongoing serious criminal organisational matters are being undertaken right now in my constituency. The north Wales child abuse inquiry, for example, is ongoing.

The Solicitor-General: Do people just come up to the right hon. Gentleman in the market square and say, "Thank you very much for the European arrest warrant"?

Mr Hanson: I get the sense that the Solicitor-General does not quite like all the aspects of the European arrest warrant or, indeed, dare I say, some aspects of European co-operation. I advise him that if we went for a walk in Flint in my constituency today and asked people if they want to co-operate with European countries to tackle sex traffickers, drug traffickers and to bring people back to Britain from abroad to face justice, I suspect that he would find a relatively universal yes.

Steve McCabe: Might it be that the experience of coalition Government has meant that the Solicitor-General's constituents have less reason to thank him?

Mr Hanson: I simply think—my hon. Friend will bear this out—that serious organised crime is an important matter. In a sense, the purpose of tabling the new clause and this debate is to say that we need a record, 12 months after Royal Assent, of what use is being made of the European arrest warrant. We need an examination of the role and responsibility of the National Crime Agency in using the European arrest warrant, and in other European co-operation issues. Ultimately, if there are changes to be made, senior police officers such as Keith Bristow want to be, and should be, consulted on how that information and those powers are used, and whether those powers water down their ability to tackle some of the issues mentioned today.

The issue could be clarified simply. I would happily receive clarification from the Minister today as to which aspects of the European arrest warrant the Government wish to withdraw from. He is a Home Office Minister. I presume that he has discussed the issue with his boss, the Home Secretary, and I am sure that they have come to a meeting of minds. I would therefore welcome his telling us which aspects he intends to withdraw from.

David Rutley (Macclesfield) (Con): I am following the debate with great interest. The last time I was in Mold—recently, actually, just after Christmas—people were concerned about the local economy and talking more about prices than the issues that we have on the table here. Does the right hon. Gentleman not agree that, just as with the European budget, it is vital that we rebase our relationship with Europe? That is what the Government seek.

Mr Hanson: I know that the hon. Gentleman visits my constituency on a regular basis and walks there. I hope he spends lots of money from Macclesfield in Delyn, because a rebalancing of the economy between Macclesfield and Delyn is always welcome. I am happy to debate how we rebalance Europe and the United Kingdom. There may even be some issues on which we want to rebalance, but the key question and the purpose of the new clause is to put on the table the National Crime Agency's use of the European arrest warrant and to give the agency a firm responsibility and to make sure that the chief officer is consulted about changes, because I want to make sure that any rebalancing, as the hon. Gentleman puts it, is in the interests of victims in the constituencies that we represent.

I have no phobia about co-operating with the Greeks, the French, the Germans, and indeed shortly the Bulgarians and Romanians, to tackle organised crime. That is a good thing and I have no problem with doing that, but there seems to be a view in some parts of the coalition—I cannot speak for the hon. Gentleman—that we need to withdraw some of those powers back to the United Kingdom.

David Rutley *indicated assent.*

Mr Hanson: The hon. Gentleman nods with a smile of agreement, so I take it that he is on the withdrawing-powers wing of his party. My purpose in this discussion is to say that I am not quite sure that is a good thing.

Let us test the proposal. Let us hear from the Minister what he will bring back, how we are going to improve things, and how the National Crime Agency will deal with those matters. We are establishing a National Crime Agency that will outlive—I will put a bet on it—the Minister's time in his roles, whatever happens in the Government and in general elections. Therefore we need to know what is being repatriated, when it is being repatriated and whether the Minister will, as the terms of the proposed new clause state, consult the director general of the National Crime Agency about whether that is a good or bad thing.

Gavin Barwell (Croydon Central) (Con): The language used by those who are in favour of ever-closer union always interests me. The right hon. Gentleman's constituents and mine have no problem with our Government co-operating with any other European Union nation, or any other country in the world, to tackle organised crime. That is not the issue. The issue is whether they support handing over sovereignty and decision making to the EU, rather than its being in our Parliament. The use of "co-operation" in that context is rather misleading.

Mr Hanson: Again, I am interested in hearing from the Minister, who I remind Committee members, in case they missed it first time, supported a manifesto commitment not to opt out of the European arrest warrant. What items of the European arrest warrant, and all pre-Lisbon police and criminal justice matters, does the Minister believe that the Government are going to opt out of? It is worth debating that, because the National Crime Agency will be doing the very things that we have talked about: tackling serious organised crime, drug abuse, sex trafficking and a whole range of counterfeit and fraud

matters, and tackling, potentially, the fraudulent food supply chain. Without wishing to repeat myself too much, can we consult the director general about whether that is a good thing and whether he needs the powers under the clause? Will he be better off with opt-outs or opt-ins? I say that again because after Denmark opted out of the European arrest warrant, 50% of its requests were rejected and the Government decision to opt out and then put back certain measures meant that they had some genuine difficulties fighting serious organised crime.

Where are the Government on this matter? The Minister has the opportunity to stand up for what he believes in, which is European co-operation—

Charlie Elphicke: As the right hon. Gentleman may have realised, Dover is at the forefront of many of these issues. The sense I get on the doorstep from the people of Dover is that they are in favour of co-operation, but not control. Co-operation is something that member states could do with each other, working together to beat crime—organised crime in particular—but control is something that Brussels does, and does not always do it well.

Mr Hanson: If I walked the streets of Dover, as I probably will before the next election, if only to help the career development of the hon. Gentleman, I feel sure that there probably will be a common interest in ensuring that we tackle serious organised crime.

The Government opted into a menu of options to tackle serious organised crime, including the European arrest warrant. The Government said on 15 October that they were thinking of opting out of

"all pre-Lisbon police and criminal justice measures".

The Home Secretary said they would

"negotiate with the Commission and other member states to opt back into individual measures that it is in our national interest to rejoin."—[*Official Report*, 15 October 2012; Vol. 551, c. 35.]

Since then, we have heard nothing about what we will opt out of and what we will opt into. It would help the hon. Member for Dover, and others, if the Minister, who stood on a manifesto supporting opting in, discussed those matters.

Stella Creasy (Walthamstow) (Lab/Co-op): We will not have had a debate if we do not talk about cybercrime. Committee members will know that it is a concern of mine. Does my right hon. Friend the shadow Minister agree that it is exactly the sort of issue that we should be discussing? The Government have committed to Europol and we have an intra-European organisation looking at cybercrime.

The hon. Member for Dover talks about control and co-operation. Does my right hon. Friend agree that this sort of organisation will be hampered in its work if it has to have one eye on the differences and discretions within different countries and the other eye on the cyber-criminals we want it to deal with? The National Crime Agency will have a role around cybercrime, and it is exactly those sorts of procedural problems that may hamper that work, rather than letting the agency get on with what it needs to do, which is to tackle a crime that cuts across borders.

Mr Hanson: I agree with my hon. Friend. Cybercrime is another example. The key question, and the one on which I will finish, is simply this: in its most recent manifesto the Conservative party, large numbers of members of which dominate the Committee on the Government side, opposed the arrest warrant, whereas the Liberal Democrats—notable members of that party on the Committee are the hon. Member for Norwich South and the Minister, the hon. Member for Taunton Deane—wanted to keep it, so the Conservative members of the Committee, of whom there are nine present as I speak, wanted to oppose the European arrest warrant but the Liberal Democrat members, of whom there are two in the Committee, wanted to support it; Labour Committee members, for once, were of the same view as the Liberal Democrats. Will the Minister therefore give some clarity to the Home Secretary's statement of 15 October about the issues on which we are going to opt out? Will he tell me whether or not he broadly supports the new clause? Had there been only 15 or so Conservative Members elected instead of Labour or Liberal Democrat Members, I suspect he would be on the same side as us on the matter.

The Minister of State, Home Department (Mr Jeremy Browne): Thank you very much, Mr Caton, for giving me the opportunity to discuss this important subject. I am very pleased—indeed, flattered—that the right hon. Member for Delyn has been such a diligent student of the Liberal Democrats' manifesto. I must get round to reading it in greater detail myself, although I am very proud to be among the first Liberal Democrats for about three generations to have implemented any of our manifesto in government. In many ways, we were too limited in our ambitions; we should have put in a few commitments such as, "If the Liberal Democrats enter Government, crime will be at its lowest level in Britain in recorded history." People would not necessarily have believed that, but that is what we, with our colleagues, have managed to achieve in government. There are all kinds of great commitments in the Liberal Democrats' manifesto that have been implemented in government, but, giving added value for money to the people of the United Kingdom, we have also put in place lots of extremely popular and welcome measures that were not even in our manifesto but that we considered it to be in the national interest to implement none the less.

On the European arrest warrant, the Government are in favour of co-operating with countries right around the world to try to protect the citizens of this country. In my previous guise as a Foreign Office Minister, I was not the Europe Minister, but rather covered Asia and Latin America, and I have seen how we are co-operating with a lot of countries within Asia and Latin America and, in particular, countries where there is a high degree of interaction with the United Kingdom; Thailand is an example, as large numbers of British people visit there every year. We are co-operating with law enforcement agencies in countries such as Thailand to try to make sure that we combat serious and organised crime, and in particular the impact that it has back here in the United Kingdom. I would not want anybody on the Committee or further afield to think that the Government are not committed to international co-operation to reduce serious and organised crime. That would be a misrepresentation.

The new clause relates specifically to the involvement of the National Crime Agency in the operation of the European arrest warrant, or the EAW as it is widely

[Mr Jeremy Browne]

known—not necessarily on the streets of Flint but certainly to well-informed people in Taunton Deane, who will be familiar with the workings of it. I know that many hon. Members take a significant interest in the EAW's operation and specifically the Government's policy with respect to the 2014 opt-out decision. The role of the Serious Organised Crime Agency as the UK central authority for the European arrest warrant will be transferred to the National Crime Agency, apart from in Scotland where the responsibility will remain with the Crown Office. However, overall responsibility for the policy relating to the EAW, including ensuring the extradition process is as effective and efficient as possible, will remain in the hands of the Home Secretary. With respect to the EAW and the 2014 opt-out decision, as the Home Secretary has announced, the Government's current intention is to opt out of all measures and seek to rejoin those which are in the national interest.

3 pm

Mr Hanson: Could the Minister either now, or perhaps in a letter to members of the Committee, list those factors which are in the national interest to opt in to?

Mr Browne: I can do it straight away. It is where the interests of the nation are best served. Save the bureaucracy and the effort of writing a letter; it is all pretty straightforward. This ability to opt out was of course granted to the United Kingdom by the treaty of Lisbon, which was negotiated by the last Government, of whom the right hon. Gentleman was a member. All EU countries have agreed to these arrangements. The national interest, as I just mentioned, is at the heart of the Government's decision. It will be the most important consideration in deciding which measures to rejoin, should we exercise the 2014 opt-out, which the Home Secretary has already talked about. This is not about the UK disengaging from Europe. Where there is a proper case to be made for co-operation with other member states the Government will support it, and not only in the fields of justice and home affairs. The Government will continue to work closely with Parliament, the European Commission and other member states to ensure the best possible result. We also want to listen to the views of other interested parties, such as law enforcement agencies.

As to some of the detail of the right hon. Gentleman's amendment, among other things it would create a statutory requirement for the National Crime Agency's use of the European arrest warrant to be the subject of a bespoke annual report. Given the NCA's limited role in the process I hope that, on reflection, the right hon. Gentleman will agree that such a reporting duty is unnecessarily onerous and excessive, and would serve little purpose.

The NCA will certainly be an open and transparent organisation, sharing as much information as operationally possible with Parliament and the public about its work. In addition to its statutory annual report, I also expect the NCA to provide information on a more frequent basis through the duty to publish, as set out in clause 5, cementing the Government's commitment to an open and transparent NCA. SOCA already provides an annual digest of statistics regarding its role as the UK central authority for European Arrest Warrant cases. We expect no less information to be available when this role transfers to the NCA.

Finally, turning to the last of the issues raised by the amendment, the Government will continue to consult widely with all interested parties when considering changes to any aspect of extradition policy. I hope that having had this further opportunity to debate the EAW and some of the issues around the opt-out decision, the right hon. Member for Delyn will be content to withdraw his amendment. I hope I have reassured all members on this Committee—on both sides—that the Government are committed to an appropriate level of engagement with our European partners and with others, so as to best ensure the continued protection of the British public from serious and organised criminality.

Mr Hanson: I think the Minister, should he ever lose his seat, should perhaps take up the role of wallpaperer, because he can wallpaper over the cracks in the coalition very comfortably in relation to this particular Bill. The Minister's response said absolutely nothing. He did not say anything about—

Gavin Barwell: I am enjoying the wallpaper analogy. In the spirit of that, and in the light of the shadow Chancellor's comments that it would be stupid for Labour not to support an in/out referendum, could he clarify some of the cracks on his own side and tell us whether he is in favour of an in/out referendum?

Mr Hanson: I think that is well beyond the scope of this Committee. I will allow my right hon. Friend the Member for Morley and Outwood (Ed Balls) to speak for himself on the matter. I am very relaxed about supporting the position of the Labour party. The key issue within the competence of this Committee is simply the matter for the Minister. He said today regarding the European arrest warrant that the Government will opt in to matters which are in the national interest. I have to say that I am still not quite clear which issues would be opted out of, and which opted in to.

Stella Creasy: The Government said that the coalition was in the national interest, but as we have seen, that is clearly not the case. Perhaps a little more clarity about what they consider to be the national interest would be helpful in this instance.

Mr Hanson: I am grateful to have any clarity on the national interest. Without a shadow of a doubt, the Minister has not indicated one iota about which issues would be opt-in and which opt-out. There is a clear division between Conservative Committee members, who wish to repatriate powers to this Parliament for decision making, and Liberal Democrat members, who do not. Whether or not the Minister answers those questions today, at some point before the said general election in May 2015, the Government must decide on opt-in or opt-out. It will be an issue for the Minister and his colleagues whether they wish to support—dare I say it—people who want those powers repatriated, or whether they wish to have greater co-operation, as we have currently.

The purpose of the clause was to ensure that the National Crime Agency reports, as SOCA does currently under part 1, on Royal Assent and every 12 months on what use the NCA has made of the powers, and that the

director general, who is ultimately trying to secure convictions in the UK for criminal offences that might have originated in Europe, has consultation on the issue of the European arrest warrants. I have had no answers from the Minister on those points, and there is a division on his side that needs to be exposed by a Division in the Committee.

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

The Committee divided: Ayes 7, Noes 11.

Division No. 9]

AYES

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

NOES

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

Question accordingly negatived.

New Clause 10

NCA and the Independent Police Complaints Commission

'(1) The Secretary of State and the Director General of the NCA must ensure that NCA officers co-operate with the Independent Police Complaints Commission in relation to the fulfilment by the Independent Police Complaints Commission of its statutory duties.

(2) The actions of NCA officers and any operations by the NCA come within the purview of the IPCC in exercising its statutory duty.

(3) The Secretary of State must publish on an annual basis the budget for the IPCC as it relates to investigations to the NCA and its activities.

(4) The Director General must arrange for the publication of a report not more than 12 months after any IPCC investigation into the NCA.

(5) Any report published under section (4) must provide details of the initial IPCC investigation and its findings, what subsequent was taken in response by the NCA and recommendations for future action.'.—*(Mr Hanson.)*

Brought up, and read the First time.

Mr Hanson: I beg to move, That the clause be read a Second time.

New clause 10 is designed to examine a little further the issues to do with the relationship of the director general of the National Crime Agency and the Secretary of State with the Independent Police Complaints Commission. I recognise that clause 10, particularly new section 26C, deals with the relationship between the IPCC and the National Crime Agency, but we tabled the new clause because we want assurance that clause 10 has sufficient strength to ensure that the relationship between the IPCC and the NCA is such that the actions of NCA officers and operations come within the purview of the IPCC in exercising its statutory duty.

The new clause also calls for the Secretary of State to publish annually the budget for the IPCC as it relates to the activities of the National Crime Agency. That is not to disaggregate the NCA from any other aspect of the IPCC, but hon. Members will recall that in previous Committee sittings we discussed the IPCC's budget. I wanted to get a sense from the Minister of how much resource he anticipated in a normal year of operations. The NCA's activities will impose a duty on the IPCC.

We have also called for IPCC reports on any NCA matter to be published in the public domain not more than 12 months after any investigation. Again, that would give some accountability so that complaints may be considered and followed up. Twelve months is the maximum, but obviously that does not preclude something being published within one month, one week, three months, four months or beyond.

There was discussion in another place on the matters raised in subsection (5), and there was cross-party support for ensuring that the NCA is subject to both inspections and scrutiny by the IPCC. Among others, Baroness Doocey, who is a Liberal Democrat peer, raised questions on the IPCC's role. My noble Friend Lord Rosser also raised such questions, and, obviously, changes were made.

The new clause gives the Minister of State another opportunity to reflect on those five points and to ensure that they are strengthened so that the IPCC's role and remit does include, in all aspects, the NCA.

Mr Browne: As the right hon. Gentleman has alluded to, integrity is at the heart of public trust and confidence in the police, without which the police cannot do their job effectively and legitimately. Once the public lose trust and confidence in the police, it takes many years to recover.

Corruption and misconduct are certainly not endemic, and the vast majority of officers serve and protect the public with honour and bravery, but there is no denying that there have recently been several high-profile and shocking cases that have made people question the levels of corruption in the police and the robustness of the systems for detecting and addressing corruption.

Improving police professionalism and integrity are the cornerstone of our sweeping police reforms, and the IPCC has a key role to play. We are already working to ensure the organisation has the powers and resources to manage the challenges it currently faces.

Many members of the Committee, between this morning's sitting and this afternoon's sitting, will have been in the main Chamber listening to my right hon. Friend the Home Secretary announce a package of new measures designed to improve the public's trust in the police. We have carefully considered the wide-ranging recommendations that have emerged of late. In her statement, my right hon. Friend committed to expanding the IPCC's capacity to ensure all investigations of serious allegations against the police can be carried out independently. She announced that alongside a package of measures that will open up the closed shop of policing to public scrutiny, particularly on chief constable pay and conditions, on registering interests and on hospitality

[Mr Jeremy Browne]

and gifts. There will also be a role for the College of Policing in working with the Association of Chief Police Officers to embed a single code of ethics throughout the police.

We are here to address the IPCC's role in relation to the NCA, so I will respond narrowly to that issue. I am in complete agreement with the spirit of the new clause tabled by the right hon. Member for Delyn. Like Opposition Members, the Government want to ensure that the IPCC will have rigorous oversight of the NCA's activities, which is precisely why we have already provided for much of the new clause's substance.

Subsection (1) would impose a duty on the NCA to co-operate with the IPCC in the discharge of its functions. The Government have already seen to that through consequential amendments to the Police Reform Act 2002, which the right hon. Gentleman can find in paragraph 11 of schedule 6.

Similarly, I hope that the right hon. Gentleman can be satisfied that by requiring the Home Secretary to make regulations conferring the oversight functions of the IPCC on the NCA, as we do in subsection (6) of clause 11, we have already achieved what subsection (2) of his new clause seeks to impose: that the IPCC has oversight of complaints and serious conduct matters alleged against NCA officers acting in England and Wales.

3.15 pm

The right hon. Gentleman also raises the issue of funding for the IPCC. There has of course been much debate about the role and effectiveness of the IPCC of late, so let me take this opportunity to be clear: the Government are committed to ensuring that the IPCC has the powers and resources that it needs to manage the challenges that it is currently facing. Let us also be clear that the inspection of the NCA does not create a new financial burden on the IPCC. The IPPC, within its current budget, already oversees complaints and conduct matters relating to SOCA and the National Policing Improvement Agency. The creation of the NCA does not increase the overall number of officers who might be investigated by the IPCC should a complaint be made about them.

Furthermore, the right hon. Member for Delyn will understand that due to the reactive nature of the IPCC's business, it would not be appropriate to break down its budget allocation according to the individual bodies that it oversees. This would reduce the flexibility of the IPCC to focus resources efficiently. But, like other public bodies, the IPCC is already under a duty to produce an annual report and financial accounts under schedule 2 to the Police Reform Act, which contains details of its overall spend and the number of referrals and investigations that it handles for each body.

Finally, subsections (4) and (5) of the right hon. Gentleman's proposed new clause seek to place a requirement on the director general of the NCA to publish reports of any IPCC investigations, along with their findings and the NCA's response. Once again, I can agree with the right hon. Gentleman's intention, namely, to ensure that the IPCC's oversight is conducted in an open and transparent way. However, it is very much the responsibility of the IPCC, as the independent body doing the investigation, to publish its report, findings and recommendations when it is in the public interest for it to do so.

The IPCC of course may exercise its discretion to withhold some or all of the information in any report, should it be likely to cause harm to any person. We expect that this transparent approach will apply to the oversight of the NCA as it does to the police, without the need for a statutory duty.

Learning lessons from past events is a crucial part in driving improvements. So I am sympathetic to the recommendations made by the Home Affairs Committee about giving the IPCC the statutory power to require a response and follow-up action from the body being investigated. We are considering the need for further IPCC powers very carefully and will respond to the recommendations in due course. In the meantime, we should not, however. be drawn into making piecemeal changes in respect of the NCA alone.

In conclusion, I hope that the right hon. Gentleman can agree that the Government have in fact already provided a robust foundation for the oversight of the NCA by the IPCC. I know from the statement by the Home Secretary in the Chamber earlier today that there is wide cross-party consensus about the need to ensure that there are rigorous systems to ensure the highest level of integrity and public service ethos in the police and in all the different parts of the policing function here in the United Kingdom. On that basis, I ask the right hon. Gentleman to withdraw his proposed new clause.

Mr Hanson: I try to end on a positive note in Committee, Mr Caton. There was a little frisson of agreement with some of our contentions. On that basis, I am happy to beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Schedule 1

'Extradition

Part 1

Forum

Extradition to category 1 territories

1 Part 1 of the Extradition Act 2003 (extradition to category 1 territories) is amended as follows.

2 In section 11 (bars to extradition)—

(a) at the end of subsection (1) insert—

"(j) forum.";

(b) after subsection (1) insert—

"(1A) But the judge is to decide whether the person's extradition is barred by reason of forum only in a case where the Part 1 warrant contains the statement referred to in section 2(3) (warrant issued for purposes of prosecution for offence in category 1 territory).";

(c) in subsection (2), for the words from "12" to "apply" substitute "12 to 19F apply".

3 After section 19A insert—

"19B Forum

(1) The extradition of a person ("D") to a category 1 territory is barred by reason of forum if the extradition would not be in the interests of justice.

(2) For the purposes of this section, the extradition would not be in the interests of justice if the judge—

(a) decides that a substantial measure of D's relevant activity was performed in the United Kingdom; and

(a) decides, having regard to the specified matters relating to the interests of justice (and only those matters), that the extradition should not take place.

(3) These are the specified matters relating to the interests of justice—

(a) the place where most of the loss or harm resulting from the extradition offence occurred or was intended to occur;

(b) the interests of any victims of the extradition offence;

(c) any belief of a prosecutor that the United Kingdom, or a particular part of the United Kingdom, is not an appropriate jurisdiction in which to prosecute D in respect of the conduct constituting the extradition offence;

(d) were D to be prosecuted in a part of the United Kingdom for an offence that corresponds to the extradition offence, whether evidence necessary to prove the offence is or could be made available in the United Kingdom;

(e) the desirability and practicability of all prosecutions relating to the extradition offence taking place in one jurisdiction, having regard (in particular) to—

(i) the jurisdictions in which witnesses, co-defendants and other suspects are located, and

(ii) the practicability of the evidence of such persons being given in the United Kingdom or in jurisdictions outside the United Kingdom;

(f) D's connections with the United Kingdom.

(4) In deciding whether the extradition would not be in the interests of justice, the judge must have regard to the desirability of not requiring the disclosure of material which is subject to restrictions on disclosure in the category 1 territory concerned.

(5) If, on an application by a prosecutor, it appears to the judge that the prosecutor has considered the offences for which D could be prosecuted in the United Kingdom, or a part of the United Kingdom, in respect of the conduct constituting the extradition offence, the judge must make that prosecutor a party to the proceedings on the question of whether D's extradition is barred by reason of forum.

(6) In this section "D's relevant activity" means activity which is material to the commission of the extradition offence and which is alleged to have been performed by D.

19C Effect of prosecutor's certificates on forum proceedings

'(1) The judge hearing proceedings under section 19B (the "forum proceedings") must decide that the extradition is not barred by reason of forum if (at a time when the judge has not yet decided the proceedings) the judge receives a prosecutor's certificate relating to the extradition.

(2) That duty to decide the forum proceedings in that way is subject to the determination of any question relating to the prosecutor's certificate raised in accordance with section 19E.

(3) A designated prosecutor may apply for the forum proceedings to be adjourned for the purpose of assisting that or any other designated prosecutor—

(a) in considering whether to give a prosecutor's certificate relating to the extradition,

(b) in giving such a certificate, or

(c) in sending such a certificate to the judge.

(4) If such an application is made, the judge must—

(a) adjourn the forum proceedings until the application is decided; and

(b) continue the adjournment, for such period as appears to the judge to be reasonable, if the application is granted.

(5) But the judge must end the adjournment if the application is not granted.

19D Prosecutor's certificates

'(1) A "prosecutor's certificate" is a certificate given by a designated prosecutor which—

(a) certifies both matter A and matter B, and

(b) certifies either matter C or matter D.

(2) Matter A is that a responsible prosecutor has considered the offences for which D could be prosecuted in the United Kingdom, or a part of the United Kingdom, in respect of the conduct constituting the extradition offence.

(3) Matter B is that the responsible prosecutor has decided that there are one or more such offences that correspond to the extradition offence (the "corresponding offences").

(4) Matter C is that—

(a) the responsible prosecutor has made a formal decision as to the prosecution of D for the corresponding offences,

(b) that decision is that D should not be prosecuted for the corresponding offences, and

(c) the reason for that decision is a belief that—

(i) there would be insufficient admissible evidence for the prosecution; or

(ii) the prosecution would not be in the public interest.

(5) Matter D is that the responsible prosecutor believes that D should not be prosecuted for the corresponding offences because there are concerns about the disclosure of sensitive material in—

(a) the prosecution of D for the corresponding offences, or

(b) any other proceedings.

(6) In relation to the extradition of any person to a category 1 territory, neither this section nor any other rule of law (whether or not contained in an enactment) may require a designated prosecutor—

(a) to consider any matter relevant to giving a prosecutor's certificate; or

(b) to consider whether to give a prosecutor's certificate.

(7) In this section "sensitive material" means material which appears to the responsible prosecutor to be sensitive, including material appearing to be sensitive on grounds relating to—

(a) national security,

(b) international relations, or

(c) the prevention or detection of crime (including grounds relating to the identification or activities of witnesses, informants or any other persons supplying information to the police or any other law enforcement agency who may be in danger if their identities are revealed).

19E Questioning of prosecutor's certificate

'(1) No decision of a designated prosecutor relating to a prosecutor's certificate in respect of D's extradition (a "relevant certification decision") may be questioned except on an appeal under section 26 against an order for that extradition.

(2) For the purpose of—

(a) determining whether to give permission for a relevant certification decision to be questioned, and

(b) determining any such question (if that permission is given),

the High Court must apply the procedures and principles which would be applied by it on an application for judicial review.

(3) In a case where the High Court quashes a prosecutor's certificate, the High Court is to decide the question of whether or not the extradition is barred by reason of forum.

(4) Where the High Court is required to decide that question by virtue of subsection (3)—

(a) sections 19B to 19D and this section apply in relation to that decision (with the appropriate modifications) as they apply to a decision by a judge; and

(b) in particular—

(i) a reference in this section to an appeal under section 26 has effect as a reference to an appeal under section 32 to the Supreme Court;

(ii) a reference in this section to the High Court has effect as a reference to the Supreme Court.

19F Interpretation of sections 19B to 19E

'(1) This section applies for the purposes of sections 19B to 19E (and this section).

(2) These expressions have the meanings given—

"D" has the meaning given in section 19B(1);

"designated prosecutor" means—

(a) a member of the Crown Prosecution Service, or

(b) any other person who—

"extradition offence" means the offence specified in the Part 1 warrant (including the conduct that constitutes the extradition offence);

"forum proceedings" has the meaning given in section 19C(1);

"part of the United Kingdom" means—

(a) England and Wales;

(b) Scotland;

(c) Northern Ireland;

"prosecutor" means a person who has responsibility for prosecuting offences in any part of the United Kingdom (whether or not the person also has other responsibilities);

"prosecutor's certificate" has the meaning given in section 19D(1);

"responsible prosecutor", in relation to a prosecutor's certificate, means—

(a) the designated prosecutor giving the certificate, or

(b) another designated prosecutor.

(3) In determining for any purpose whether an offence corresponds to the extradition offence, regard must be had, in particular, to the nature and seriousness of the two offences.

(4) A reference to a formal decision as to the prosecution of D for an offence is a reference to a decision (made after complying with, in particular, any applicable requirement concerning a code of practice) that D should, or should not, be prosecuted for the offence.".

Extradition to category 2 territories

4 Part 2 of the Extradition Act 2003 (extradition to category 2 territories) is amended as follows.

5 In section 79 (bars to extradition)—

(a) at the end of subsection (1) insert—

"(e) forum.";

(b) after subsection (1) insert—

"(1A) But the judge is to decide whether the person's extradition is barred by reason of forum only in a case where the request for extradition contains the statement referred to in section 70(4) (warrant issued for purposes of prosecution for offence in category 2 territory).";

(c) in subsection (2), for "Sections 80 to 83" substitute "Sections 80 to 83E".

6 After section 83 insert—

"83A Forum

(1) The extradition of a person ("D") to a category 2 territory is barred by reason of forum if the extradition would not be in the interests of justice.

(2) For the purposes of this section, the extradition would not be in the interests of justice if the judge—

(a) decides that a substantial measure of D's relevant activity was performed in the United Kingdom; and

(b) decides, having regard to the specified matters relating to the interests of justice (and only those matters), that the extradition should not take place.

(3) These are the specified matters relating to the interests of justice—

(a) the place where most of the loss or harm resulting from the extradition offence occurred or was intended to occur;

(b) the interests of any victims of the extradition offence;

(c) any belief of a prosecutor that the United Kingdom, or a particular part of the United Kingdom, is not an appropriate jurisdiction in which to prosecute D in respect of the conduct constituting the extradition offence;

(d) were D to be prosecuted in a part of the United Kingdom for an offence that corresponds to the extradition offence, whether evidence necessary to prove the offence is or could be made available in the United Kingdom;

(e) the desirability and practicability of all prosecutions relating to the extradition offence taking place in one jurisdiction, having regard (in particular) to—

(i) the jurisdictions in which witnesses, co-defendants and other suspects are located, and

(ii) the practicability of the evidence of such persons being given in the United Kingdom or in jurisdictions outside the United Kingdom;

(f) D's connections with the United Kingdom.

(4) In deciding whether the extradition would not be in the interests of justice, the judge must have regard to the desirability of not requiring the disclosure of material which is subject to restrictions on disclosure in the category 2 territory concerned.

(5) If, on an application by a prosecutor, it appears to the judge that the prosecutor has considered the offences for which D could be prosecuted in the United Kingdom, or a part of the United Kingdom, in respect of the conduct constituting the extradition offence, the judge must make that prosecutor a party to the proceedings on the question of whether D's extradition is barred by reason of forum.

(6) In this section "D's relevant activity" means activity which is material to the commission of the extradition offence and is alleged to have been performed by D.

83B Effect of prosecutor's certificates on forum proceedings

'(1) The judge hearing proceedings under section 83A (the "forum proceedings") must decide that the extradition is not barred by reason of forum if (at a time when the judge has not yet decided the proceedings) the judge receives a prosecutor's certificate relating to the extradition.

(2) That duty to decide the forum proceedings in that way is subject to the determination of any question relating to the prosecutor's certificate raised in accordance with section 83D.

(3) A designated prosecutor may apply for the forum proceedings to be adjourned for the purpose of assisting that or any other designated prosecutor—

(a) in considering whether to give a prosecutor's certificate relating to the extradition,

(b) in giving such a certificate, or

(c) in sending such a certificate to the judge.

(4) If such an application is made, the judge must—

(a) adjourn the forum proceedings until the application is decided; and

(b) continue the adjournment, for such period as appears to the judge to be reasonable, if the application is granted.

(5) But the judge must end the adjournment if the application is not granted.

83C Prosecutor's certificates

'(1) A "prosecutor's certificate" is a certificate given by a designated prosecutor which—

(a) certifies both matter A and matter B, and

(b) certifies either matter C or matter D.

(2) Matter A is that a responsible prosecutor has considered the offences for which D could be prosecuted in the United Kingdom, or a part of the United Kingdom, in respect of the conduct constituting the extradition offence.

(3) Matter B is that the responsible prosecutor has decided that there are one or more such offences that correspond to the extradition offence (the "corresponding offences").

(4) Matter C is that—

(a) the responsible prosecutor has made a formal decision as to the prosecution of D for the corresponding offences,

(b) that decision is that D should not be prosecuted for the corresponding offences, and

(c) the reason for that decision is a belief that—

(i) there would be insufficient admissible evidence for the prosecution; or

(ii) the prosecution would not be in the public interest.

(5) Matter D is that the responsible prosecutor believes that D should not be prosecuted for the corresponding offences because there are concerns about the disclosure of sensitive material in—

(a) the prosecution of D for the corresponding offences, or

(b) any other proceedings.

(6) In relation to the extradition of any person to a category 2 territory, neither this section nor any other rule of law (whether or not contained in an enactment) may require a designated prosecutor—

(a) to consider any matter relevant to giving a prosecutor's certificate; or

(b) to consider whether to give a prosecutor's certificate.

(7) In this section "sensitive material" means material which appears to the responsible prosecutor to be sensitive, including material appearing to be sensitive on grounds relating to—

(a) national security,

(b) international relations, or

(c) the prevention or detection of crime (including grounds relating to the identification or activities of witnesses, informants or any other persons supplying information to the police or any other law enforcement agency who may be in danger if their identities are revealed).

83D Questioning of prosecutor's certificate

'(1) No decision of a designated prosecutor relating to a prosecutor's certificate in respect of D's extradition (a "relevant certification decision") may be questioned except on an appeal under section 103 or 108 against an order for that extradition.

(2) For the purpose of—

(a) determining whether to give permission for a relevant certification decision to be questioned, and

(b) determining any such question (if that permission is given),

the High Court must apply the procedures and principles which would be applied by it on an application for judicial review.

(3) In a case where the High Court quashes a prosecutor's certificate, the High Court is to decide the question of whether or not the extradition is barred by reason of forum.

(4) Where the High Court is required to decide that question by virtue of subsection (3)—

(a) sections 83A to 83C and this section apply in relation to that decision (with the appropriate modifications) as they apply to a decision by a judge; and

(b) in particular—

(i) a reference in this section to an appeal under section 103 or 108 has effect as a reference to an appeal under section 114 to the Supreme Court;

(ii) a reference in this section to the High Court has effect as a reference to the Supreme Court.

83E Interpretation of sections 83A to 83D

'(1) This section applies for the purposes of sections 83A to 83D (and this section).

(2) These expressions have the meanings given—

"D" has the meaning given in section 83A(1);

"designated prosecutor" means—

(a) a member of the Crown Prosecution Service, or

(b) any other person who—

"extradition offence" means the offence specified in the request for extradition (including the conduct that constitutes the extradition offence);

"forum proceedings" has the meaning given in section 83B(1);

"part of the United Kingdom" means—

(a) England and Wales;

(b) Scotland;

(c) Northern Ireland;

"prosecutor" means a person who has responsibility for prosecuting offences in any part of the United Kingdom (whether or not the person also has other responsibilities);

"prosecutor's certificate" has the meaning given in section 83C(1);

"responsible prosecutor", in relation to a prosecutor's certificate, means—

(a) the designated prosecutor giving the certificate, or

(b) another designated prosecutor.

(3) In determining for any purpose whether an offence corresponds to the extradition offence, regard must be had, in particular, to the nature and seriousness of the two offences.

(4) A reference to a formal decision as to the prosecution of D for an offence is a reference to a decision (made after complying with, in particular, any applicable requirement concerning a code of practice) that D should, or should not, be prosecuted for the offence.".

Transitional provision, saving and repeals

7 (1) In a case where the Part 1 warrant, or the request for the person's extradition, has been issued before the time when the amendments made by this Part of this Schedule come into force, those amendments apply to the extradition concerned only if, at that time, the judge has not yet decided all of the existing extradition bar questions.

(2) For that purpose—

"existing extradition bar questions" means—

(a) the questions in section 11(1) of the Extradition Act 2003 (in the case of a Part 1 warrant), or

(b) the questions in section 79(1) of that Act (in the case of a request for the person's extradition), as those questions stand before their amendment by this Part of this Schedule;

"Part 1 warrant" and "request for a person's extradition" have the same meanings as in the Extradition Act 2003.

8 The powers conferred by section 177, 178 and 222 of the Extradition Act 2003 are exercisable in relation to any amendment of that Act made by this Part of this Schedule.

9 In the Police and Justice Act 2006, in Schedule 13 (extradition), in Part 1 (amendments to the Extradition Act 2003), omit paragraphs 4 to 6 (and the italic heading preceding paragraph 4).

Part 2

Human rights issues

Extradition to category 2 territories

10 Part 2 of the Extradition Act 2003 (extradition to category 2 territories) is amended as follows.

11 In section 70 (extradition request and certificate), after subsection (9) insert—

"(10) Subsection (11) applies at all times after the Secretary of State issues a certificate under this section.

(11) The Secretary of State is not to consider whether the extradition would be compatible with the Convention rights within the meaning of the Human Rights Act 1998.".

12 In section 108 (appeal against extradition order)—

(a) after subsection (4) insert—

"(5) But notice of an appeal under this section may be given after the end of the permitted period if it is an appeal on human rights grounds.

(6) Notice of any such appeal must be given in accordance with rules of court at a time before the person is extradited to the category 2 territory in accordance with section 117.

(7) Where notice of an appeal is given in accordance with subsections (5) and (6), the High Court is to consider the appeal only if it appears to the High Court that—

(a) the appeal is necessary to avoid real injustice, and

(b) the circumstances are exceptional and make it appropriate to consider the appeal.

(8) In this section "appeal on human rights grounds" means an appeal against the order for the person's extradition on the grounds (and only on the grounds) that the extradition would not be compatible with the Convention rights within the meaning of the Human Rights Act 1998.".

13 In section 117 (extradition where no appeal), after subsection (4) insert—

"(5) If a person brings an appeal under section 108 by virtue of subsection (5) of that section, this section ceases to apply (but section 118 applies instead).".

Transitional provision and saving

14 (1) In a case where a request for a person's extradition has been issued before the time when the amendments made by this Part of this Schedule come into force, those amendments apply to the extradition concerned only if—

(a) the person concerned has not made any human rights representations to the Secretary of State during the relevant period, or

(b) the person concerned has made such representations during that period and the Secretary of State has finished considering them by the end of that period.

(2) For that purpose—

"human rights representations" means representations that the extradition would not be compatible with the Convention rights within the meaning of the Human Rights Act 1998;

"relevant period" means the period that—

(a) begins when the Secretary of State issues a certificate under section 70 of the Extradition Act 2003 in relation to the extradition, and

(b) ends when the amendments made by this Part of this Schedule come into force;

"request for a person's extradition" has the same meaning as in the Extradition Act 2003.

15 The powers conferred by section 177, 178 and 222 of the Extradition Act 2003 are exercisable in relation to any amendment of that Act made by this Part of this Schedule.

Part 3

Devolution issues in Scotland

Extradition to category 1 territories

16 Part 1 of the Extradition Act 2003 (extradition to category 1 territories) is amended as follows.

17 (1) In section 30 (detention pending conclusion of appeal under section 28), for subsection (5) substitute—

"(5) The preceding provisions of this section do not apply to Scotland.".

(2) After section 30 insert—

"30A Detention pending conclusion of appeal under section 28: Scotland

(1) This section applies if immediately after the judge orders the person's discharge the judge is informed by the authority which issued the Part 1 warrant ("the issuing authority") that it intends to appeal under section 28 ("the High Court appeal").

(2) The judge must remand the person in custody or on bail while the High Court appeal is pending.

(3) The High Court appeal ceases to be pending at the earliest of these times—

(a) when the proceedings on the appeal are abandoned;

(b) when the High Court—

(i) allows the appeal, or

(ii) dismisses the appeal.

(4) If—

(a) the High Court appeal is dismissed, and

(b) immediately after dismissing it, the High Court is informed by the issuing authority that it intends to bring an appeal to the Supreme Court against a determination of a relevant devolution issue ("the Supreme Court appeal"),

the High Court must remand the person in custody or on bail while the Supreme Court appeal is pending.

(5) The Supreme Court appeal ceases to be pending at the earliest of these times—

(a) the end of the period of 28 days starting with the day when the High Court appeal is dismissed (unless, within that period, an application is made to the High Court for permission to make the Supreme Court appeal);

(b) the end of the period of 28 days starting with the day when the High Court refuses permission to make the Supreme Court appeal (unless, within that period, an application is made to the Supreme Court for permission to make the Supreme Court appeal);

(c) the end of the period of 28 days starting with the day on which permission is given to bring the Supreme Court appeal (unless the appeal is brought within that period);

(d) the time when the proceedings on the Supreme Court appeal are abandoned;

(e) the time when there is no further step that can be taken in relation to the Supreme Court appeal by the issuing authority (ignoring any power of a court to grant leave to take a step out of time).

(6) If the person is remanded in custody by the judge or the High Court, the High Court may later grant bail.

(7) In this section "relevant devolution issue" means a devolution issue relating to the person's extradition.

(8) This section applies only to Scotland.".

18 After section 33 insert—

"33ZA Scottish devolution issue: remand in custody or on bail

(1) This section applies where, on an appeal to the Supreme Court against a determination of a devolution issue relating to a person's extradition under this Part, the Supreme Court—

(a) remits the case to the High Court, or

(b) orders the person's extradition.

(2) The Supreme Court must remand the person in custody or on bail pending the person's extradition.

(3) If the Supreme Court remands the person in custody it may later grant bail.".'.

19 After section 33A insert—

"33B Detention pending conclusion of appeals relating to devolution issues

(1) This section applies if immediately after the High Court orders the person's discharge the court is informed by the authority which issued the Part 1 warrant ("the issuing authority") that it

intends to bring an appeal to the Supreme Court against a determination of a relevant devolution issue ("the Supreme Court appeal").

(2) The High Court must remand the person in custody or on bail while the Supreme Court appeal is pending.

(3) If the court remands the person in custody it may later grant bail.

(4) The Supreme Court appeal ceases to be pending at the earliest of these times—

(a) the end of the period of 28 days starting with the day when the High Court orders the person's discharge (unless, within that period, an application is made to the High Court for permission to make the Supreme Court appeal);

(b) the end of the period of 28 days starting with the day when the High Court refuses permission to make the Supreme Court appeal (unless, within that period, an application is made to the Supreme Court for permission to make the Supreme Court appeal);

(c) the end of the period of 28 days starting with the day on which permission is given to bring the Supreme Court appeal (unless the appeal is brought within that period);

(d) the time when the proceedings on the Supreme Court appeal are abandoned;

(e) the time when there is no further step that can be taken in relation to the Supreme Court appeal by the issuing authority (ignoring any power of a court to grant permission to take a step out of time).

(5) In this section "relevant devolution issue" means a devolution issue relating to the person's extradition.

(6) This section applies only to Scotland.".

20 In section 34 (appeals: general), at the beginning insert "(1)" and at the end insert—

"(2) Subsection (1) does not prevent an appeal against a determination of a devolution issue.

(3) In this Part "devolution issue" has the same meaning as in Schedule 6 to the Scotland Act 1998.".

21 (1) In section 36 (extradition following appeal), for subsection (9) substitute—

"(9) The preceding provisions of this section do not apply to Scotland.".

(2) After that section insert—

"36A Extradition following appeal: Scotland

(1) This section applies if—

(a) there is an appeal to the High Court under section 26 against an order for a person's extradition to a category 1 territory, and

(b) the effect of the decision in the relevant proceedings is that the person must be extradited to the category 1 territory.

(2) The "relevant proceedings" are—

(a) the proceedings on the appeal under section 26 if—

(i) no Supreme Court devolution appeal is made, or

(ii) a Supreme Court devolution appeal is made and the Supreme Court remits the case to the High Court, or

(b) the proceedings on a Supreme Court devolution appeal if such an appeal is made and the Supreme Court does not remit the case to the High Court.

(3) The person must be extradited to the category 2 territory before the end of the required period, which is 28 days starting with—

(a) the day on which the decision in the relevant proceedings becomes final, or

(b) the day on which the relevant proceedings are abandoned.

(4) In a case where the relevant proceedings are proceedings on the appeal under section 26 (except where the case has been remitted to the High Court on a Supreme Court devolution appeal), the decision in those proceedings becomes final—

(a) at the end of the period of 28 days starting with the day of the decision (unless, within that period, an application is made to the High Court for permission to make a Supreme Court devolution appeal);

(b) at the end of the period of 28 days starting with the day when the High Court refuses permission to make a Supreme Court devolution appeal (unless, within that period, an application is made to the Supreme Court for permission to make that appeal);

(c) when the Supreme Court refuses permission to make a Supreme Court devolution appeal;

(d) at the end of the permitted period, which is 28 days starting with the day on which permission to make a Supreme Court devolution appeal is granted, if no such appeal is brought before the end of that period.

(5) These must be ignored for the purposes of subsection (4)—

(a) any power of a court to extend the period permitted for applying for permission to appeal;

(b) any power of a court to grant permission to take a step out of time.

(6) In a case where—

(a) the relevant proceedings are proceedings on the appeal under section 26, and

(b) the case has been remitted to the High Court on a Supreme Court devolution appeal,

the decision in those proceedings becomes final when it is made.

(7) In a case where—

(a) the relevant proceedings are proceedings on a Supreme Court devolution appeal, and

(b) the decision is not to remit the case to the High Court,

the decision in those proceedings becomes final when it is made.

(8) If subsection (3) is not complied with and the person applies to the appropriate judge to be discharged, the judge must order the person's discharge, unless reasonable cause is shown for the delay.

(9) In this section "Supreme Court devolution appeal" means an appeal to the Supreme Court against a determination of a devolution issue relating to a person's extradition.

(10) This section applies only to Scotland.".

Extradition to category 2 territories

22 Part 2 of the Extradition Act 2003 (extradition to category 2 territories) is amended as follows.

23 (1) In section 107 (detention pending conclusion of appeal under section 105), for subsection (5) substitute—

"(5) The proceeding provisions of this section do not apply to Scotland.".

(2) After section 107 insert—

"107A Detention pending conclusion of appeal under section 105: Scotland

(1) This section applies if immediately after the judge orders the person's discharge the judge is informed on behalf of the category 2 territory of an intention to appeal under section 105 ("the High Court appeal").

(2) The judge must remand the person in custody or on bail while the High Court appeal is pending.

(3) The High Court appeal ceases to be pending at the earliest of these times—

(a) when the proceedings on the appeal are abandoned;

(b) when the High Court—

(i) allows the appeal,

(ii) makes a direction under section 106(1)(b), or

(iii) dismisses the appeal.

(4) If—

(a) the High Court appeal is dismissed, and

(b) immediately after dismissing it, the High Court is informed of an intention to bring an appeal to the Supreme Court against a determination of a relevant devolution issue ("the Supreme Court appeal"),

the High Court must remand the person in custody or on bail while the Supreme Court appeal is pending.

(5) The Supreme Court appeal ceases to be pending at the earliest of these times—

(a) the end of the period of 28 days starting with the day when the High Court appeal is dismissed (unless, within that period, an application is made to the High Court for permission to make the Supreme Court appeal);

(b) the end of the period of 28 days starting with the day when the High Court refuses permission to make the Supreme Court appeal (unless, within that period, an application is made to the Supreme Court for permission to make the Supreme Court appeal);

(c) the end of the period of 28 days starting with the day on which permission is given to bring the Supreme Court appeal (unless the appeal is brought within that period);

(d) the time when the proceedings on the Supreme Court appeal are abandoned;

(e) the time when there is no further step that can be taken in relation to the Supreme Court appeal by the category 2 territory (ignoring any power of a court to grant leave to take a step out of time).

(6) If the person is remanded in custody by the judge or the High Court, the appropriate judge may later grant bail.

(7) In this section "relevant devolution issue" means a devolution issue relating to the person's extradition.

(8) This section applies only to Scotland.".

24 (1) In section 112 (detention pending conclusion of appeal under section 110), for subsection (5) substitute—

"(5) The preceding provisions of this section do not apply to Scotland.".

(2) After section 112 insert—

"112A Detention pending conclusion of appeal under section 110: Scotland

(1) This section applies in a case where the Scottish Ministers order the person's discharge under this Part.

(2) Subject to subsection (6)—

(a) the order made by the appropriate judge under section 92(4) ("the remand order") remains in force until the end of the period of three days beginning with the day on which the person's discharge is ordered;

(b) if within that period the Scottish Ministers are informed in writing on behalf of the category 2 territory of an intention to appeal under section 110 ("the High Court appeal"), the remand order remains in force while the appeal is pending.

(3) The High Court appeal ceases to be pending at the earliest of these times—

(a) when the proceedings on the appeal are abandoned;

(b) when the High Court—

(i) allows the appeal, or

(ii) dismisses the appeal.

(4) If—

(a) the High Court appeal is dismissed,

(b) immediately after dismissing it, the High Court is informed of an intention to bring an appeal to the Supreme Court against a determination of a relevant devolution issue ("the Supreme Court appeal"), and

(c) the remand order has remained in force until that time,

then, subject to subsection (6), the remand order continues to remain in force while the Supreme Court appeal is pending.

(5) The Supreme Court appeal ceases to be pending at the earliest of these times—

(a) the end of the period of 28 days starting with the day when the High Court appeal is dismissed (unless, within that period, an application is made to the High Court for permission to make the Supreme Court appeal);

(b) the end of the period of 28 days starting with the day when the High Court refuses permission to make the Supreme Court appeal (unless, within that period, an application is made to the Supreme Court for permission to make the Supreme Court appeal);

(c) the end of the period of 28 days starting with the day on which permission is given to bring the Supreme Court appeal (unless the appeal is brought within that period);

(d) the time when the proceedings on the Supreme Court appeal are abandoned;

(e) the time when there is no further step that can be taken in relation to the Supreme Court appeal by the category 2 territory (ignoring any power of a court to grant leave to take a step out of time).

(6) If the person is remanded in custody under section 92(4), the appropriate judge may later grant bail.

(7) In this section "relevant devolution issue" means a devolution issue relating to the person's extradition.

(8) This section applies only to Scotland.".

25 After section 115A insert—

"115B Detention pending conclusion of appeals relating to devolution issues

(1) This section applies if—

(a) on an appeal under section 103 or 108 the High Court orders the person's discharge;

(b) immediately after ordering the person's discharge, the High Court is informed of an intention to bring an appeal to the Supreme Court against a determination of a relevant devolution issue ("the Supreme Court appeal").

(2) The High Court must remand the person in custody or on bail while the Supreme Court appeal is pending.

(3) If the court remands the person in custody it may later grant bail.

(4) The Supreme Court appeal ceases to be pending at the earliest of these times—

(a) the end of the period of 28 days starting with the day when the High Court orders the person's discharge (unless, within that period, an application is made to the High Court for permission to make the Supreme Court appeal);

(b) the end of the period of 28 days starting with the day when the High Court refuses permission to make the Supreme Court appeal (unless, within that period, an application is made to the Supreme Court for permission to make the Supreme Court appeal);

(c) the end of the period of 28 days starting with the day on which permission is given to bring the Supreme Court appeal (unless the appeal is brought within that period);

(d) the time when the proceedings on the Supreme Court appeal are abandoned;

(e) the time when there is no further step that can be taken in relation to the Supreme Court appeal (ignoring any power of a court to grant leave to take a step out of time).

(5) In this section "relevant devolution issue" means a devolution issue relating to the person's extradition.

(6) This section applies only to Scotland.".

26 In section 116 (appeals: general), at the beginning insert "(1)" and at the end insert—

"(2) Subsection (1) does not prevent an appeal against a determination of a devolution issue.

(3) In this Part "devolution issue" has the same meaning as in Schedule 6 to the Scotland Act 1998.".

27 (1) In section 118 (extradition following appeal), for subsection (8) substitute—

"(8) The preceding provisions of this section do not apply to Scotland.".

(2) After that section insert—

"118A Extradition following appeal: Scotland

(1) This section applies if—

(a) there is an appeal to the High Court under section 103, 108 or 110 against a decision or order relating to a person's extradition to a category 2 territory, and

(b) the effect of the decision in the relevant proceedings is that the person must be extradited to the category 2 territory.

(2) The "relevant proceedings" are—

(a) the proceedings on the appeal under section 103, 108 or 110 if—

(i) no Supreme Court devolution appeal is made, or

(ii) a Supreme Court devolution appeal is made and the Supreme Court remits the case to the High Court, or

(b) the proceedings on a Supreme Court devolution appeal if such an appeal is made and the Supreme Court does not remit the case to the High Court.

(3) The person must be extradited to the category 2 territory before the end of the required period, which is 28 days starting with—

(a) the day on which the decision in the relevant proceedings becomes final, or

(b) the day on which the relevant proceedings are abandoned.

(4) In a case where the relevant proceedings are proceedings on the appeal under section 103, 108 or 110 (except the case has been remitted to the High Court on a Supreme Court devolution appeal), the decision in those proceedings becomes final—

(a) at the end of the period of 28 days starting with the day of the High Court's decision on the appeal (unless, within that period, an application is made to the High Court for permission to make a Supreme Court devolution appeal);

(b) at the end of the period of 28 days starting with the day when the High Court refuses permission to make a Supreme Court devolution appeal (unless, within that period, an application is made to the Supreme Court for permission to make the appeal);

(c) when the Supreme Court refuses permission to make a Supreme Court devolution appeal;

(d) at the end of the permitted period, which is 28 days starting with the day on which permission to make a Supreme Court devolution appeal is granted, if no such appeal is brought before the end of that period.

(5) These must be ignored for the purposes of subsection (4)—

(a) any power of a court to extend the period permitted for applying for permission to appeal;

(b) any power of a court to grant permission to take a step out of time.

(6) In a case where—

(a) the relevant proceedings are proceedings on the appeal under section 103, 108 or 110, and

(b) the case has been remitted to the High Court on a Supreme Court devolution appeal,

the decision in those proceedings becomes final when it is made.

(7) In a case where—

(a) the relevant proceedings are proceedings on a Supreme Court devolution appeal, and

(b) the decision is not to remit the case to the High Court,

the decision in those proceedings becomes final when it is made.

(8) If subsection (3) is not complied with and the person applies to the appropriate judge to be discharged, the judge must order the person's discharge, unless reasonable cause is shown for the delay.

(9) In this section "Supreme Court devolution appeal" means an appeal to the Supreme Court against a determination of a devolution issue relating to a person's extradition.

(10) This section applies only to Scotland.".

28 After section 118A (inserted by paragraph 27) insert—

"118B Scottish devolution issue: remand in custody or on bail

(1) This section applies where, on an appeal to the Supreme Court against a determination of a devolution issue relating to a person's extradition under this Part, the Supreme Court—

(a) remits the case to the High Court, or

(b) orders the person's extradition.

(2) The Supreme Court must remand the person in custody or on bail pending the person's extradition.

(3) If the Supreme Court remands the person in custody, the High Court may later grant bail.".

Saving

29 The powers conferred by section 177, 178 and 222 of the Extradition Act 2003 are exercisable in relation to any amendment of that Act made by this Part of this Schedule.'.—*(Damian Green.)*

Brought up, read the First and Second time, and added to the Bill.

New Schedule 2

'Proceeds of crime: civil recovery of the proceeds etc of unlawful conduct

Part 1

Enforcement of Interim orders in the United Kingdom

1 Section 18 of the Civil Jurisdiction and Judgments Act 1982 (enforcement of UK judgments in other parts of UK) is amended as follows.

2 In subsection (5)(d) (provisional measures), at the end insert "or an interim order made in connection with the civil recovery of proceeds of unlawful conduct".

3 After subsection (6) insert—

"(6A) In subsection (5)(d), "an interim order made in connection with the civil recovery of proceeds of unlawful conduct" means any of the following made under Chapter 2 of Part 5 of the Proceeds of Crime Act 2002—

(a) a property freezing order or prohibitory property order;

(b) an order under section 245E or 245F of that Act (order relating to receivers in connection with property freezing order);

(c) an interim receiving order or interim administration order."

Part 2

Property or evidence outside the United Kingdom

4 Part 5 of the Proceeds of Crime Act 2002 (civil recovery of the proceeds etc of unlawful conduct) is amended as follows.

5 In section 280 (applying realised proceeds), in subsection (1), for "This section applies to" substitute "Subsection (2) applies to sums which are in the hands of the trustee for civil recovery if they are".

6 After section 282A insert—

"Enforcement outside the United Kingdom

282B Enforcement abroad before recovery order: enforcement authority

'(1) This section applies if—

(a) the property freezing conditions are met in relation to property,

(b) the property is not property to which a recovery order applies, and

(c) an enforcement authority believes that the property is in a country outside the United Kingdom (the receiving country).

(2) The property freezing conditions are—

(a) in England and Wales and Northern Ireland, the conditions in section 245A(5) and (6), and

(b) in Scotland, the conditions in section 255A(5) and (6),

and, for the purposes of this subsection, the references in those provisions to property to which the application for the order relates are to be read as references to the property mentioned in subsection (1)(a).

(3) The enforcement authority may send a request for assistance in relation to the property to the Secretary of State with a view to it being forwarded under this section.

(4) The Secretary of State may forward the request for assistance to the government of the receiving country.

(5) A request for assistance under this section is a request to the government of the receiving country—

(a) to secure that any person is prohibited from dealing with the property;

(b) for assistance in connection with the management of the property, including with securing its detention, custody or preservation.

282C Enforcement abroad before recovery order: receiver or administrator

'(1) This section applies if—

(a) a property freezing order has effect in relation to property, and

(b) the receiver appointed under section 245E in respect of the property believes that it is in a country outside the United Kingdom (the receiving country).

(2) This section also applies if—

(a) an interim receiving order or interim administration order has effect in relation to property, and

(b) the interim receiver or interim administrator believes that the property is in a country outside the United Kingdom (the receiving country).

(3) The receiver or administrator may send a request for assistance in relation to the property to the Secretary of State with a view to it being forwarded under this section.

(4) The Secretary of State must forward the request for assistance to the government of the receiving country.

(5) A request for assistance under this section is a request to the government of the receiving country—

(a) to secure that any person is prohibited from dealing with the property;

(b) for assistance in connection with the management of the property, including with securing its detention, custody or preservation.

282D Evidence overseas: interim receiver or interim administrator

'(1) This section applies if—

(a) an interim receiving order or interim administration order has effect in relation to property, and

(b) the order requires the interim receiver or interim administrator to take steps to establish a matter described in section 247(2)(a) or (b) or 257(2)(a) or (b).

(2) The interim receiver or interim administrator may request assistance under this section if the interim receiver or interim administrator thinks that there is relevant evidence in a country outside the United Kingdom.

(3) A judge of the High Court may request assistance under this section if—

(a) an application is made by the interim receiver or by a person subject to investigation by the interim receiver, and

(b) the judge thinks that there is relevant evidence in a country outside the United Kingdom.

(4) A judge of the Court of Session may request assistance under this section if—

(a) an application is made by the interim administrator or by a person subject to investigation by the interim administrator, and

(b) the judge thinks that there is relevant evidence in a country outside the United Kingdom.

(5) The assistance that may be requested under this section is assistance in obtaining outside the United Kingdom relevant evidence specified in the request.

(6) Relevant evidence is—

(a) in relation to an application or request made for the purposes of an investigation by an interim receiver, evidence as to a matter described in section 247(2)(a) or (b);

(b) in relation to an application or request made for the purposes of an investigation by an interim administrator, evidence as to a matter described in section 257(2)(a) or (b).

(7) A request for assistance under this section may be sent—

(a) to a court or tribunal which is specified in the request and which exercises jurisdiction in the place where the evidence is to be obtained,

(b) to the government of the country concerned, or

(c) to an authority recognised by the government of the country concerned as the appropriate authority for receiving requests for assistance of that kind.

(8) Alternatively, a request for assistance under this section may be sent to the Secretary of State with a view to it being forwarded to a court, tribunal, government or authority mentioned in subsection (7).

(9) The Secretary of State must forward the request for assistance to the court, tribunal, government or authority.

(10) In a case of urgency, a request for assistance under this section may be sent to—

(a) the International Criminal Police Organisation, or

(b) any person competent to receive it under any provisions adopted under the EU Treaties,

for forwarding to the court, tribunal, government or authority mentioned in subsection (7).

(11) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to requests for assistance made by a judge under this section.

(12) "Evidence" includes documents, information in any other form and material.

282E Evidence overseas: restrictions on use

'(1) This section applies to evidence obtained by means of a request for assistance under section 282D.

(2) The evidence must not be used for any purpose other than—

(a) for the purposes of carrying out the functions of the interim receiver or interim administrator, or

(b) for the purposes of proceedings under this Chapter of this Part in respect of property described in subsection (3) or any proceedings arising out of such proceedings.

(3) That property is—

(a) the property that is the subject of the interim receiving order or interim administration order, or

(b) other property that is recoverable property in respect of the same unlawful conduct.

(4) Subsection (2) does not apply if the court, tribunal, government or authority to whom the request for assistance was sent consents to the use.

(5) In Scotland, the evidence may be received in evidence without being sworn to by anyone, so far as that may be done without unfairness to any party.

282F Enforcement abroad: after recovery order

'(1) This section applies if—

(a) a recovery order has effect in relation to property, and

(b) the enforcement authority or the trustee for civil recovery believes that the property is in a country outside the United Kingdom (the receiving country).

(2) The enforcement authority or trustee for civil recovery may send a request for assistance in relation to the property to the Secretary of State with a view to it being forwarded under this section.

(3) The Secretary of State may forward a request for assistance from the enforcement authority to the government of the receiving country.

(4) The Secretary of State must forward a request for assistance from the trustee for civil recovery to the government of the receiving country.

(5) A request for assistance is a request to the government of the receiving country for assistance in connection with the management and disposal of the property and includes a request—

(a) to secure the detention, custody or preservation of the property;

(b) in the case of money, to secure that it is applied in accordance with the law of the receiving country;

(c) in the case of property other than money, to secure that the property is realised and the proceeds are applied in accordance with the law of the receiving country.

(6) A certificate purporting to be issued by or on behalf of the government of the receiving country is admissible as evidence of the facts it states if it states—

(a) that property has been realised in pursuance of a request under this section,

(b) the date of realisation, and

(c) the proceeds of realisation."'.—*(Damian Green.)*

Brought up, read the First and Second time, and added to the Bill.

New Schedule 3

'Proceeds of crime: investigations

Part 1

Civil recovery investigations

1 Part 8 of the Proceeds of Crime Act 2002 (investigations) is amended as follows.

Meaning of "civil recovery investigation"

2 In section 341 (investigations), for subsections (2) and (3) substitute—

"(2) For the purposes of this Part a civil recovery investigation is an investigation for the purpose of identifying recoverable property or associated property and includes investigation into—

(a) whether property is or has been recoverable property or associated property,

(b) who holds or has held property,

(c) what property a person holds or has held, or

(d) the nature, extent or whereabouts of property.

(3) But an investigation is not a civil recovery investigation to the extent that it relates to—

(a) property in respect of which proceedings for a recovery order have been started,

(b) property to which an interim receiving order applies,

(c) property to which an interim administration order applies, or

(d) property detained under section 295."

3 After that section insert—

"341A Orders and warrants sought for civil recovery investigations

Where an application under this Part for an order or warrant specifies property that is subject to a civil recovery investigation, references in this Part to the investigation for the purposes of which the order or warrant is sought include investigation into—

(a) whether a person who appears to hold or to have held the specified property holds or has held other property,

(b) whether the other property is or has been recoverable property or associated property, and

(c) the nature, extent or whereabouts of the other property."

Production orders: England and Wales and Northern Ireland

4 In section 345 (production orders), in subsection (2)(a), after "confiscation investigation" insert ", a civil recovery investigation".

5 In section 346 (requirements for making of production order), in subsection (2), for paragraph (b) substitute—

"(b) in the case of a civil recovery investigation—

(i) the person the application for the order specifies as being subject to the investigation holds recoverable property or associated property,

(ii) that person has, at any time, held property that was recoverable property or associated property at the time, or

(iii) the property the application for the order specifies as being subject to the investigation is recoverable property or associated property;".

Search and seizure warrants: England and Wales and Northern Ireland

6 In section 352 (search and seizure warrants), in subsection (2)(a), after "confiscation investigation" insert ", a civil recovery investigation".

7 (1) Section 353 (requirements where production order not available) is amended as follows.

(2) In subsection (2), for paragraph (b) substitute—

"(b) in the case of a civil recovery investigation—

(i) the person specified in the application for the warrant holds recoverable property or associated property,

(ii) that person has, at any time, held property that was recoverable property or associated property at the time, or

(iii) the property specified in the application for the warrant is recoverable property or associated property;".

(3) In subsection (7), for paragraph (a) substitute—

"(a) relates to the person or property specified in the application or to any of the questions listed in subsection (7ZA), and".

(4) After that subsection insert—

"(7ZA) Those questions are—

(a) where a person is specified in the application, any question as to—

(i) what property the person holds or has held,

(ii) whether the property is or has been recoverable property or associated property, or

(iii) the nature, extent or whereabouts of the property, and

(b) where property is specified in the application, any question as to—

(i) whether the property is or has been recoverable property or associated property,

(ii) who holds it or has held it,

(iii) whether a person who appears to hold or to have held it holds or has held other property,

(iv) whether the other property is or has been recoverable property or associated property, or

(v) the nature, extent or whereabouts of the specified property or the other property."

Disclosure orders: England and Wales and Northern Ireland

8 In section 357 (disclosure orders), in subsection (3)(b), at the beginning insert "a person specified in the application or".

9 In section 358 (requirements for making of disclosure order), in subsection (2), for paragraph (b) substitute—

"(b) in the case of a civil recovery investigation—

(i) the person specified in the application for the order holds recoverable property or associated property,

(ii) that person has, at any time, held property that was recoverable property or associated property at the time, or

(iii) the property specified in the application for the order is recoverable property or associated property;".

Customer information orders: England and Wales and Northern Ireland

10 In section 363 (customer information orders), in subsection (2)—

(a) after "confiscation investigation" insert ", a civil recovery investigation", and

(b) omit paragraph (b) (and the "or" before it).

11 In section 365 (requirements for making of customer information order), for subsection (3) substitute—

"(3A) In the case of a civil recovery investigation, there must be reasonable grounds for suspecting that the person specified in the application—

(a) holds recoverable property or associated property, or

(b) has, at any time, held property that was recoverable property or associated property at the time."

Account monitoring orders: England and Wales and Northern Ireland

12 In section 370 (account monitoring orders), in subsection (2)—

(a) after "confiscation investigation" insert ", a civil recovery investigation", and

(b) omit paragraph (b) (and the "or" before it).

13 In section 371 (requirements for making of account monitoring order), for subsection (3) substitute—

"(3A) In the case of a civil recovery investigation, there must be reasonable grounds for suspecting that the person specified in the application holds recoverable property or associated property."

Production orders: Scotland

14 (1) Section 380 (production orders) is amended as follows.

(2) In subsection (2), omit "property subject to".

(3) In subsection (3)(a), after "confiscation investigation" insert ", a civil recovery investigation".

15 (1) In section 381 (requirements for making of production order), in subsection (2), for paragraph (b) substitute—

"(b) in the case of a civil recovery investigation—

(i) the person the application for the order specifies as being subject to the investigation holds recoverable property or associated property,

(ii) that person has, at any time, held property that was recoverable property or associated property at the time, or

(iii) the property the application for the order specifies as being subject to the investigation is recoverable property or associated property;".

Search warrants: Scotland

16 (1) Section 387 (search warrants) is amended as follows.

(2) In subsection (2), omit "property subject to".

(3) In subsection (3)(a), after "confiscation investigation" insert ", a civil recovery investigation".

17 (1) Section 388 (requirements where production order not available) is amended as follows.

(2) In subsection (2), for paragraph (b) substitute—

"(b) in the case of a civil recovery investigation—

(i) the person specified in the application for the warrant holds recoverable property or associated property,

(ii) that person has, at any time, held property that was recoverable property or associated property at the time, or

(iii) the property specified in the application for the warrant is recoverable property or associated property;".

(3) In subsection (7), for paragraph (a) substitute—

"(a) relates to the person or property specified in the application or to any of the questions listed in subsection (7ZA), and".

(4) After that subsection insert—

"(7ZA) Those questions are—

(a) where a person is specified in the application, any question as to—

(i) what property the person holds or has held,

(ii) whether the property is or has been recoverable property or associated property, or

(iii) the nature, extent or whereabouts of the property, and

(b) where property is specified in the application, any question as to—

(i) whether the property is or has been recoverable property or associated property,

(ii) who holds it or has held it,

(iii) whether a person who appears to hold or to have held it holds or has held other property,

(iv) whether the other property is or has been recoverable property or associated property, or

(v) the nature, extent or whereabouts of the specified property or the other property."

Disclosure orders: Scotland

18 In section 391 (disclosure orders), in subsection (3)(b), at the beginning insert "a person specified in the application or".

19 In section 392 (requirements for making of disclosure order), in subsection (2), for paragraph (b) substitute—

"(b) in the case of a civil recovery investigation—

(i) the person specified in the application for the order holds recoverable property or associated property,

(ii) that person has, at any time, held property that was recoverable property or associated property at the time, or

(iii) the property specified in the application for the order is recoverable property or associated property;".

Customer information orders: Scotland

20 (1) Section 397 (customer information orders) is amended as follows.

(2) In subsection (2), omit "property subject to".

(3) In subsection (3)—

(a) after "confiscation investigation" insert ", a civil recovery investigation", and

(b) omit paragraph (b) (and the "or" before it).

21 In section 399 (requirements for making of customer information order), for subsection (3) substitute—

"(3A) In the case of a civil recovery investigation, there must be reasonable grounds for suspecting that the person specified in the application—

(a) holds recoverable property or associated property, or

(b) has, at any time, held property that was recoverable property or associated property at the time."

Account monitoring orders: Scotland

22 (1) Section 404 (account monitoring orders) is amended as follows.

(2) In subsection (2), omit "property subject to".

(3) In subsection (3)—

(a) after "confiscation investigation" insert ", a civil recovery investigation", and

(b) omit paragraph (b) (and the "or" before it).

23 In section 405 (requirements for making of account monitoring order), for subsection (3) substitute—

"(3A) In the case of a civil recovery investigation, there must be reasonable grounds for suspecting that the person specified in the application holds recoverable property or associated property."

Part 2

Evidence overseas

24 Part 8 of the Proceeds of Crime Act 2002 (investigations) is amended as follows.

25 In section 341(3A) (definition of detained cash investigation)—

(a) after "investigation is" insert "an investigation for the purposes of Chapter 3 of Part 5 into—", and

(b) in paragraphs (a) and (b), omit "an investigation for the purposes of Chapter 3 of Part 5 into".

26 In Chapter 2 (England and Wales and Northern Ireland), after section 375 and the heading "Evidence overseas" insert—

"375A Evidence overseas

(1) This section applies if a person or property is subject to a civil recovery investigation, a detained cash investigation or an exploitation proceeds investigation.

(2) A judge may request assistance under this section if—

(a) an application is made by an appropriate officer or a person subject to the investigation, and

(b) the judge thinks that there is relevant evidence in a country or territory outside the United Kingdom.

(3) The relevant Director or a senior appropriate officer may request assistance under this section if the Director or officer thinks that there is relevant evidence in a country or territory outside the United Kingdom.

(4) The assistance that may be requested under this section is assistance in obtaining outside the United Kingdom relevant evidence specified in the request.

(5) Relevant evidence is—

(a) in relation to an application or request made for the purposes of a civil recovery investigation, evidence relevant for the purpose of identifying recoverable property or associated property, including evidence as to a matter described in section 341(2)(a) to (d);

(b) in relation to an application or request made for the purposes of a detained cash investigation, evidence as to a matter described in section 341(3A)(a) or (b);

(c) in relation to an application or request made for the purposes of an exploitation proceeds investigation, evidence as to a matter described in section 341(5)(a) to (d).

(6) A request for assistance under this section may be sent—

(a) to a court or tribunal which is specified in the request and which exercises jurisdiction in the place where the evidence is to be obtained,

(b) to the government of the country or territory concerned, or

(c) to an authority recognised by the government of the country or territory concerned as the appropriate authority for receiving requests for assistance of that kind.

(7) Alternatively, a request for assistance under this section may be sent to the Secretary of State with a view to it being forwarded to a court, tribunal, government or authority mentioned in subsection (6).

(8) The Secretary of State must forward the request for assistance to the court, tribunal, government or authority.

(9) In a case of urgency, a request for assistance under this section may be sent to—

(a) the International Criminal Police Organisation, or

(b) any person competent to receive it under any provisions adopted under the EU Treaties,

for forwarding to the court, tribunal, government or authority mentioned in subsection (6).

(10) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to requests for assistance made by a judge under this section.

(11) "Evidence" includes documents, information in any other form and material.

375B Evidence overseas: restrictions on use

(1) This section applies to evidence obtained by means of a request for assistance under section 375A.

(2) The evidence must not be used for any purpose other than—

(a) for the purposes of the investigation for which it was obtained, or

(b) for the purposes of proceedings described in subsection (3) or any proceedings arising out of such proceedings.

(3) Those proceedings are—

(a) if the request was made for the purposes of a civil recovery investigation, proceedings under Chapter 2 of Part 5 of this Act arising out of the investigation;

(b) if the request was made for the purposes of a detained cash investigation, proceedings under Chapter 3 of Part 5 of this Act arising out of the investigation;

(c) if the request was made for the purposes of an exploitation proceeds investigation, proceedings under Part 7 of the Coroners and Justice Act 2009 arising out of the investigation.

(4) Subsection (2) does not apply if the court, tribunal, government or authority to whom the request for assistance was sent consents to the use."

27 (1) Section 378 (officers) is amended as follows.

(2) After subsection (3A) insert—

"(3AA) In relation to a detained cash investigation these are senior appropriate officers—

(a) a police officer who is not below the rank of superintendent;

(b) an accredited financial investigator who falls within a description specified in an order made for the purposes of this paragraph by the Secretary of State under section 453;

(c) an officer of Revenue and Customs who is not below such grade as is designated by the Commissioners for Her Majesty's Revenue and Customs as equivalent to that rank."

(3) In subsection (6A)—

(a) after "investigation" insert "—

(a) ", and

(b) at the end insert—

"(b) a senior member of SOCA's staff is a senior appropriate officer."

28 In Chapter 3 (Scotland), after section 408 insert—

"Evidence overseas

408A Evidence overseas

'(1) This section applies if a person or property is subject to a civil recovery investigation or a detained cash investigation.

(2) A judge of the Court of Session may request assistance under this section if—

(a) an application is made by an appropriate person or a person subject to the investigation, and

(b) the judge thinks that there is relevant evidence in a country or territory outside the United Kingdom.

(3) An appropriate person may request assistance under this section if the person thinks that there is relevant evidence in a country or territory outside the United Kingdom.

(4) The assistance that may be requested under this section is assistance in obtaining outside the United Kingdom relevant evidence specified in the request.

(5) Relevant evidence is—

(a) in relation to an application or request made for the purposes of a civil recovery investigation, evidence relevant for the purpose of identifying recoverable property or associated property, including evidence as to a matter described in section 341(2)(a) to (d);

(b) in relation to an application or request made for the purposes of a detained cash investigation, evidence as to a matter described in section 341(3A)(a) or (b).

(6) A request for assistance under this section may be sent—

(a) to a court or tribunal which is specified in the request and which exercises jurisdiction in the place where the evidence is to be obtained,

(b) to the government of the country or territory concerned, or

(c) to an authority recognised by the government of the country or territory concerned as the appropriate authority for receiving requests for assistance of that kind.

(7) Alternatively, a request for assistance under this section may be sent to the Secretary of State with a view to it being forwarded to a court, tribunal, government or authority mentioned in subsection (6).

(8) The Secretary of State must forward the request for assistance to the court, tribunal, government or authority.

(9) In a case of urgency, a request for assistance under this section may be sent to—

(a) the International Criminal Police Organisation, or

(b) any person competent to receive it under any provisions adopted under the EU Treaties,

for forwarding to the court, tribunal, government or authority mentioned in subsection (6).

(10) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to requests for assistance made by a judge under this section.

(11) "Evidence" includes documents, information in any other form and material.

408B Evidence overseas: restrictions on use

'(1) This section applies to evidence obtained by means of a request for assistance under section 408A.

(2) The evidence must not be used for any purpose other than—

(a) for the purposes of the investigation for which it was obtained, or

(b) for the purposes of proceedings described in subsection (3) or any proceedings arising out of such proceedings.

(3) Those proceedings are—

(a) if the request was made for the purposes of a civil recovery investigation, proceedings under Chapter 2 of Part 5 of this Act arising out of the investigation;

(b) if the request was made for the purposes of a detained cash investigation, proceedings under Chapter 3 of Part 5 of this Act arising out of the investigation.

(4) Subsection (2) does not apply if the court, tribunal, government or authority to whom the request for assistance was sent consents to the use.

(5) The evidence may be received in evidence without being sworn to by anyone, so far as that may be done without unfairness to any party."

PART 3

CONSEQUENTIAL AMENDMENTS: IMMIGRATION OFFICERS AND NATIONAL CRIME AGENCY

Immigration officers

29 In section 378 of the Proceeds of Crime Act 2002 (investigations: appropriate officers etc), in subsection (3AA) (inserted by this Schedule), after paragraph (c) insert—

"(d) an immigration officer who is not below such grade as is designated by the Secretary of State as equivalent to that rank."

National Crime Agency

30 In section 378 of the Proceeds of Crime Act 2002 (investigations: appropriate officers etc), in subsection (6A)(b) (inserted by this Schedule), for "senior member of SOCA's staff" substitute "senior National Crime Agency officer".'.—*(Damian Green.)*

Brought up, read the First and Second time, and added to the Bill.

Clause 39 ordered to stand part of the Bill.

Schedule 19 agreed to.

Clauses 40 and 41 ordered to stand part of the Bill.

Clause 42

SHORT TITLE, COMMENCEMENT AND EXTENT

Amendments made: 80, in clause 42, page 43, line 13, after '18', insert 'to 22, *[Enforcement by taking control of goods]* and 23'.

114, in clause 42, page 43, line 26, at end insert—

'( ) An order which includes provision for the commencement of section[Investigations]or Schedule[Proceeds of crime: investigations]may not be made unless the Secretary of State has consulted the Scottish Ministers.'.

115, in clause 42, page 43, line 27, after 'Sections', insert '*[Civil recovery of the proceeds etc of unlawful conduct]* (except subsection (6)(a)),'.

116, in clause 42, page 43, line 27, after 'section', insert 'and Part 2 of Schedule *[Proceeds of crime: civil recovery of the proceeds etc of unlawful conduct]*'.

118, in clause 42, page 44, line 13, leave out 'or 35' and insert ', 35 or *[Deportation on national security grounds: appeals]*'.

117, in clause 42, page 44, line 24, at end insert—

'( ) The power conferred by section 52(2) of the Civil Jurisdiction and Judgments Act 1982 (power to extend to Channel Islands, Isle of Man and British overseas territories) is exercisable in relation to any amendment of that Act that is made by or under this Act.'.—*(Damian Green.)*

Amendment made:

71, in clause 42, page 44, line 25, leave out subsection (17). *(Damian Green.)*

Clause 42, as amended, ordered to stand part of the Bill.

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

Mr Hanson: On a point of order, Mr Caton. On behalf of Her Majesty's Opposition, may I thank you and your co-Chair, Ms Dorries, for bearing with us over the past few weeks? I would also like to place on the record my thanks to the Clerks for their help and assistance in tabling the numerous amendments, all of which have bounced off the Government with amazing impact today. I would like to thank colleagues from *Hansard* for recording our proceedings in detail, as normal, and the Badge Messengers and the police for their assistance.

I also thank the Ministers for what has been, I hope, a good-natured Committee. There have been one or two disagreements, but I hope they have been of a nature where there has been understanding, and which Members can appreciate.

I thank all my hon. Friends, not least the Whip and my colleagues on the Front and Back Benches, for their help and support in, hopefully, holding the Government to account. There was much talk in the last Parliament around the issues of early release. I hope that Government Members particularly will take on board that this is one Labour early release that they are very much in favour of.

Mr Browne: Further to that point of order, Mr Caton. It is a privilege, albeit one tinged with emotion and sadness, for me to have this opportunity to thank on behalf of the Government a whole host of people who have contributed to our deliberations.

I start by paying tribute to my Front-Bench colleagues: my right hon. Friend the Minister for Policing and Criminal Justice for the deft way in which he has handled the parts of the Bill on which he was leading; and my hon. Friend the Solicitor-General who has also made a substantial contribution. I am also grateful to the right hon. Member for Delyn, and to the hon. Members for Darlington and for Walthamstow, for the rigorous but generous-minded scrutiny that they have afforded the Bill throughout.

I am grateful to the Whips: the hon. Member for Poole, who has skilfully managed to get most Members to the Committee no more than two minutes after the start-point, which was all that was required to ensure a completely clean slate of successes; and of course the hon. Member for Sedgefield.

One gets to know all the other Members of the Committee a little bit better on these occasions. I have come across new pronunciations of "SOCA" and "RIPA" from the Opposition Front-Bench spokesmen. I have been further exposed to the accumulated wisdom of the right hon. Member for Wythenshawe and Sale East; we have benefited from his insights. I am grateful for the support and loyalty to the coalition of my hon. Friend the Member for Norwich South. And the hon. Member for Dover provides us with a whole range of insights too numerous to detail on this occasion, but they were appreciated by everybody.

I thank you, Mr Caton, and I thank Ms Dorries for literally coming out of the jungle to be with us.

I thank the Clerks of the Committee; I thank the *Hansard* reporters for recording what we meant to say, rather than what we actually said; and finally I thank all of the officials in the numerous Government Departments who have had responsibility for assisting Ministers with this Bill. It may have looked as if Ministers had all the information at their fingertips throughout, but I can reveal that occasionally we required a little bit of assistance to put on this incredibly professional performance, and we are extremely grateful to everybody behind the scenes who has contributed to making this Committee such a success.

Thank you very much again, Mr Caton. We look forward to gathering again on Report for one last turn before—I hope—this Bill becomes law.

Question put and agreed to.

Bill, as amended, accordingly to be reported.

3.26 pm

Committee rose.