PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

NORTHERN IRELAND (MISCELLANEOUS PROVISIONS) BILL

(Except clauses 1 to 9)

First Sitting

Tuesday 16 July 2013

(Morning)

CONTENTS

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Saturday 20 July 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: † Mr Philip Hollobone, Katy Clark

† Anderson, Mr David *(Blaydon)* (Lab)
† Campbell, Mr Gregory *(East Londonderry)* (DUP)
† Collins, Damian *(Folkestone and Hythe)* (Con)
† Donaldson, Mr Jeffrey M. *(Lagan Valley)* (DUP)
† Durkan, Mark *(Foyle)* (SDLP)
† Ellison, Jane *(Battersea)* (Con)
† Goggins, Paul *(Wythenshawe and Sale East)* (Lab)
† Goodwill, Mr Robert *(Lord Commissioner of Her Majesty's Treasury)*
† Hilling, Julie *(Bolton West)* (Lab)
† Johnson, Gareth *(Dartford)* (Con)
† Leech, Mr John *(Manchester, Withington)* (LD)
† Lloyd, Stephen *(Eastbourne)* (LD)
† Murphy, Paul *(Torfaen)* (Lab)
† Nash, Pamela *(Airdrie and Shotts)* (Lab)
† Parish, Neil *(Tiverton and Honiton)* (Con)
† Penning, Mike *(Minister of State, Northern Ireland Office)*
† Pound, Stephen *(Ealing North)* (Lab)
† Shelbrooke, Alec *(Elmet and Rothwell)* (Con)
† Wharton, James *(Stockton South)* (Con)

Simon Patrick, David Slater, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 16 July 2013

(Morning)

[Mr Philip Hollobone *in the Chair*]

Northern Ireland (Miscellaneous Provisions) Bill

(Except clauses 1 to 9)

8.55 am

The Chair: Good morning. It is a very hot day, so Members may remove their jackets if they wish. Members of the public in the Gallery may do so as well.

Before we begin, some brief explanation may be useful to those who are relatively new to Public Bill Committees. The Committee will first be asked to consider the programme motion on the amendment paper; debate on that motion is limited to half an hour. We will then consider a motion to report written evidence. Then we will begin line-by-line consideration of the Bill. The selection list for today's sitting is available in this room; it shows how the amendments selected for debate have been grouped together for discussion. Amendments grouped together are generally on the same issue, or on similar issues. The Member who has put their name to the leading amendment in a group is called to speak on it first. Other Members are then free to catch my eye to speak on the amendments in the group. A Member may speak more than once in a debate.

At the end of a debate on a group of amendments, I will call the Member who moved the leading amendment again. Before they sit down, they will need to indicate whether they wish to seek to withdraw the amendment or to seek a decision. If any Member wishes to press any other amendment in a group to a vote, they need to let me know. Please note that decisions on amendments take place according not to the order in which amendments are debated, but to the order in which they appear on the amendment paper; that is just to keep us all on our toes. I will use my discretion in deciding whether to allow a separate stand part debate on individual clauses and schedules following debates on amendments to those clauses and schedules. Clause stand part debates begin with the Chair proposing the question. There is no need for anyone to move that a clause stand part of the Bill. I hope that explanation is helpful.

Ordered,

That—

(1) the Committee shall (in addition to its first meeting at 8.55 am on Tuesday 16 July) meet at 2.00 pm on that date.

(2) the proceedings shall be taken in the following order: Clauses 10 to 21; the Schedule; Clauses 22 to 29; new Clauses; new Schedules; remaining proceedings on the Bill;

(3) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Tuesday 16 July. —(*Mike Penning.*)

Resolved,

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

Clause 10

Civil Service Commissioners for Northern Ireland

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

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

Clause 11 stand part.

Clause 12 stand part.

The Minister of State, Northern Ireland Office (Mike Penning): It is a pleasure to serve under your chairmanship, Mr Hollobone. We took clauses 1 to 9 on the Floor of the House, and we had quite an extensive debate on them. As we move into this stage of Committee proceedings, we get more involved in technical matters. Clauses 10 to 12 amend the Northern Ireland Act 1998 to move functions relating to certain arm's length bodies in Northern Ireland from the excepted matters in schedule 2 to a list of reserved matters in schedule 3.

Section 4 of the Act defines the legislative matters in Northern Ireland that may be excepted, reserved or transferred. Clause 10 will not change the current procedure for appointments to the Civil Service Commissioners for Northern Ireland—commissioners will continue to be appointed by the Crown—but it will make a minor amendment to the Act to provide legislative scope for the change to be made in future, should the Northern Ireland Assembly and the Government agree.

Similarly, clause 11 moves certain functions relating to the Northern Ireland Human Rights Commission from exempted to reserved. Clause 12 makes similar provision in respect of the District Electoral Areas Commissioner for Northern Ireland; hon. Members will be aware that those areas are set out slightly differently from how they are in the rest of the United Kingdom. This change will allow the Northern Ireland Assembly to rationalise the way in which local government electoral areas are set, subject to the consent of the Secretary of State.

In clauses 10 to 12, we are really trying to bring Northern Ireland as close as we can to the rest of the United Kingdom in regard to these measures. We are not completely there, but they allow us to have matters in hand, so that we can get on and make progress when the time is right. They move us closer to normalisation in Northern Ireland, which is something that I am sure the whole House would like to do.

Mark Durkan (Foyle) (SDLP): It is a pleasure to be under your chairmanship this morning, Mr Hollobone. Clauses 10 to 12, as the Minister said, will take a number of matters listed as excepted in the '98 legislation into the reserved category, essentially bringing them further into the devolved sphere, subject to an approval power held by the Secretary of State. As an enthusiastic devolutionist, I always want to see more powers and functions being devolved. As someone who has an eye

to good standards of probity, due merit in appointments, and inclusion, I think that we have to put on record some reservations about the character and quality of some of the appointments being made in the devolved sphere, and about the fairness and equity of some of the decisions made there.

Clause 10 deals with the Civil Service Commissioners for Northern Ireland, who have an important role that, thankfully, has not been controversial too often, though it has been decisive. At times, the commissioners have been decisive in making sure that senior appointments in the civil service were opened up to more public competition. They were obviously decisive in presiding over such appointments and bringing forward recommendations.

In my time as Deputy First Minister, there was the question of the appointment of the new head of the civil service. The then First Minister decided that he did not like anybody in the Northern Ireland civil service, and decided to take it entirely upon himself to march into Downing street and ask for the assistance of the Cabinet Office in finding a suitable civil servant in London who would take the job. There was no consultation with me, as Deputy First Minister, and no consultation whatever with any of the civil servants in Northern Ireland or his office. He was, of course, duly assisted by Downing street and Jonathan Powell, and was given a meeting with the head of the civil service here, who said that they would trawl for names and approach likely candidates.

We need to make sure that when we put anything in the devolved sphere, there are sufficient checks and balances to achieve the sort of norms and assurances that we would want. We also want to be assured that where powers are reserved to the British Government, they are actively exercised in a judicious way, and not on a whoever-comes-to-them, whatever-you're-having-yourself basis. That is hugely important.

We got the matter of the civil service head sorted. When I confronted the First Minister, and when civil servants protested about the legal question mark that would have been created if he had got his way and the appointment had been made in that way, he complained to me that it was an awful pity that he could not have a private conversation in London any more. There could have been quite a number of challenges from eligible candidates for the post if there had been such a high-handed dismissal of their eligibility.

The Civil Service Commissioners, who presided over that appointment, have a sensitive position. It is important that people have a sense that they are not working simply on the basis of to whom they owe their appointment; they should not feel that they owe their appointment to the First and Deputy First Minister, or to the parties in the Office of the First Minister and Deputy First Minister.

Similarly, the Northern Ireland Human Rights Commission has an important role that should not be seen to be, and should not be, purely partisan. Unfortunately, over a number of years, many people have seen appointments to the Human Rights Commission, even by the Secretary of State, as being essentially on party lines, and along the lines of who will shore up whose confidence in the Human Rights Commission. That in itself would be an eligible consideration where there are doubts about the role of the Human Rights Commission, but when some of those people come on to the commission and appear to oppose its role, or question its fundamental purpose, more questions are raised about the nature of the appointments.

Again, if we see appointments in the devolved sphere as falling to the First and Deputy First Minister, we will have problems, because other parties will feel excluded, and many non-party interests will feel excluded or used, so we need to make sure that standards are being upheld as far as devolved appointments are concerned. That is certainly something that we should be at pains to establish on each occasion, with regard to the reserved powers of the Secretary of State.

When we negotiated the Good Friday agreement and established the institutions, many of the appointments were made on the basis that parties were consulted and allowed to nominate. Non-party interests and non-party nominations were sought as well. Under the management of Sinn Fein and the Democratic Unionist party, that has been less and less the case. For bodies that are fundamental to the agreement, such as those north-south bodies that have boards—the north-south implementation bodies—originally it was the case that all parties were allowed to nominate and were offered nominations, but that is no longer the case. Sinn Fein and the DUP do the nominations. Nobody else is consulted, invited or involved. It is just their show now.

People who served well on some of the bodies and would have been in a position to step forward to chair them, given their experience, found themselves completely discarded and replaced by others who came in with no real sense or knowledge of, or care for, the agenda of those bodies or work groups. We need to be very clear that we cannot simply say, "We trust you with all those appointments; just do what you want." If this is going into the devolved sphere, we want to encourage it to be done on as inclusive and transparent a basis as possible.

Mr Gregory Campbell (East Londonderry) (DUP): Does the hon. Gentleman agree that the situation that he is outlining, in a way that may be somewhat partisan, is fully open to rigorous scrutiny by the Northern Ireland Assembly? The entire process has been subjected to that scrutiny in the past, and I am sure it will continue to be subjected to it.

Mark Durkan: It actually was not subject to that sort of scrutiny, because when people asked questions, they were told that the issue of appointments was protected as a confidential matter. They were not allowed to see who else was considered. The process has not been transparent, not least when it came to north-south bodies and suchlike. Those of us who tried to get some account of that were not in a position to do so, and found it hard to force the issue.

There is, of course, an additional consideration, given recent controversies about donations to parties and commercial influences that may have motivated decisions that Ministers made about contracts and the conduct of the affairs of public bodies. Those questions also pertain to the issue of public appointments. There have been controversies about public appointments; it has turned out that some of the people appointed were donors. People had not appreciated before the appointment that those people were donors to a particular political party.

[Mark Durkan]

There was a controversy with the Maze panel over the role of Terence Brannigan. Sinn Fein said that it did not know, when it agreed to a DUP nominee being chair of the panel, that it was someone who had become a significant donor to the DUP. We cannot wait for these things to spill out by accident. Again, it was hard to force that issue, because people were told, "Well, it's a small enough place; it's very hard to appoint people who are not donors, and you can't only appoint non-donors." I accept that we cannot appoint only non-donors, but there needs to be full transparency. Whenever that issue has been established, people have been able to absorb it and take it in, which proves that there was no need to avoid transparency in the first place.

Mr Campbell: I thank the hon. Gentleman for giving way again. Does he agree that there is a world of difference between someone who is a member of a political party being appointed to chair a panel, and appointing someone who is a significant donor? I am sure that he understands the distinction I am making.

Mark Durkan: There can be a world of difference, but there can also be a dubious blur of a difference, particularly when we do not have transparency in relation to donations. It is one thing to be on a definite path, and to know that at a particular point in the calendar, transparency will be there and will apply all around; the problem is that people are left in a twilight zone where it is hard to know the difference, or even whether there is a difference. With many of these things, it is like the old advert for soup: the difference is in the thickness. I accept that, but the point is that when there are doubts or concerns, it is an issue that we should not completely disregard as we deal with the three clauses before us.

Local government boundaries are already a transferred matter, and the Bill proposes to transfer more issues in the domain of how local government boundaries are composed into district electoral areas. DEAs are groupings of wards that, in effect, become the contested electoral area for councillors. A decision will be made on whether there will be three, four, five or six wards in a particular DEA. Obviously, the higher the number of wards in a DEA, the higher the number of councillors, because there is one councillor per ward. Furthermore, the higher the number of wards in a DEA, the greater the spread afforded to parties in terms of proportional representation. The lower the number of wards, the lower the spread, which is why the whole issue of boundaries, not least for Dáil Éireann, becomes quite contested. Many parties take issue when the Government there opt for three-seat and four-seat constituencies; they see it as an attempt to reduce things for other parties. Again, it becomes a sensitive issue. If the decision on the composition of boundaries becomes more and more a devolved matter, we must ensure that there are protections, so that there is not abuse to serve partisan interests.

Again, we have form on this, in this phase of devolution. When the devolved power relating to local government boundaries was being exercised a few years ago, the Local Government (Boundaries) Bill was introduced in the Northern Ireland Assembly, which appointed a Local Government Boundaries Commissioner. The Bill actually set the boundaries; it did not leave it to the Local Government Boundaries Commissioner to come up with boundaries, look at councils and say what would be a natural composition, what was a natural hinterland, and so on. It actually fixed the boundaries, so Sinn Fein and the DUP fixed the boundaries for 11 councils. They picked the number 11 between themselves.

Under the current dispensation, the proportion of the population that lives under a council that has a nationalist majority, and the proportion that lives under a council with a Unionist majority, are on a par with the Unionist and nationalist share of the population as a whole. Uncannily, the boundaries seem to reflect the population split in Northern Ireland. Of course, the new boundaries do not do that; they will take 100,000 people out of councils that are under overall nationalist control and put them into councils that are under overall Unionist control.

One might wonder, "Why would Sinn Fein go along with the sort of gerrymandering that puts more people under Unionist control and takes people from nationalist control, with absolutely none going in the other way?" It is simply because Sinn Fein wanted to fix the boundaries in the two main cities as best suited it, so that is what it did. It was an entirely expedient exercise of the power relating to local government boundaries.

9.15 am

With that experience, it is difficult to assure people that we do not have to worry about decisions regarding the district electoral areas. We need to ensure that the Secretary of State is alert to those sensitivities and is aware of what has happened in the past. I do not know whether she has listened to any of the points made on this subject in earlier stages of the Bill. However, if we are to take seriously the decision that we are making about moving these powers, it is important that we hear from the Government that the Secretary of State and the Minister—and their successors, in so far as the Minister can commit them—will be alert to such issues and sensitivities, and will seek due assurance at all times when the powers are exercised.

Mike Penning: I thank the hon. Gentleman for raising some important issues, even if we did debate some of them on the Floor of the House. One of the reasons why the Government continue to keep reserved powers in this area is so that we can do exactly what he suggests: keep a close eye on what is going on. We are committed to consulting extensively on when these matters can eventually be devolved to the Assembly. At the moment, as we know, all three bodies will remain under the reserved powers of the Secretary of State. She will keep a close eye on the issue, with my assistance, as will whoever replaces us, should that ever happen.

Question put and agreed to.

Clause 10 accordingly ordered to stand part of the Bill.

Clauses 11 and 12 ordered to stand part of the Bill.

Clause 13

REMOVAL OF REQUIREMENT THAT CANVASS FORM MUST BE PRESCRIBED FORM

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

Mike Penning: Since the introduction of individual electoral registration in Northern Ireland in 2002, Northern Ireland has used a different canvass form from the rest of the United Kingdom. The form itself, not just its core elements, needs to be enshrined in secondary legislation, which Parliament discussed only last week. That means that every time there is a canvass, secondary legislation is needed to ensure that the form is kept up to date.

With the introduction of individual electoral registration in Great Britain, there is an opportunity to bring the electoral registration systems in Great Britain and Northern Ireland closer together, which is what the clause will do. By making it possible for the Electoral Commission to have a role in the process—a point made by the hon. Member for Foyle earlier—we think that we will get much better scrutiny, and that will bring Northern Ireland much closer to what goes on in the rest of the United Kingdom.

The Chair: I now call a Member whose sartorial discipline puts the rest of us to shame.

Stephen Pound (Ealing North) (Lab): Actually, my shirt has no back to it. I rise to make a brief point on a matter that we discussed earlier. The inaccuracy of the register—there is a 20% level of inaccuracy—is of concern to many of us. Will the Minister indicate how that will be reviewed and kept under scrutiny? Will a mechanism to increase the accuracy be reported to the House, for obvious reasons?

Mike Penning: The shadow Minister makes a very good point, which we have discussed before. It is why I brought through individual registration this year, early: so that we can have door-to-door canvassing and a much better understanding of the situation.

The accuracy of the register is not the only big issue in Northern Ireland; there is also the big issue of having people on the register. As politicians, we go out and try to convince individuals to vote for us, but there is no point if they are not on the electoral register. That is an issue that the Electoral Commission and I will take forward, so that we can better educate the electorate on their rights. As I say, if people are not registered, they cannot vote.

Also, it is imperative to have an accurate register if we want democracy anywhere in the UK. That is why we will report to the House as to the accuracy of the register; that is a very important point. I will ensure that that takes place, but at the same time the accuracy of this year's canvass will be very important. I urge all political parties in Northern Ireland to work together on that canvass.

Question put and agreed to.

Clause 13 accordingly ordered to stand part of the Bill.

Clause 14

Registration as an elector: abolition of 3 month residence requirement

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

Mike Penning: Clause 14 is very important. Everybody has the right to vote, should they be within the United Kingdom, but a small group of people are excluded from voting in Northern Ireland, because they have not been resident there for three months before an election. Clause 14 will remove that situation and ensure that nobody loses their right to vote.

The plainly obvious example is people working in different parts of the United Kingdom. It is important that people can work wherever they can. For instance, if someone was working in London and they only went back to Belfast permanently 10 weeks before an election, they would be excluded from voting. This clause removes that issue and ensures that everybody has the right to vote. That is why it is particularly important.

Mark Durkan: As the Minister has indicated, there are commendable aspects to this change, which will make it more convenient for people to get themselves properly established on the register, not least in advance of an election. Of course, people want to be on the register, not only so that they have a right to vote, but because a number of other services and issues are determined and influenced by reference to whether or not someone is on the electoral register.

Many people register either when they are coming back home to where they lived before in Northern Ireland, or when they are coming to Northern Ireland for the first time. Sometimes it suits people to get the electoral identity card, for which they are eligible once they are registered, so the ability to get the ID card is something that counts. It certainly counts a lot for young people, who may not otherwise have photographic ID in the form of a driving licence or passport. That is a particular reason for the change.

Another sensible aspect of the change is that we have had a bizarre situation where the electoral officers in Northern Ireland have been telling people who have presented themselves, "Well, we need proof that you have been resident for three months", and if people are not in a position to produce historical utility bills and so on, they are told, "Sorry, no, we can't put you on the register without proof." Then the people say, "Well, how can we get proof?" The officers say, "If your MP writes to us saying that you have been resident for three months, that would be okay." That puts MPs in the invidious position of basically being the gatekeepers of whether or not some citizens can be registered.

That gives MPs a difficulty. How would an MP satisfy themselves that the requirement had been met? I think that it has happened to Members of the Legislative Assembly as well. How would they satisfy themselves that someone had been duly resident for three months, so that they can give the necessary assurances? They are then in the invidious position of saying, "I can't give an assurance that you have been resident here for three months." It is important that that invidious anomaly—that strange position that electoral officers have taken—is removed.

However, there are other issues in relation to removing the three-month requirement. If we quickly come up to an election, and there is a sudden surge of added registration somewhere, that will cause its own issues, and I know that the Electoral Office for Northern Ireland will try to guard against that and show vigilance.

[Mark Durkan]

I know questions have arisen, and I certainly know that some of the parties in the south have asked questions about the amount of double registration in border constituencies either side of the border, and that the same people are registered north of the border as are registered south of the border. Obviously, when parties are campaigning on either side of the border, that could well be of particular advantage to them. There would be nothing to prevent people, if they were registered on both sides of the border, from voting on both sides of the border in the European elections next year. That would not be against the law, because they would be voting in separate elections, as with people voting in two by-elections on the same day in two different constituencies. That happened in 1986 in the by-elections called over the Anglo-Irish agreement. I know of a number of people who voted in more than one constituency because they were allowed to be registered in more than one constituency. That was legal, but we need to be alert to any possible abuse or temptation towards abuse. We need to be assured that the added convenience and straightforwardness of the change will not be open to any manipulation that might cause concerns or scandals should it arise.

Stephen Pound: With regard to the wise words of the hon. Gentleman, like most MPs, I would be delighted to choose who is allowed on the electoral register. However, we should probably not go down that road.

The hon. Gentleman referred to double registration. Will the Minister confirm whether there is to be a campaign in Northern Ireland when the provision is enacted, as I sincerely hope it will be, to draw attention to double registration? As I understand it, in the rest of the United Kingdom it is perfectly permissible for people to be registered in different constituencies, although obviously not to vote in different constituencies. Will advice be given to those registering under the new rule as to the propriety of being registered in another jurisdiction? Will such information be out there?

The provision will make a major change and the Minister is right to refer to the salience of the clause. We must make sure that everyone understands it thoroughly. No one in this room needs convincing that the potential for mischief in electoral registration is vast and limitless.

Mike Penning: I thank the hon. Members for Foyle and for Ealing North for their contributions to the debate. The clause is important. It will not take away the requirement for proof of address, but it will remove the requirement for someone to prove that they have to have been at that address for three months, thereby taking away the gatekeeping role, which I have heard a lot about during my short time as a Minister. Indeed, some of my electorate might find interesting the concept of accepting what a politician says rather than what someone else says.

Matters are moving on more and more, as we gently, gently move to as much normalisation as possible. There are risks, which were alluded to by the shadow Minister. Earlier, I referred to educating the electorate. Northern Ireland has a very sophisticated electorate, but in many ways there are things that they have not been fully informed about over the years. I passionately believe that the Electoral Commission will take hold of that role and move forward. However, it can do so only with the help of the public and all political parties. Difficult issues are involved, which I do not need to go into, and we must ensure that the electorate receive as much information as possible.

Double registration—and, in some cases, triple registration—has occurred around the United Kingdom for years. It does not seem to be a major problem within Great Britain, and Members of Parliament with two homes have the opportunity to vote for themselves or to vote elsewhere. I always use the word "normalisation", which was used by Ministers long before my time. Normalisation is enormously important and part of the process, which is why the clause is so important.

Question put and agreed to.

Clause 14 accordingly ordered to stand part of the Bill.

Clause 15

REGISTRATION AS AN OVERSEAS ELECTOR: DECLARATION OF NATIONALITY

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

Mike Penning: The clause, like all parts of the Bill, is important. The Belfast agreement recognised the birthright of the peoples of Northern Ireland to identify themselves and be accepted as Irish or British or both, as they may choose. All overseas electors are required to make a nationality declaration when they apply to vote. The clause will make that nationality declaration compatible with the Belfast agreement, which is an important change to the legislation.

9.30 am

The change is technical, but emotive. The clause does not expand the franchise beyond British citizens. Rather, it involves individuals who are already entitled to vote, but feel unable to exercise that entitlement because of the requirements of identity to identify themselves as Irish.

I accept that the issue is emotive. On paper, the changes are consequential, but the issue is felt much more strongly in Northern Ireland. However, the changes are an important part of ensuring that the Belfast agreement is recognised within the legislation.

Mr Campbell: It is a pleasure to serve under your chairmanship, Mr Hollobone.

The Minister talked about the Government's acceptance of the nationality of people living in Northern Ireland, whether they determine themselves to be Irish or British. That raises an exceptionally important point, which he knows I have raised on a number of occasions and will keep raising until we arrive at a satisfactory conclusion. Many thousands of people in Northern Ireland—the figure is certainly in the tens of thousands—were born in the Irish Republic after 1949, when the Irish Free State left the Commonwealth. People who were born in the Republic before that date had the right to British citizenship and a British passport, but anyone born in the Republic since 1949 who has moved to Northern Ireland does not.

There are therefore many thousands of people—the Speaker of the Northern Ireland Assembly is but one very prominent and eminent example—who, if they go along, as any other citizen in Northern Ireland does, to their local post office, can apply for an Irish passport and, having paid the required fee, get that passport, as they are deemed to be an Irish citizen. However, if those same people go along to the passport office in Belfast, or write to the one in London, they cannot get a British passport, despite the fact that they are a British resident, a British voter and a British taxpayer here in the UK.

Those people can get a British passport if they go through the complicated and expensive process of naturalisation, but they constantly tell me that, despite the demand for, as the Minister put it, equality of citizenship, whether Irish or British, those who want an Irish passport do not have to naturalise or pay an exorbitant fee. To get an Irish passport, they simply have to apply, and they receive one, because they are deemed to be Irish citizens.

That anomaly must be addressed. I have raised it on the Floor of the House and will raise it again if the Bill does not address it. Several years ago, I introduced a private Member's Bill on the issue, and it will keep being raised until the anomaly is resolved. That group of people in Northern Ireland, who are proud British residents, voters and UK taxpayers, also want the pride of being British passport holders and British citizens. The Government must deal with that issue. If they do not do so in the Bill, they must address it in the very near future.

Mark Durkan: The clause centres on a person's eligibility to be an overseas elector—that is the import. The provisions solve part of the problem, part of the way, but they leave a residual problem. The hon. Member for East Londonderry has spoken of how the issue, as he sees it, affects the people who are resident—quite often have been long resident—in Northern Ireland, but were born in one of the counties of the south, which makes them ineligible for a British passport.

Obviously, I am not here to address the issue of passport eligibility, but the group that the hon. Gentleman referred to will be caught by the clause. If Willie Hay, the Speaker of the Northern Ireland Assembly, or Sean Farren or Brid Rodgers, distinguished former Ministers in the Northern Ireland Executive—all of them long-standing participants in the democratic process in Northern Ireland—moved abroad for a short period, they would be ineligible to register as overseas electors because none of them was born in Northern Ireland. Therefore, the clause remedies the problem only for people who were born in Northern Ireland.

I want to lay down a marker that we need to consider making a further change to allow people to qualify to be overseas electors in Northern Ireland on the basis of having been on the register in Northern Ireland for a certain number of years. Such a measure would not necessarily have to go so far as to consider the length of time that a passport had been held, but it would at least remedy the problem by allowing people to qualify as a registered elector not only by virtue of their place of birth, but through their tenure as a registered elector in Northern Ireland. Therefore, if a person lived and worked abroad, they could continue to take an active interest in and to have an input to the democratic process in Northern Ireland.

The purpose of having overseas electors is to prevent people from becoming disfranchised and losing their involvement in the democratic affairs of their nation or their locality. Although the clause goes some way to bringing the overseas electorate qualifications in line with the Good Friday agreement, there is still an element of disfranchisement, which can reasonably be addressed by another route. However, I accept that that would require a further amendment, rather than those proposals available to us now.

Mike Penning: I thank the hon. Members for East Londonderry and for Foyle for their comments on the clause.

I do not want to deviate too much from the content of the clause. I believe the hon. Member for East Londonderry tried hard to table an amendment, but it was out of my hands. He raised an important issue, but it is not the responsibility of my Department. I have met the hon. Gentleman and his colleagues about this subject. I have spoken to the Immigration Minister and the Home Secretary, and this is very much a matter for them. I commend the hon. Gentleman on his vigilance and on going on and on about something he is passionate about. I have some sympathy with him, but the issue is not the responsibility of my Department and it is not part of clause 15.

I am pleased that the hon. Member for Foyle appreciates where we are going. We have not been able to introduce a clause that addresses all our concerns, but the clause goes some way towards alleviating some of his concerns, particularly about the way in which the Good Friday agreement has been implemented. The clause has been introduced a long time after the Good Friday agreement was implemented, but, as I said, I think it is important. I am pleased we have had a short debate on it, and I hope it will stand part of the Bill.

Mr Campbell: Does the Minister agree that the point he made at the beginning of his comments on the clause, that the right of people in Northern Ireland to deem themselves to be either British or Irish, works both ways? If it works both ways, the anomaly has to be addressed at some point.

Mike Penning: I do think it works both ways, but I am not going to be drawn into that debate on this clause.

Question put and agreed to

Clause 15 accordingly ordered to stand part of the Bill.

Clause 16

Absent voting

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

Mike Penning: The clause addresses a small group of voters who could be disfranchised. I fully understand that the legislation is the way it is because of concerns about fraud in the electoral process. However, I think that it is wrong that someone who falls ill close to an election is disfranchised because they do not have an absent vote opportunity, which they would have in the rest of the United Kingdom. This is therefore an important

[Mike Penning]

move forward. I am sure the shadow Minister will agree that we have to be really vigilant, and that the Electoral Commission has to be absolutely vigilant that these provisions are not abused, but in the 21st century, we cannot have people being disfranchised because of their health. I therefore commend the clause to the Committee.

Mark Durkan: I simply underline the point that the Minister has made: people will want to make sure that this added facility to ensure that people can participate in elections by being able to obtain an absent vote at relatively short notice—more convenient notice than is available now—is not abused, particularly not in combination with the added facility for people to register. Someone will need to watch what sort of linkage there is between the numbers of late registrations overall or in any given area and the number of absent voting applications for those people who registered late.

We also want to ensure consistency of practice across district electoral offices. In relation to absent ballots in the past, people have compared anecdotes that suggested marked differences in practice as to whether volumes of postal vote applications or proxy votes were allowed or approved. There were question marks about the same names appearing as witnesses in different times or different ways—there were all those sorts of issues. It is important that the chief electoral officer keeps a weather eye on that and ensures that the district electoral offices are managing the new facility in a way that works for voters rather than in the organised interest of any one party or candidate, which would be untoward.

People will particularly want to see whether in practice any party tries to ramp up its position via the electoral register by combining a number of new provisions. That is not just something that the chief electoral officer would have to look at; the Electoral Commission, in its wider role, would also want to keep a weather eye on that.

Stephen Pound: There is something about spending part of a sweet summer's morning actually doing good and tidying up. I concur with the Minister's comments about the good sense of these measures. I can think of members of the armed forces in my constituency who have been posted abroad or away from their home base at very short notice, and who have not had the opportunity to vote.

I want to pick up the point made by the hon. Member for Foyle about consistency. Inevitably, clause 16 will have consequences for local government organisation. If a large number of people make applications close to polling day, there will be staffing, financial, organisational and structural consequences, and I think that consistency will be an issue. I do not wish to sound overmuch like a broken record, because I have confidence in the Minister, but could this matter at least be reviewed on an annual basis, as I am sure it will be by the inestimable Northern Ireland Office, if not the Assembly? That way, at some stage we can see whether late registration has had extensive consequences. If I may dare to attempt to speak for the whole Committee, I think that every single one of us will support late registration, but we just want to make absolutely sure that it does not engender any problems and proceeds smoothly and with consistency.

Mike Penning: I could not agree more with the comments by the shadow Minister. We will monitor the situation very carefully, not least because the Electoral Commission has indicated to me, as the Minister responsible, that the clause will affect a small group of people. If we suddenly find that a large group of people in a particular part of the Province—perhaps even in a particular estate—is registering late, alarm bells will ring. I have insisted that we have the capacity within the agency to make sure that we deal with that.

9.45 am

I completely agree that there were myriad groups that previously fell under this category. The shadow Minister mentioned the armed forces, and 20% of the deployed Territorial Army in Afghanistan come from the Province. I pay tribute to them; I was with 204 Royal Army Medical Corps Territorial Army only the other day to help present their Afghan campaign medals. Members of the TA in particular are posted at short notice and we would not want them to be disfranchised. Ensuring that members of the armed forces could vote was an emotive issue even when I served many years ago.

To respond to points made in the debate, absent votes will not be allowed unless proof of being in the armed forces is provided, but that would be evidential. This is an important measure that needs careful monitoring and we will provide that. We start from a zero base. There is an assumption of the need for this measure, but we and the Electoral Commission will monitor this carefully. Should there be a surge of applications, we will make sure that alarm bells start to ring.

Question put and agreed to.

Clause 16 accordingly ordered to stand part of the Bill

Clause 17

ELECTORAL IDENTITY CARDS

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

Mike Penning: In Northern Ireland, photographic evidence is required for electoral registration. At the moment, the penalty for giving false information on identity is not the same as giving a false home address. That will be married up to make a similar offence for both. If someone commits one type of fraud, they will find that the penalty will be the same for electoral registration and applying for proof of identity. Clause 17 intends to close a loophole by making it a serious offence for a person to indicate fraudulently that they are not who they are.

Question put and agreed to.

Clause 17 accordingly ordered to stand part of the Bill.

Clause 18

CHIEF ELECTORAL OFFICER: DUTY TO TAKE NECESSARY STEPS

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

The Chair: With this it will be convenient to discuss clause 19 stand part.

Mike Penning: Members of the Committee will be aware that the way in which elections are administered in Northern Ireland is different from Great Britain. In Great Britain, registration and returning officers are employed by local authorities, whereas the chief electoral officer for Northern Ireland is a statutory appointee.

Clause 18 ensures that the chief electoral officer for Northern Ireland is subject to the same duty as registration officers elsewhere in the United Kingdom and I am sure that we would all agree with this measure. The Government monitor the performance of registration and returning officers in Great Britain and will do similarly in Northern Ireland.

9.46 am

These two consequential clauses are designed to move towards further normalisation in the Province so that the rules of the chief electoral officer in Northern Ireland will be similar to those of the returning officer in Great Britain. The Electoral Commission carried out a pilot in 2012 to 2013 of the process brought forward by this measure. I hope that the Committee agrees that clauses 18 and 19 should stand part of the Bill.

Question put and agreed to.

Clause 18 accordingly ordered to stand part of the Bill.

Clause 19 ordered to stand part of the Bill.

Clause 20

DATA SHARING

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

Mike Penning: Individual electoral registration was introduced in Northern Ireland in 2002 as part of a package of measures to combat electoral fraud, which is something that we have already discussed this morning. With the introduction of individual electoral registration in Great Britain, there is an opportunity to bring the two systems closer together and increase consistency across the United Kingdom. The clause extends regulation-making powers created in schedule 2 to the Electoral Registration and Administration Act 2013 to Northern Ireland and repeals similar powers where necessary. We do not envisage that the powers will be used immediately. However, to avoid further divergence of the two systems, it is important that we put it on statute that the Secretary of State has the power to bring measures forward when she or he sees fit.

Question put and agreed to.

Clause 20 accordingly ordered to stand part of the Bill.

Clause 21

RULES OF COURT

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

The Chair: With this it will be convenient to discuss that the schedule be the schedule to the Bill.

Mike Penning: The provisions have two purposes. The first, addressed in paragraphs 1 and 2 of the schedule, is to rectify an error in the provisions for making court rules to deal with an excepted matter in Northern Ireland following the devolution of policing in 2010. In other words, this is a tidying-up exercise.

The schedule's second purpose is to make changes to the rule-making procedures for the magistrates court, county court and inquests to bring such procedures into line with the other court rule-making procedures. We expect the legislative consent motion to be secured before the Bill goes to the Lords.

Question put and agreed to.

Clause 21 accordingly ordered to stand part of the Bill.

Schedule agreed to.

Clause 22

EQUALITY DUTIES

Mr Jeffrey M. Donaldson (Lagan Valley) (DUP): I beg to move amendment 1, in clause 22, page 15, line 35, after 'authorities)', insert '—

'(a) in subsection (1), after paragraph (d) insert—

"(e) between those who are victims and survivors of the conflict and those who are not; and

(f) between those who have been members of Her Majesty's armed forces and those who are not.".

(b) after subsection (1) insert—

"(1A) person is excluded from any benefit arising from this Act by virtue of (1)(e) if that person has been convicted of a serious criminal conviction."

(c) '.

The Chair: With this it will be convenient to discuss amendment 2, in clause 22, page 16, line 3, at end insert—

'(1A) In subsection (5) of that Act insert—

""victim and survivor of the conflict" is defined as—

(a) any person who has suffered harm caused by an act related to the conflict in Northern Ireland, for which they are not wholly or partly responsible, that is in violation of the criminal law,

(b) any person who provides a substantial amount of care on a regular basis for a person as outlined in paragraph (a), where the harm suffered is a physical or psychological injury.

"serious criminal conviction" means a conviction, whether the person was convicted in Northern Ireland or elsewhere, for an offence for which—

(a) a sentence of imprisonment of five years or more was imposed,

(b) a sentence of imprisonment for life was imposed.".'.

Mr Donaldson: I echo my hon. Friend the Member for East Londonderry in saying that it is a pleasure to serve under your chairmanship, Mr Hollobone.

The amendments are important to us. Section 75 is a key provision of the Northern Ireland Act 1998 and I would venture to suggest that it is the most often quoted section, because it places a statutory duty on all public authorities in the execution of their duties to give due regard to equality of opportunity to certain specified

[Mr Donaldson]

groups. The Equality Commission for Northern Ireland set it out that the duty places upon public authorities a requirement

"to have due regard to the need to promote equality of opportunity between: persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; men and women generally; persons with a disability and persons without; and persons with dependants and persons without."

Amendment 1 would add two further groups to be specified under section 75 of the 1998 Act. The first additional group is the victims and survivors of the troubles in Northern Ireland and the second is those who have served in the armed forces. It is evident from section 75 that the measure is about promoting equality of opportunity, but it is also about identifying groups within society that are deemed potentially vulnerable and therefore merit special protection under the 1998 Act.

We believe, first, that victims and survivors of the conflict in Northern Ireland are deserving of that special protection. Secondly, we believe that, having regard to the military covenant and the desire to afford special support to those who have served our country, section 75 ought to be amended to include those who have served in our armed forces as a specified group.

Clause 22 already provides for some amendment to section 75, and we believe that our amendments merit consideration by the Government. Sadly, tens of thousands of people might be categorised as victims and survivors of the Northern Ireland conflict. Many of them have been disadvantaged through bereavement; that includes financial loss as a result of losing the main earner at a young age. There are many families in Northern Ireland who have suffered as a result of that. Others have a range of needs, particularly with respect to physical and psychological trauma or injury caused by the conflict. Indeed, people who have suffered injuries as a result of the troubles have made the case that their needs are not adequately being provided for.

Recently, the victims' support group at the WAVE trauma centre produced a report, which I commend to all Members. It identified the great need in Northern Ireland for support for those who have suffered psychological trauma or have physical injuries as a result of conflict-related incidents. Indeed, an international report states that the level of trauma in Northern Ireland is higher even than that in, for example, Lebanon. Given that Northern Ireland has among the highest levels of post-conflict trauma of any region in the world, victims and survivors merit special consideration and protection under section 75 of the 1998 Act.

Amendment 2 defines what is a victim and survivor for the purposes of section 75, and members of the Committee will note that there are two specific exclusions. The first relates to an individual who is a victim as a result of their own act—in other words, someone who injured themselves as a result of being involved in unlawful activity, who cannot, for the purposes of this provision, be considered someone who will benefit from the Bill.

Secondly, there is an exclusion in relation to those who have been convicted of a serious criminal offence. Members of the Committee might ask why we need to define a victim and survivor in such a way. The reality is that under the Victims and Survivors (Northern Ireland) Order 2006 a victim and survivor is defined as anyone who has suffered loss, either through bereavement or through injury or physical or psychological trauma, as a result of the Northern Ireland conflict. That means, in effect, that if someone was a member of a terrorist organisation, proscribed in law, and sustained an injury or loss as a result of the conflict, they can be defined as a victim. For my hon. and right hon. Friends on the Government side of the Committee, that means that, under the current definition, the perpetrators of the attacks that resulted in the murder of their colleagues, Airey Neave and Ian Gow, and the death of the victims of the Brighton bomb, are, if they sustained a loss or injury as a result of the troubles, equated with those whom they sought to kill.

It causes deep hurt and offence in Northern Ireland that perpetrators are equated with innocent victims. We do not believe it is right that special protection and status under section 75 are afforded to those who were engaged in acts of terrorism. Therefore, we have included these two exclusions to make it clear that a victim and survivor for the purposes of section 75 is not someone who was injured or sustained loss as a result of their own act, or someone convicted of a serious criminal offence. We define a serious criminal offence as one where a sentence of imprisonment for five years or more, or a sentence of imprisonment for life, was imposed.

10 am

The second group is the armed forces. The Minister will be aware that there is an issue around how Departments in Northern Ireland interpret their statutory duty under section 75 with regard to the implementation of the military covenant. The Select Committee on Northern Ireland Affairs is undertaking an inquiry on that very subject, and its report is due imminently.

I have had correspondence with Departments in Northern Ireland on behalf of veterans who are my constituents. For example, I have had a response from a Department stating that it is unable to provide my constituent with the support he needs because, under section 75, it is prevented from giving what it deems to be preferential treatment to members of the armed forces or to veterans.

I happen to believe that that is a misinterpretation of the military covenant, but, nevertheless, there is an issue around section 75 and whether it inhibits Departments in Northern Ireland from providing the support and benefits envisaged in the military covenant for those who have served our country. Our amendment would place that beyond doubt and clear the matter up by offering the clarity that Departments need: individuals who have served in the armed forces would be a specified group for the purposes of section 75.

We believe that individuals who serve our country and who come back to live in their homeland of Northern Ireland are entitled to the kind of protection afforded by section 75. That includes people who are not native to Northern Ireland, such as soldiers who served in the armed forces in Northern Ireland, met a local girl, got married and settled down in the Province. There are many of them and I have met them. The amendment would ensure full and proper implementation of the military covenant in Northern Ireland.

I commend the amendments to the Committee; they are worthy of support. People in Northern Ireland will understand why there is a need to afford the protections of section 75 to victims and survivors of the conflict and to those who have served our country in the armed forces.

Mr David Anderson (Blaydon) (Lab): It is a great pleasure to serve under your chairmanship, Mr Hollobone.

I would like to make a number of points about what the right hon. Member for Lagan Valley said. For me, the issue of victims and survivors is one of definition. I would suggest that, to some extent, everybody on these islands is a victim of 40 years of state failure. The people in my part of the world are at a financial disadvantage because a lot money from taxpayers is going to fund the failure of the state in Northern Ireland, and it has done for the past 40 years. Therefore, to say that there is a group that is so tightly defined is missing the point altogether and it would be wrong to support that.

It was argued that terrorists should not receive the benefit of section 75, but surely the point is that a terrorist who has been convicted has served their time and therefore been punished. Is the right hon. Gentleman seriously suggesting that we should extend that punishment and exclude them from those rights? Yet again, I would argue that the terrorists on both sides of the argument were doing what they did because of the failings of the state and of us, collectively, in the House. The politicians in Northern Ireland did not resolve things in the political forums, which ended up with the discussions and disputes that we had for 40 years.

As the right hon. Gentleman said, the Northern Ireland Affairs Committee is considering how section 75 applies to the armed forces and the military covenant. I would be delighted if he sent to the Committee the correspondence that he has received from officials in Northern Ireland.

Mr Donaldson: I did.

Mr Anderson: The evidence that we have seen clearly shows that the overwhelming feeling across the piece is that putting the armed forces into section 75 would, if anything, be a disadvantage.

Mark Durkan: Following the hon. Gentleman's last point, people who have the interests of military and former military personnel close at heart have indicated to me that they want to leave well alone. They do not believe that such measures are the answer to any problems or inconveniences that they might help their friends or former members of the armed forces with. On the issue that will be the subject of the Northern Ireland Affairs Committee report, they have made it clear to me that they see no case for specifically including the military covenant by adding a reference to section 75. In fact, they think that doing so might create more administrative and other difficulties and tensions. They are concerned not only about unforeseen consequences, but about consequences that they consider to be fairly foreseeable and about which those involved are particularly worried.

The deeper issue with amendment 1 is the attempt to redefine victims and survivors and to insert them into section 75. Those associated with the affairs of the armed forces do not believe that including them as a specific group under section 75 will answer their questions, and similar feelings have been expressed to me by people who could unarguably be called victims and survivors. They do not think that the answer to their problems is to include them in section 75, because they are not necessarily convinced that section 75 will do all that it is expected to do.

Victims and survivors want to receive due consideration in much of what the state and public services do, not least when it comes to welfare reform measures. The so-called "karaoke" Bill—the Northern Ireland version of the Welfare Reform Bill—is currently before the Assembly. It has had to stick broadly to the terms of the legislation passed here, with very little room for discretion, although some discretion has been allowed for the different administrative structures in Northern Ireland.

Even as the Welfare Reform Bill was going through Westminster, my party tried to establish a special committee to look at the impact that such legislation would have on victims and survivors in Northern Ireland, but we were voted down. The right hon. Member for Lagan Valley has rightly pointed out the high number of victims and survivors, the high rates of trauma and the issues of mental ill health in Northern Ireland. Precisely to show due consideration of such matters in advance of the Assembly legislation, my party tried to get our proposal discussed at the Assembly, but the DUP voted it down. The DUP did not care about making sure that we duly considered the interests of victims and survivors in the change from disability living allowance to personal independence payments, and in the change to reviewing cases every three years with no exceptions whatsoever, no matter what the conditions and circumstances.

We were trying to say that surely victims and survivors should be treated differently if they were injured as a result of the troubles, rather than insisting that they retell their story afresh to some new official every three years and go through the trauma and difficulty again. Surely there is a way of giving some special and particular consideration to victims and survivors, just as the Prime Minister ensured would be the case for members of the armed forces. Members of the armed forces would not be subject to that sort of review by the Benefits Agency here or wherever; there were separate arrangements and funding lines made to guarantee that they are not subjected to that. We have been trying to say "Let something similar happen in Northern Ireland." One would think that the people who tabled the amendment would be the first to back and support us in trying to get those sorts of special considerations and measures, but no.

There are other examples of very real issues for victims and survivors that need to be dealt with, whether housing, benefits, access to various services, including council services, all of which have been the subject of different cuts and shortcomings. Some of the measures that have existed to support victims have been reduced in recent years and lost out in funding, or have undergone restructuring in ways that mean that they are less accessible. There are real issues there in terms of how we support and serve the victims and survivors, but the answer to that is consideration in the planning and funding of services, and making those guarantees real, not creating a fig-leaf pretence by saying, "We're adding you into section 75 after not having done as much for you as we should."

[Mark Durkan]

An additional issue goes across amendments 1 and 2: redefining victims to exclude those who have been guilty of an offence. Of course, that means found guilty of an offence; there are many crimes in Northern Ireland for which no one has been convicted. Therefore, this is not an answer for those people who have gone through bereavement, serious injury and trauma and seen no one prosecuted or convicted. It is no answer for them.

We see things like the de Silva report and other reports from the past—even a police ombudsman report last week about the good samaritan bomb in my constituency back in 1988. Two people coming out of Mass were concerned about a neighbour whom they had not seen for a week, and they went to check the flat. There was a booby-trap bomb in that flat, and the police ombudsman report last week showed that the police knew all along that that bomb was there and that they were staying away from the area for days. They allowed a situation to develop where interested good samaritan neighbours lost their lives, simply for an act of concern or charity.

Three families are involved. Sean Dalton and Sheila Lewis died that day, and Gerard Curran died later of injuries. Their families are finding that, contrary to everything that they were told about no stone being left unturned to find the perpetrators, it turned out that, first, the police already knew in advance and no measures were taken to prevent such an atrocity from happening or to protect the public; and, secondly, according to the police ombudsman, after a flurry of activity at the start, the investigation was essentially switched off and nothing else proceeded. There are many victims who have many grievances, not just about the injury done to them, but around the fact that nobody was particularly pursued, prosecuted or convicted. We have a number of cases where there have been convictions, but the courts have now been overturning those convictions on all sorts of grounds, for example, concern around the circumstances in which the evidence was gained, the nature of interrogation methods, the quality of the confessions that were used, the character of the decisions that were made under the Diplock court and the strictures under which people worked.

Again, in circumstances whereby not only were many people not convicted, but even in many of those cases where there were convictions on the record that are now disposed of, the amendment would do nothing for any of the victims who are so affected. It pretends to solve a problem neatly, but actually it does not. Worse still, it possibly creates more of a problem because, while many victims are deeply concerned and vexed about their situation and that of other victims, many of them have also been working at various levels with other victims. When we addressed clauses last week downstairs, the shadow Secretary of State referred to recently attending the Theatre of Witness event at St Ethelburga's in London.

10.15 am

That production from the Playhouse in my constituency was powerful. It was not portrayed by actors, but by people who were victims or combatants; they gave their own descriptions of themselves. They included a former British soldier who, as the right hon. Member for Lagan Valley said, has married a local girl, and now lives in my constituency. It also involved a young woman who was in the IRA in her youth, and another woman whose husband had been chained into a van to be a suicide bomber at the border checkpoint at Coshquin simply because he worked as a civilian at the Army base. His family were taken hostage and he was chained and lost his life, along with five British soldiers, when the van was detonated.

Another man spoke as a victim who had been in Belfast in his father's car when a bomb had been planted in it. There were loyalists, republicans and people of all backgrounds giving very powerful testimony. Victims can define themselves and share their narrative with others without our starting to impose new, clumsy, difficult or arch definitions. It is all part of a wider narrative in that sense.

I have another point about amendment 1. Proposed new section (1A) of the 1998 Act would exclude somebody with a conviction from proposed new section 75(1)(e) but not from proposed new section 75(1)(f). Some might ask whether that is fair. Somebody is entitled to be in section 75 if they are a victim, but not if they have had a previous conviction. However, a conviction does not disqualify somebody from being eligible if they have been a member of the armed forces. Some people might say there is a discrepancy or inconsistency there. In fairness, the case can be made that often there are many people who have served in the armed forces, who, as a result of, for example, post-traumatic stress, find themselves running foul of the law in circumstances no one would have wanted.

Mr Donaldson: If the hon. Gentleman looks at section 75 as it is currently stands, there are already four categories. Someone could have been a soldier serving in Northern Ireland convicted of an offence, but happen to be male or disabled or have a certain sexual orientation or racial background. All that is currently provided for under section 75.

I take the hon. Gentleman's point. We are seeking simply to ensure that those who have served in the armed forces are not disadvantaged, as they currently are in my opinion, in terms of the full implementation of the military covenant in Northern Ireland. If someone has a conviction, that is a matter that has to be taken into account if it relates to the service or the benefit that the individual is seeking to acquire. That does not invalidate the amendment.

Mark Durkan: The right hon. Gentleman has contradicted the point here. He has clearly given thought to ensuring that the victims and survivors covered by section 75 would exclude those with a conviction, but that would not be the case for members of the armed forces. He has specifically made the decision in the way in which the amendment is framed that he does not want to exclude former members of the armed forces because of a conviction, but that he wants to exclude victims and survivors because of a conviction.

Mr Donaldson: I thank the hon. Gentleman for giving way again, but I think he misunderstands what I am trying to do. I do not have to define who was or was not a member of the armed forces; that is a matter of fact.

People either served in the armed forces or they did not. Therefore, for the purposes of the amendment, it is simply about definitions. It is not about saying, "They are not a person deemed eligible or ineligible by virtue of a conviction." In an amendment relating to a victim and survivor, that has to defined, because, as we heard in an earlier intervention, everyone who lives in Northern Ireland could be defined as a victim and survivor of the troubles, if they lived through it, unless the definition is tightened up.

We have sought to make it clear in the definition who is and who is not a victim and survivor. The two cannot be equated: someone is either a member of the armed forces or they are not—that is clearly defined—whereas the definition of a victim and survivor has to be further explained, otherwise, as was said, it could be anyone living in, or who lived in, Northern Ireland during the troubles. So we have sought to make it clear who is or is not a victim or a survivor. I do not need to explain whether someone was or was not a soldier. If someone was convicted of an offence, it does not mean that they did not serve in the armed forces.

Mark Durkan: Again, the right hon. Gentleman and I are not necessarily going to reach agreement on this matter. The fact is that, by virtue of the amendment, he is seeking, first, to extend section 75 and, secondly, to disqualify people with convictions from one of the extensions that his amendment would make. It is clear that he wants to exclude people from being eligible for benefits as victims and survivors, but he does not feel so perturbed, worried, annoyed or aggrieved by someone with convictions who is a former member of the armed forces as to exclude them from a benefit. Again, it is because such invidious arguments end up being generated that many people associated with the armed forces do not want this amendment, or some of the other suggestions that have been made in respect of giving a particular profile to the military covenant in some new, bespoke and possible unworkable way in Northern Ireland. That is not the main issue that I have with the amendment, but I wanted to mention an inconsistency or contradiction.

My main point is that victims and survivors are owed a lot more by way of care, consideration and support. We need to do that daily and encourage those in charge of public services to do that. That was one reason why, when the institutions of the agreement were set up, as well as having the policy responsibility in relation to the past, with victims and survivors still resting strongly with the Secretary of State, the devolved Executive took the initiative to say that victims should be an issue for the devolved Assembly, too. That became part of the policy remit and responsibility of the Office of the First Minister and Deputy First Minister, not in terms of overall policy, necessarily, on victims and survivors, or even for the past, but to ensure that devolved services were being duly informed and were duly sensitive to the needs of victims and survivors in all they did: in the policies that they plan and the services that they manage.

We have much more to do in that regard, but it is difficult to claim that an easy short cut to that—the way of achieving all that—is a clumsy and potentially ineffectual change in section 75.

I oppose the amendments. We do not need to go in for such a change in definition. The DUP sought to introduce a Bill in the Assembly to change the definition of a victim and survivor, but it did not get the takers, such as us, that it hoped to get then—and it is not getting us as takers today, either.

Mr Campbell: I rise to make a few brief comments, principally in relation to amendment 2. As we have seen in recent days, progress in Northern Ireland is somewhat halting. I do not wish to paraphrase a literary genius even more eloquent than the hon. Member for Ealing North, who talked about peace coming dropping slow, but we make progress in a halting way and we are trying to make further progress today during the course of the Bill.

I urge Members to recall that a couple of years ago a report came from Messrs Eames and Bradley. It dealt with the past and with victims. They took evidence and considered it for a long time. The entire project perished on the rock of a single consultation and the suggestion that an amount of money should be paid to those who would be regarded as "victims", irrespective of who those people were and what they had done. The entire project perished on that single, simple proposal, because it did not differentiate between those who planted a bomb and those who suffered as a result, who were—as someone said in the Northern Ireland Assembly—at the wrong end of the rifle. In other words, they were the person who was shot, rather than the person who was pulling the trigger.

If we as a society do not make a straightforward, fundamental difference, we will for ever be condemned to repeat the defeat of the Eames-Bradley proposals. That is what the amendment is about.

Mr Donaldson: On that point, may I share with the Committee an extract from an unsolicited e-mail that I received yesterday? It is from a victim who is now well known in Northern Ireland: Ann Travers. Her sister was murdered by the IRA and they attempted to murder her father, who was a judge. She got wind of the amendment and sent me an e-mail, which states:

> "It is bizarre that we equate the perpetrators of murder along with their victims in Northern Ireland. After our sister's murder neither my brothers or myself chose to get revenge by joining an illegal organisation. To put it in the simplest terms, imagine the following scenario, my family is attacked by the IRA, the gunman shoots Mary in the back, an RUC Landrover pulls up and a policeman shoots the IRA...man...Is he a victim in the same sense as my unarmed sister? In my opinion, no, by his own free will and choice he created victims in both my family and his own."

I think Ann Travers puts the point far more clearly than we could.

Mr Campbell: I thank my right hon. Friend for that very powerful outline by Ann Travers.

We need to re-establish an equilibrium that never should have been unbalanced. No matter what the religious persuasion, political outlook or agenda-setting objective of any proponent of violence is, it is irrelevant. If they were a person who was a victim maker, they cannot under any circumstances, under any criteria, be described as a victim. It is as simple and as blunt as that. That is what the amendment is about.

The hon. Member for Blaydon talked about the universality of victimhood, but if we look at the demise of the Eames-Bradley proposals and at problems that have occurred in recent weeks and months, much of it

[Mr Gregory Campbell]

can be traced back in Northern Ireland to the attempt by wider society not to differentiate between those who have deliberately gone out, whatever their background, to create victims, and those who ended in the coffin as a result of such actions.

The hon. Member for Foyle also mentioned welfare reform and particular issues that may arise as a result of designating certain people in that area. Many of us in the Northern Ireland Assembly were trying to make the number of designated groups as wide as possible, to ensure that as many people as possible would be sheltered from the hardship that some of the welfare reform proposals will bring. If we were to dig down even deeper and try to individualise those who may have been exempt, we would have been open to all sorts of accusations.

The reasoning behind amendment 2 boils down to that fundamental assessment. It is about distinguishing between those who are genuine victim makers—the people who point the gun or plant the bomb—and those others who die as a result of those actions.

10.30 am

Paul Goggins (Wythenshawe and Sale East) (Lab): It is a pleasure to serve under your chairmanship, Mr Hollobone. I want to make a short contribution to this important debate.

Those of us on the Committee who do not represent constituencies in Northern Ireland need to approach this debate with considerable humility and great care. Those of us who have had the privilege of having an involvement in Northern Ireland will always remember our engagement with the victims of the conflict there. I am thinking of meetings that I had with families of the disappeared or with the widows of police officers who had been murdered. The trauma, pain and heartbreak those people have suffered is beyond the comprehension of many who do not live in Northern Ireland and have not been part of that difficult story. We need to approach this matter with considerable humility.

Frankly, I think that however well-intentioned they are, the amendments give the Committee an almost impossible task. I want to set out why I think that is the case. The right hon. Member—my right hon. Friend—for Lagan Valley wants to make section 75 clearly applicable to the victims of the conflict and to members of the armed services. He has explained his reasons why, but, of course, in doing that, he has to define what is meant by a victim of the troubles. He has put forward what to those of us who are not from Northern Ireland seems to be a very reasonable point of view: he wants to exclude those who have been convicted of terrorism offences and has put that provision in the amendments.

However, my hon. Friend the Member for Foyle has also put forward a very reasonable argument by asking, what of those who, it is well known, were involved in terrorist activity but were never actually convicted of a terrorist offence? Indeed, what of those who were convicted of terrorist offences whose cases have been referred by the Criminal Cases Review Commission to the Court of Appeal and whose convictions have been quashed? That does not mean to say that they have been found innocent of the charges against them; it simply means that the verdict has been declared unsafe by the Court of Appeal.

Suddenly, we see an immediate difficulty for the Committee. The truth is that the issue of who is a victim of the conflict in Northern Ireland cannot be determined in a technical way by a Committee sitting in the House of Commons. It can only be determined as part of a comprehensive process of dealing with the past—a process of reconciliation.

The hon. Member for East Londonderry mentioned the Eames-Bradley report. I well remember its publication: all the headlines and the controversy centred on the issue that he mentioned, which was the recommendation of a payment of £12,000 to the families of anybody who was a victim. That would have included people who were paramilitaries in the past, which was wholly unacceptable to many in the community.

It was unfortunate that that was the only recommendation from the report that received any publicity or consideration. There were other recommendations, including, crucially, that there be no amnesty—a very important recommendation, in my view; there should never be anything of that kind—but also recommendations for a reconciliation forum, a legacy commission, a review and investigation unit, and an annual day of reflection and remembrance. There were some very good recommendations that unfortunately got very little consideration because of the most controversial one. However, that report was an attempt by the previous Government to get a process under way that could assist the people of Northern Ireland in dealing with such difficult, almost intractable problems relating to their past. It was a genuine effort.

That responsibility still remains a crucial, key, core responsibility of Her Majesty's Government. We now have a different Government, but it is important that they give priority to the need for a process that deals with the past, and that can deal with the victim of the conflict as well as many other issues. I hope that the Minister will deal with such matters in his response. Those who tabled the amendments have done so for legitimate reasons, but such provisions present us with an almost impossible task, a point that I hope will be subject to reflection.

Stephen Pound: I hope that the Committee will indulge me when I point out that the lead signature on the amendment is that of the right hon. Member for Belfast North (Mr Dodds). We all send our very best wishes to a man who was doing the job of good constituency MP, and who suffered for it. I understand that he is now out of hospital.

In many ways, what happened underscores the sensitivity and the contemporary relevance of what we are discussing. Sometimes, we need to be reminded that more than 3,000 people lost their lives during the troubles. Many more were injured. Some people lost their lives. Some people lost their limbs. All of us with experience of Northern Ireland have met those who have lost something not quite so visibly obvious. Those people have lost hope. They have lost the ability to operate, and to live a decent life. The number of people who suffer psychological damage is immense and terrifying. There cannot be a subject that is more sensitive than the one we are

discussing. We have to approach it not only with humility, as my right hon. Friend the Member for Wythenshawe and Sale East said but, above all, with an awareness of the fact that many of us think we know about life in Northern Ireland, when very few of us do.

Next month, I will have the honour of representing my party in Omagh at the 15th anniversary of the appalling bomb. There can be no doubt as to the nature of the victims who suffered on that day. But victimhood is an intensely difficult subject to analyse and to define precisely. My right hon. Friend referred to the need for a wider examination, a comprehensive and inclusive process to deal with the past. That is still the policy of the Opposition.

Who could not have sympathy with the emotions behind the amendment? Who could not be aware of the subtlety and sensitivity? But were the amendment to be agreed, it would be prescriptive upon any attempt to finally come to terms with that much, much wider issue: the inclusive process of dealing with the past. It is with reluctance that I must place on record the position of Her Majesty's Opposition. We have immense sympathy with the motives of those who tabled the amendment, but we cannot support it on this occasion.

Mike Penning: I shall address the very technical clause 22 first and then respond to the amendments. The amendments would amend the power of the Secretary of State under section 75 of the Northern Ireland Act 1998 to designate persons as being subject to the statutory duty to promote equality of opportunity.

I agree with the right hon. Member for Wythenshawe and Sale East that we must understand that those of us who may have visited Northern Ireland or who may have served in Northern Ireland have absolutely no idea of what it is like not only to represent a constituency in Northern Ireland, but to live there now or during the main part of the troubles.

I wish to associate myself with the comments of the hon. Member for Ealing North with regard to the right hon. Member for Belfast North. As someone who got a brick on his head many years ago, I know how enormously painful it is. Perhaps it was less painful for me than it was for the right hon. Gentleman as there is less inside to damage. He was doing his job. He was with his constituents. I also pay tribute to the police force in Northern Ireland, which came under what can only be described as a barrage of attacks, and to the mutual aid officers who came from Great Britain to assist the police force in Northern Ireland, some of whom were seriously injured in the violence, particularly on Friday night.

I completely agree with the hon. Member for Ealing North. Regarding the amendments, I have discussed both issues with the right hon. Member for Lagan Valley and, following Second Reading, I expected that his ingenuity would lead to amendments to some part of the Bill—I was not expecting that it would be clause 22—regarding victims and section 75 of the Northern Ireland Act 1998. I passionately believe, however, that this is not the forum to debate such an important issue.

This is a technical Bill that addresses many of the anomalies within the legislation and tries to normalise legislation in Northern Ireland. That does not mean that there should not be an ongoing debate about victims and the past. It is the Government's policy to have such a debate, but it must happen in an enormously sensitive way and with the consent of the political parties and people of Northern Ireland. I have meetings on a regular basis with victims in Northern Ireland and many such meetings are not dissimilar to the debate that we have had in Committee today. One side passionately feels that they do not want to raise the issue again; they want to put it behind them and do not want it revisited. Others, however, want to discuss what is meant by "victim". This debate has shown just how emotive the subject is, but it is a discussion that we need to have, although in both my opinion and that of the Government, outside the context of the Bill.

When I first became Minister—I met the right hon. Member for Lagan Valley at the time—I was convinced by some of the arguments that were put to me, not least by the right hon. Gentleman, that there was an issue to do with the military covenant. Over the past nine months, however, with the permission of the Prime Minister—not permission; in fact, he told me to go and do it—I have investigated extensively whether the military or ex-military in Northern Ireland are being adversely affected by section 75. I will not pre-empt the Select Committee's report, which I have not seen—although I can take a subtle hint from the earlier comments of the hon. Member for Blaydon, who sits on the Select Committee—but I actually found the covenant to be operating better in Northern Ireland than in my constituency. I said that to the Select Committee and I passionately believe it. The way that charities work together on Northern Ireland is much better than it is in many parts of Great Britain.

I do accept, however, that there is more work to be done, in particular around post-traumatic stress, which we are working on now. I created a specific senior civil servant role in the Northern Ireland Office after I set up the contact group, which is chaired by Brigadier Thompson when I am not there, to ensure that when Members of Parliament who are Members of the Legislative Assembly are written to by constituents who say, "I fell through the net here and I am not being helped," that can come directly to the Department. We are in the process of writing to all Members of Parliament, MLAs and local councillors in Northern Ireland to provide them with that point of contact through an e-mail address and a phone number, so that we can be the impartial side of the covenant.

I was pleasantly surprised when I met all the political leaders in Northern Ireland by the support that I received from them for the military covenant. There was no indication at all that former or serving servicemen and women had been adversely affected by section 75 and I do not think that it is right to alter it. Sadly, I will be opposing the three amendments.

10.45 am

Mr Donaldson: I thank all hon. Members who have contributed to this discussion. I also thank the hon. Member for Ealing North and others who made reference to my friend and colleague, the right hon. Member for Belfast North. I am pleased to report that he is making a good recovery; I spoke to him yesterday and he is in good spirits.

[Mr Donaldson]

We all do well to remember that some Members of this House have to cope with circumstances that most do not have to cope with in their day-to-day responsibilities, or even on special occasions. When I read all the negative things that are written about Members of Parliament on an almost daily basis, I wish some of the people who write such things would come and spend a little time in Northern Ireland in order to understand the kind of task that Members of Parliament from all sides have to undertake there in sometimes holding the line in very difficult circumstances. I would be happy to convey the best wishes of the Committee to my right hon. Friend.

The hon. Member for Blaydon sought to explain why young men and women became involved in terrorist activity—we will have to agree to differ on that. I can do no more than refer again to the words of Ann Travers, who said that despite the fact that she witnessed the murder of her sister, that did not inspire her to go out and seek to take other people's lives. Sometimes, in seeking to understand and explain the actions of those who engaged in terrorism in Northern Ireland, we too easily forget that there were many who in their own mind might have had the same justification for engaging in such activity, but who chose the path of peace.

We must stand with those people who, like Ann Travers, would support an amendment to the current definition of a victim because they find it deeply offensive that they are equated with those who engaged in acts of terrorism. Imagine the outrage there would be in this country if the 7/7 bombers were equated in law, by definition, with their innocent victims in those bombings on London buses and in underground stations. That is what happens in Northern Ireland. The people who exploded bombs in our towns and cities—who engaged in mass murder—are equated with the people who they killed. As I said earlier, and not because I want to score a cheap point on right hon. and hon. Members on the Government Benches, I find it offensive that the man who planted the bomb in Brighton, who sought to murder the Prime Minister of our country, is regarded as a victim in the same way as the people he killed with the bomb he exploded in the Grand hotel. I find it offensive that the people who planted the bombs under Airey Neave and Ian Gow's cars are regarded as victims.

I hope that the Committee understands why we seek every opportunity to press home this point. I accept and understand the points made by the right hon. Members for Wythenshawe and Sale East and for Torfaen, who I wish to pay tribute to. They both made an invaluable contribution to building peace in Northern Ireland, and they continue to take an interest in and support the peace process. I therefore respect deeply what the right hon. Member for Wythenshawe and Sale East said about the amendment perhaps being pre-emptive or premature, or needing to be part of an overall process. However, the difficulty is that this is the sovereign Parliament. This is the Parliament that defines equality of opportunity in Northern Ireland and applies that to all Departments of the Government in Northern Ireland. It is the Northern Ireland Act 1998 that does that. We are seeking to ensure that protections afforded by section 75 of that Act are extended to two groups that we believe to be particularly vulnerable.

I heard what the Minister said about the military covenant, but I have seen cases where there is evidence of discrimination by officials in Departments of the Government in Northern Ireland against former members of the armed forces. We have made complaints, but unfortunately they are not protected under section 75. Therefore, although I made reference to the military covenant, our desire to afford them protection goes well beyond implementing that. The Minister is entitled to his view that, after investigation, he believes that the military covenant is being fully implemented—

Mike Penning: I am sure that the right hon. Gentleman would have clarified this, but, categorically, I did not say, and I have never said, that the military covenant is being fully implemented. It is being implemented in Northern Ireland better, in some cases, than in other parts of the United Kingdom; I have written to the Northern Ireland Affairs Committee with evidence that states that about 93% of the covenant is being delivered in the Province.

I fully understand what the right hon. Gentleman said. Such behaviour takes place in other parts of the United Kingdom as well, but where that takes place, we must stamp that out. To do that, however, we need evidence. He said that he has some evidence, so I say to him: send it to me. I am the Minister responsible and the Prime Minister has asked me to deal with that. However, I do not want to throw the baby out with the bathwater, which, unless we are careful, is what will happen with this amendment.

Mr Donaldson: I of course accept the point the Minister made on full implementation, but I do not accept that offering special protection to our armed forces or veterans through section 75 would in any sense throw the baby out with the bathwater or undermine the implementation of the military covenant. To afford additional protection is surely something which we should desire.

I am happy to share with the Minister examples of the difficulties faced by members of the armed forces. Contrary to what the hon. Member for Blaydon said, I wrote to the Select Committee and provided it with evidence; in particular, I provided a letter sent to me by the Department of Health stating clearly, in black and white, that it could not make the provision that I was requesting for my constituent in line with the military covenant because section 75 prevented it from doing so.

What we are merely trying to do through the amendment is provide clarity. It will not alter the law in Northern Ireland or the manner in which we seek to implement the military covenant; it simply ensures that Government Departments understand that section 75 does not in any way inhibit their ability to deliver on the military covenant. I cannot see the difficulty in affording that protection; frankly, if it is right to afford that to gay people, people with disabilities and people with an ethnic or racial background, why is that not appropriate for those who have served our country in the armed forces? I am at a loss to understand why there is a principled objection to affording section 75 protections to those who put themselves on the front line, whether in Northern Ireland or in other parts of the world and why they are less deserving of that level of protection

than the other categories already covered. I have not heard an explanation from the Government on why that is the case.

On the hon. Member for Foyle's comments, I have already had some exchanges with him on the question of a definition and we will have to agree to disagree. I take the point he made on convictions, which was echoed by the right hon. Member for Wythenshawe and Sale East. However, amendment 2 defines clearly who is a victim and who is a survivor. They concentrated on the exclusions. The amendment sets out a broader definition, but we are not talking about anybody and everybody.

Although I am disappointed that both the Government and the Opposition have indicated that they cannot support the amendment, I am especially disappointed that Government Members cannot support the amendment, which defines victims and survivors, and excludes people who are engaged in acts of terrorism. I am at a loss to understand why they are reluctant to do so, so we will press the amendment.

Amendment 1 negatived.

Mark Durkan: I beg to move amendment 5, in clause 22, page 16, line 3, at end insert—

'(1A) After subsection (2) of section 75 (Statutory duty on public authorities) of that Act insert—

(2A) A public authority shall not interpret its obligations under subsection (2) in a way that is incompatible with measures taken on the basis of objective need.".

(1B) In subsection (5) of section 75 of that Act insert—

"good relations" shall be interpreted in line with international obligations and, in particular, with regard to—

(a) tackling prejudice, and

(b) promoting understanding.".'.

We know from the previous debate that the clause makes changes to the Northern Ireland Act 1998. I will give the background that the amendment seeks to address. The Good Friday agreement provided for a statutory equality duty with equality impact assessments. That was translated into section 75 of the Northern Ireland Act 1998, which included a good relations limb in the duty. Although the 1998 Act contained a provision for equality impact assessments, it did not contain a provision for good relations impact assessments because there were concerns at the time that equality initiatives based on objective need might be derailed by good relations considerations. Therefore, Parliament subordinated the good relations duty to its equality counterpart in that legislation.

Tribute has already been paid to the right hon. Member for Torfaen. I do not want to pay tribute to him just for his role in the negotiation of the agreement and in chairing the strand 1 talks; I am also conscious of the role he played in piloting the details and provisions of the 1998 Act through Parliament.

The Committee on the Administration of Justice recently published a report called "Unequal relations?" Its research highlights that problems have arisen in the context of impact assessments. It gives examples of good relations considerations being brought forward in ways that stifle and qualify equality and rights-based initiatives.

Since 2007, the Equality Commission has recommended to public authorities that good relations considerations should be part of equality impact assessments. However, in the absence of better definition and more balanced safeguards, there is a risk that impact assessments that take good relations on a par with equality issues will lead to subjective political interpretations of what is needed to maintain good community relations. There is a danger that arguments based on maintaining good community relations can provide a vehicle for blocking initiatives that are based on objective need, because people can argue, "If you meet the objective need in that way in that area, it will lead to community tensions." People should not be allowed to stifle equality-driven measures on the basis that they jeopardise good relations if their only argument for the prejudice to good relations is based on prejudice against another community. There have been examples of that happening.

I hasten to add that the amendment would not prevent measures that are designed to protect and promote good relations from being taken in an, arguably, unequal way. That would include an example from my constituency, the Fountain estate, which is a small Unionist enclave on the west bank of the river. Elected representatives supported a new school being provided for that estate several years ago. It did not meet any of the objective criteria, but it supported the community, wider shared relations and the wider shared city, so it was supported by all representatives.

I stress that the emphasis on objective need in the amendment would not prevent the sort of special measures that were taken in the Fountain. Measures were taken not only in relation to the location of the school. Another Government Department went beyond its policy remit and continued to provide money to ensure that there was school transport, so that the school could be supported by people from other parts of the city. As someone who supported those special measures for community relations, I want to stress that the amendment would not in any way reduce the capacity for such measures.

11 am

Neither the 1998 Act nor the equivalent legislation passed in Great Britain at the time defined good relations. In Great Britain the gap was remedied by the Equality Act 2010, whose section 149 provides for a public sector duty to foster good relations, with particular regard given to tackling prejudice and promoting understanding. The absence of a similar definition of good relations in section 75 of the 1998 Act, to draw out the main intended characteristics of the concept, continues to risk some subjective interpretations, giving rise to contention and frustration in Northern Ireland.

Issues about good relations are raised in objection to policies aimed at tackling disadvantage. A report by the Committee on the Administration of Justice found that the correct good relations response in line with the above definition would be for public authorities to tackle prejudice and to promote understanding of policies and the issues behind them, for example by explaining that they are based on objective need.

Unfortunately there are examples of public authorities being urged to pursue alternative policies to equality-motivated measures on good relations grounds. A high-profile example is the 2011 decision by the Department

of Social Development regarding the site of Girdwood barracks. The current Minister cited good relations considerations as a basis for reversing the decision to build around 200 homes on the site. The sensitivity was that, because of the location of the site, it was deemed, on the basis of objective need, that most of the 200 houses would have been allocated to Catholics. Here we had a Minister citing good relations as grounds for trumping an equality-driven measure and a sound extension of social housing in an opportunity site transferred by the Government, as other former military sites have been transferred.

Another example is the response to proposals by the Department of Education in Northern Ireland in 2010 that suggested that entitlement to free school meals could be used as a priority indicator for admissions to post-primary schools. The Department was told that, in the context of higher numbers of Catholic children being in objective need and hence qualifying for free school meals, the Department needed to consider the good relations implication of the proposal and think about alternatives. Again, that is not something that was intended when we created the equality commitments in the Good Friday agreement, or when section 75 was taken through this House.

The good relations duty has regularly been interpreted as being incompatible with treaty commitments that the UK has entered into, for instance those to take steps to support the Irish language. As well as the provisions of the Good Friday agreement, relevant international obligations, for example human rights treaties entered into by the state—in this context I should mention particularly the Council of Europe, the European charter for regional or minority languages and the framework convention for the protection of national minorities—are in effect being frustrated by reference to the good relations duty.

The problem arises even at the level of district councils. Councils trying to promote positive Irish language measures in accordance with the European charter now meet opposition that that will be bad for good relations. Good relations impact assessments can, ironically, block the implementation of treaty-based commitments that the UK has entered into. Therefore, the sound concept of good relations can become a mechanism whereby prejudice against the language becomes the basis of policy, rather than the international obligations and commitments to promote respect, tolerance and understanding in relation to that language.

The Council of Europe bodies that oversee compliance with such treaties have already raised concerns in their reports about good relations being used as a justification for not implementing our proposed policies. I hope that with those examples I have been able to demonstrate that there is a live issue here. This is not a contrived tension or question that I am raising. This Parliament has seen fit to make good the deficit through the changes it made in section 149 of the 2010 Act. My amendment essentially gives the Committee the opportunity to say that the same sort of adjustment and clarification as regards good relations and equality commitments should now be made through section 75 of the Northern Ireland Act.

Stephen Pound: The hon. Gentleman makes an elegant, comprehensive and compelling case. Most members of the Committee would agree with it in principle. I particularly endorse his reference to the CAJ report, "Unequal Relations?" which should be compulsory reading. We can return to the issue on Report. It should be considered by a wider group of people. The suggestion is significant and positive and one to which the Opposition are extremely sympathetic. We would like to see this achieved. We are not entirely convinced that this is the correct forum for that achievement, but it is certainly something we will return to on Report.

Mike Penning: I apologise to the hon. Member for Foyle for saying earlier that I would oppose the amendment. I will, but I was a bit premature. I am not opposed in principle. Like the shadow Minister, I share some frustrations. Before we brought the draft Bill forward and went to pre-legislative scrutiny in the Select Committee, we consulted extensively on the changes to section 75.

Unusually, I disagree with the shadow Minister: I do not think Report would be the right time. We would need to consult with all the parties in Northern Ireland, some of which are not represented in Committee. Even though I share the frustration and understand the objectives of the amendment, because it did not go through pre-legislative scrutiny and because the relevant parties were not consulted, sadly, I have to oppose the amendment.

Mark Durkan: I do not accept the Minister's rationale that an amendment of this character—or almost, by that logic, any amendment—could not be accepted because it had to be subject to all sorts of consultation with all the parties. When we discussed the Bill in the Committee of the whole House last week, my colleagues pointed to some clauses that they did not agree with and which our party did not endorse and we were told that 70% of the Assembly is good enough. It seems that in some things we have to have complete consensus before the Government move and on other things if they can grab the agreement of a few parties they can go with it.

Mike Penning: I will not respond to those somewhat cynical comments. I was referring to section 75 and the sensitivities of that. That is why I was so specific that we needed to consult on section 75 before we made any further changes.

Mark Durkan: The Minister's answer is almost "There's a hole in the bucket, dear Liza." The exact reason why there would not be agreement on amending section 75 in the terms I have suggested is that some people want to be able to use the "good relations" argument to trump equality meeting objective need as a basis for policy. That is the problem, so it is almost QED, which suggests that there does need to be an amendment regarding section 75.

Some of these issues will go to court and be subject to judicial review. The courts will question why, when Parliament has been alerted to the issue and passed close to equivalent legislation in Great Britain, it did not do so in Northern Ireland, in circumstances where there is a more compelling case for defining and qualifying the issue of good relations in the interpretation of the 2010 Act.

I do not accept the basis on which the Minister has rejected the amendment. However, I will not press it to a Division. I am heartened by what the hon. Member for Ealing North has said about recognising the issue and the need for further consideration and deliberation—perhaps by the House as a whole, not least given the fact that it was the House that previously legislated with the 2010 Act. I look forward to Report, when I hope to see this or a better version proposed by the Opposition.

I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 22 ordered to stand part of the Bill.

Clause 23

EXTENSION OF POWERS TO MAKE SECONDARY LEGISLATION ABOUT ELECTIONS ETC

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

Mike Penning: The clause is a technical one, increasing the flexibility and technical scope of the Secretary of State's order-making powers under the 1998 Act. I will give an example of why that needs to be done. Should we want to bring in a pilot on electronic counting in Northern Ireland, the Secretary of State at the moment would not technically have the powers to bring that in. This measure would extend the powers to do so under section 34 of the 1998 Act. I hope the Committee will agree that technical measure.

Mark Durkan: I am conscious that a colleague from Northern Ireland has tabled amendments to clause 23. I think the amendments from the hon. Member for Belfast East (Naomi Long) were intended as probing amendments to seek assurance. Can the Minister assure us that the pilots permitted on different methods of registration would not include any differential in the voting age in relation to the register?

Stephen Pound: May the record show that the hon. Member for Belfast East is in Westminster Hall discussing a Bill at the moment? I appreciate my comment is somewhat an abuse of my position here, but I think it is important that the record show that.

The Chair: We are grateful.

Mark Durkan: I thank the hon. Member for Ealing North for advertising that point. Some of us would have liked to be in Westminster Hall as well, because the bill of rights is an important part of the Good Friday agreement and long overdue. I am taking the opportunity to ask the Minister because the question has been raised. I have separately tabled a new clause to try to get the Assembly to be allowed the power to lower the voting age for Assembly and local government elections. However, I certainly would not want the Assembly to have the power to lower the voting age in some places on a pilot basis and not in others. The franchise would have to remain equal in all constituencies.

11.15 am

Mike Penning: I must address that straight away. The clause is for the Secretary of State to have the power for a pilot. It would have absolutely nothing to do with voting age.

Mark Durkan: I wanted, belt and braces, to get it on the record that the clause would not in any way affect pilots allowing differential qualification for voting in terms of age in different constituencies.

Question put and agreed to.

Clause 23 accordingly ordered to stand part of the Bill.

Clause 24

REGULATION OF BIOMETRIC DATA

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

Mike Penning: The clause basically deals with biometrics. It will allow us to take forward, by order, the changes in the reserved and excepted fields on the new biometric framework that the Northern Ireland Department of Justice could not legislate for within the Criminal Justice Bill, which received its Royal Assent on 25 April this year.

Question put and agreed to.

Clause 24 accordingly ordered to stand part of the Bill.

Clause 25

AMENDMENT OF NORTHERN IRELAND ASSEMBLY DISQUALIFICATION ACT 1975

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

Mike Penning: Believe it or not, this will be even shorter. This is a tidying-up provision that will disqualify the Civil Service Commissioner for Northern Ireland from being a Member of the Northern Ireland Assembly.

Question put and agreed to.

Clause 25 accordingly ordered to stand part of the Bill.

Clause 26

AMENDMENTS THAT COULD HAVE BEEN MADE UNDER EXISTING POWERS

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

The Chair: With this it will be convenient to discuss clauses 27, 28 and 29.

Mike Penning: If it is okay with you, Mr Hollobone, I will not take up a huge amount of the Committee's time on these final four consequential amendments; they are very much a tidying-up provision towards the end of the Bill.

Clause 27 sets out the exceptions to this provision modifying enactments with a different extent, and those with the same extent as the enactments are being modified

[Mike Penning]

—if anybody understands that, they are a better person than I am. The legislation brought forward by a previous Administration needs to be tidied up. I am not a lawyer, but that is what it says here. These are really just technical tidying-up exercises on these clauses, and I hope that we can agree those and then move on to the new clauses.

Question put and agreed to.

Clause 26 accordingly ordered to stand part of the Bill.

Clause 27 to 29 ordered to stand part of the Bill.

New Clause 2

Analysis of PSNI Historical Enquiries Team material

'(1) If the Secretary of State appoints one or more persons to prepare an analysis of the work of the Historical Enquiries Team of the Police Service of Northern Ireland, any existing provision prohibiting publication of the material to be analysed shall, subject to subsection (2) below, not apply for the purposes of this section.

(2) No personal information shall be included in the analysis as published without the permission of the person concerned or, if they are dead, of their relatives.'.—*(Mark Durkan.)*

Brought up, and read the First time.

Mark Durkan: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 6—*Annual report on activity relating to Northern Ireland's past*—

'(1) The Secretary of State shall lay a report before Parliament in respect of each year as soon as possible after the end of the year to which it relates.

(2) The Secretary of State may appoint a person or persons to produce the report required under subsection (1).

(3) A report laid under subsection (1) shall contain in relation to the year to which it relates—

(a) a summary of the work of the Historical Enquiries Team of the Northern Ireland Police;

(b) a summary of the work of the Police Ombudsman for Northern Ireland insofar as it relates to Northern Ireland's past;

(c) a summary of the work of other public bodies which, in the opinion of the Secretary of State, relates to Northern Ireland's past;

(d) a summary of responses made by Her Majesty's Government or any other Government or body to any of the work covered by the report; and

(e) a clear indication where the findings of any work summarised in the report contradict remarks recorded in the Official Report of the House of Commons or House of Lords, especially by a Minister of the Crown.

(4) After a report under subsection (1) has been laid before Parliament the Secretary of State shall provide a statement to Parliament which shall contain references to—

(a) the comparative standard of enquiries conducted by the Historical Enquiries Team during that year;

(b) the progress made during the year in dealing with Northern Ireland's past;

(c) any apologies that have been given by any Government or public body in relation to the work summarised in the report; and

(d) any other relevant issues or concerns as they relate to Northern Ireland's past.

(5) Any existing provision prohibiting publication of the material to be summarised under subsection (2)(a) shall, subject to subsection (6) below, not apply for the purposes of this section.

(6) No personal information shall be included in the report as laid before Parliament without the permission of the person concerned or, if they are dead, of their relatives.'.

Mark Durkan: Both new clauses touch on the Historical Enquiries Team, but obviously new clause 6 is more expansive in terms of dealing with issues from the past. It makes reference not just to the work of the Historical Enquiries Team but to the work of the police ombudsman as it relates to the past, and also in relation to any other reports of enquiries that relate to Northern Ireland's past.

In March this year, I paid tribute to the role of the right hon. Member for Torfaen in relation to the Good Friday agreement and, of course, the 1998 Act. As Secretary of State, he played a decisive role in framing some of the commitments that were made towards having the Historical Enquiries Team. Clearly, it was an emerging issue for the police service in relation to issues of the past.

My party had sought to ensure that the police ombudsman was able to investigate complaints and issues from the past, and that was regularly done. However, there were many other issues from the past that were not directly about police conduct, or might have been about police conduct only in relation to investigating crimes committed by others.

The commitment was made to have a facility whereby historical inquiries could be conducted, under the authority and remit of the Police Service of Northern Ireland. It was designed to avoid creating any tension with the commitment that the PSNI was able to make or a situation in which many new recruits to the PSNI would find themselves investigating a lot of historical cases, as it was felt that that would create a lot of untoward difficulties. Everyone agreed that that situation needed to be avoided.

Not everybody was as vocal as I was, as a party leader at the time, in seeking that facility and trying to commend that argument to the Secretary of State; however, people did at least agree that if a facility was being created, it had to operate in a way that did not affect or detract from the working commitment of the PSNI for policing the present and the future. The arrangement settled on was the setting up of the Historical Enquiries Team. The right hon. Member for Torfaen made budget commitments in that regard and reached agreement with the then Chief Constable, Hugh Orde. The arrangements finally took shape in 2005.

At the time, perhaps for reasons similar to those that the Minister stated earlier, it was decided not to legislate for the Historical Enquiries Team as such. We have often heard about different norms that apply to its work, or that there are various strictures and restrictions about what it can and cannot do; however, as it turns out, there is not a statutory basis that touches specifically on the work of the team itself.

The new clauses would not seek to provide the whole statutory scheme that might apply to the Historical Enquiries Team; they would pick up some of the lessons, issues and frustrations that are out there, and would look to help to remedy those in future, by having a statutory standard to inform the work and the role of the Historical Enquiries Team, and indeed other investigations relating to Northern Ireland's past.

During the course of an investigation, the Historical Enquiries Team develops a strong and committed relationship with the family of the victim in each particular case. The team notifies the family as the investigation progresses and talks to them prior to its report. When the report is made, it is made through that family—it is the property of the family.

Many of us were under the impression that there was some statutory basis for that or a statutory prohibition on the Historical Enquiries Team from publishing the report itself or handing it to anybody else. In fact, there is not, but it has been good practice, and I would not want a change in legislation to say that the HET should publish all reports and name people, regardless of the feelings of families. That is why both new clauses are qualified in that regard.

However, the current situation creates some difficulties. When a report is given to a family, that family then find the onus is on them to publish it. Some families find that harder to do because they are not sure that they necessarily want to expose themselves to the media in that way. Some have been able to use the offices of good organisations such as the Pat Finucane Centre and Relatives for Justice, but others find that they do not have access to that sort of assistance when it comes to publishing the report.

The current situation also creates a requirement on MPs, for instance, to try to advertise what has emerged in a report of the Historical Enquiries Team and to try to find some time in Parliament to reflect what has emerged, if we have been requested to do so by the family concerned. In my own constituency, I dealt with a case dating back to 1971: Billy McGreanery was shot by the Grenadier Guards in Derry in September 1971. It was stated that he was a gunman—that was the version given at the time.

11.25 am

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

Adjourned till this day at Two o'clock.