PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

MODERN SLAVERY BILL

Sixth Sitting

Tuesday 9 September 2014

(Morning)

CONTENTS

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON – THE STATIONERY OFFICE LIMITED

£6·00

PBC (Bill 008) 2014 - 2015

Members who wish to have copies of the Official Report of Proceedings in General Committees sent to them are requested to give notice to that effect at the Vote Office.

No proofs can be supplied. Corrigenda slips may be published with Bound Volume editions. Corrigenda that Members suggest should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Saturday 13 September 2014

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 David Crausby, †Mark Pritchard

† Bradley, Karen *(Parliamentary Under-Secretary of State for the Home Department)*
† Bruce, Fiona *(Congleton)* (Con)
Burns, Conor *(Bournemouth West)* (Con)
† Burrowes, Mr David *(Enfield, Southgate)* (Con)
† Champion, Sarah *(Rotherham)* (Lab)
† Connarty, Michael *(Linlithgow and East Falkirk)* (Lab)
† Durkan, Mark *(Foyle)* (SDLP)
† Hanson, Mr David *(Delyn)* (Lab)
† Hinds, Damian *(East Hampshire)* (Con)
† Johnson, Diana *(Kingston upon Hull North)* (Lab)
Kane, Mike *(Wythenshawe and Sale East)* (Lab)
† Lumley, Karen *(Redditch)* (Con)
† Mactaggart, Fiona *(Slough)* (Lab)
† Nokes, Caroline *(Romsey and Southampton North)* (Con)
† Pincher, Christopher *(Tamworth)* (Con)
† Smith, Chloe *(Norwich North)* (Con)
† Stunell, Sir Andrew *(Hazel Grove)* (LD)
† Teather, Sarah *(Brent Central)* (LD)
† Wilson, Phil *(Sedgefield)* (Lab)

Fergus Reid, Kate Emms, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 9 September 2014

(Morning)

[Mark Pritchard *in the Chair*]

Modern Slavery Bill

Clause 6

Sentencing

9.25 am

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

The Parliamentary Under-Secretary of State for the Home Department (Karen Bradley): I hope the Committee will forgive if I start by paying tribute to our former colleague, the hon. Member for Heywood and Middleton. I have just been talking to the hon. Member for Linlithgow and East Falkirk, who was a close friend of his, and it is appropriate that the Committee should pay tribute to him for his hard work in this place and in his constituency. He will be sadly missed. [Hon. Members: "Hear, hear."]

Clause 6 complements and strengthens the penalties set out in clause 5 by ensuring that, where an individual continues to pose a risk of offending or reoffending, that can be reflected in the sentence they receive. The offences of slavery, servitude, forced or compulsory labour and human trafficking are some of the most serious and violent on our statute book, so it is vital that offenders who continue to pose a significant risk to others in relation to these offences are dealt with in the strongest possible manner to protect the public.

The clause amends the Criminal Justice Act 2003 to add modern slavery offences to schedule 15 and part 1 of schedule 15B, relating to violent and sexual offences. The offences listed in those schedules attract a strengthened sentencing regime to reflect their seriousness. The relevant provisions of the 2003 Act ensure that, where a person is convicted of a serious or sexual violent offence, including modern slavery offences, listed in part 1 of schedule 15B, and they have previously been convicted of an offence listed in schedule 15B and received a sentence of life imprisonment or more than 10 years, the court must impose a sentence of imprisonment for life. However, the court is not obliged to impose a life sentence where it believes particular circumstances relating to the offence, the previous offence or the offender would make it unjust to do so.

The clause ensures that an extended sentence can be given to any person convicted of a clause 1 or clause 2 offence where the court considers that certain conditions are met. The court must be satisfied that the offender poses a serious risk of causing serious harm to others through reoffending, and it must consider that the current offence is serious enough to merit a determinate sentence of at least four years or that, at the time the present offence was committed, the offender must previously have been convicted of an offence listed in schedule 15B. Where the conditions are met, the court may impose an extended period for which the offender is to be subject to a licence. In the case of violent offences, that is five years; for sexual offences, it is eight years. In addition, the clause reflects the release arrangements for persons sentenced to an extended sentence under section 226A of the 2003 Act.

Offenders who have committed an offence listed in parts 1 to 3 of schedule 15B, or who have received a custodial term of 10 years or more, will be considered for release on licence by the parole board only once they have served at least two thirds of their sentence, and they will be released automatically at the end of the appropriate custodial term—the term imposed by the court as the custodial element of the extended sentence—if the parole board has not already directed release.

The clause means that those who continue to pose a significant risk to others through slavery and trafficking can be dealt with severely to prevent further offending and reoffending. I therefore hope that, when the Chair puts the Question, Committee members will feel able to support the clause's inclusion in the Bill.

Diana Johnson (Kingston upon Hull North) (Lab): May I start by thanking the Minister for her kind comments on the death of our former hon. Friend the Member for Heywood and Middleton? He was a member of the Panel of Chairs for a number of years and an active member of the Council of Europe, and our thoughts are very much with his family and friends at this sad time.

I have a few questions to put to the Minister about the clause. The first is about provisions for children to be tried in the youth court for offences under the Bill. The issue was raised in Lord Judge's evidence to the Joint Committee. I raise that because, earlier in our sittings, we deliberated on the Rooke case, in which a whole family seemed to be involved in the abuse of Craig Kinsella. What steps should be taken against young people—children, as we define them as anyone under the age of 18—who are in a household where offences under the Bill might be committed and are, in some way, aiding or abetting those offences? Would it be appropriate for those young people to be brought to court and would those matters be heard in the youth court?

I want to ask the Minister about aggravating factors, which we have had quite a debate about in previous sittings. Will she explain whether guidance will be issued to the courts about the aggravating factors that we have looked at—for example, in cases involving children, sexual exploitation, people who are particularly vulnerable because of mental health problems, and cases of kidnapping and false imprisonment? What guidance would be made available to the courts on those factors?

When the Director of Public Prosecutions gave evidence to the Committee, she suggested that it would not always be appropriate to use the Bill to prosecute and that other offences could be used. I think she was saying that it is likely that other Acts of Parliament could be used to prosecute particularly those who force young people—children—to beg on the streets. If so, could the aggravating factors that we want to see used in respect of the Modern Slavery Bill be regarded as such when

prosecuting for other offences not covered in the Bill? One example, which I have given, is that of a young person being forced to beg on the streets and the CPS deciding, for whatever reason, that a prosecution can be made not under this Bill but under other legislation. Would it be appropriate to bring in those aggravating factors for lesser or alternative offences? The whole Committee will recognise that we want to ensure that the maximum sentence is given whenever possible and that, when sentencing, a judge can consider and draw upon aggravating factors.

Karen Bradley: The shadow Minister asked about aggravating factors, but it should be put on the record that significant guidance will accompany the Bill to ensure that law enforcement and prosecutors understand the intention and recognise what Parliament wishes them to consider when taking cases through. Certainly, there will be guidance on aggravating factors and on all elements of offences and sentencing.

Fiona Mactaggart (Slough) (Lab): *rose—*

Karen Bradley: Does the hon. Lady want to intervene?

Fiona Mactaggart: I do, particularly on that point. In the previous sitting, the Minister clearly said that if children are involved in forced begging or similar, the Bill will catch them although, as we know, the clauses relating to that are unchanged from the present law. Chief Inspector Carswell, whom I referred to in the previous sitting, was shocked and greatly frustrated that in cases involving child criminality—children forced à la Oliver Twist to commit criminal acts in the street by their traffickers—the CPS had refused to prosecute. Will the Minister's guidance ensure that the CPS prosecutes the traffickers, rather than the trafficking victims, which is what is happening at present?

Karen Bradley: I have written in detail on the points about forced begging and pickpocketing that were discussed last week and all members of the Committee should have a copy of that letter. The clause is about catching the traffickers and the slavemasters, not criminalising the victims. There are clauses later in the Bill about victim protection, the statutory defence and other matters that ensure that it is clear to prosecutors and others that innocent victims who are forced into forms of criminality should have the protection they deserve under our criminal justice system. They also ensure that victims are not criminalised and that they can come forward and give the evidence we need to catch the bad guys behind it.

On the point about children criminally involved in slavery and trafficking, their cases will commence in the youth court, but will almost invariably be sent to the Crown court to be tried. Special measures will be available to the Crown court to protect child defendants.

Sir Andrew Stunell (Hazel Grove) (LD): My hon. Friend has mentioned that the guidance will make it clear that the traffickers of begging children will be prosecutable under the Bill, which I am sure the whole Committee welcomes. Can she clarify whether doing that when the child is not being prosecuted will make the prosecution deliverable, or does it depend on the child also being prosecuted before the aiding and abetting part can come into play?

Karen Bradley: If I may, I will complete my point about the other offences under which the cases may be tried and come back to that question.

Clearly, under criminal justice, the CPS is looking to get a conviction and will use whichever offence they feel is most appropriate in terms of the likelihood of getting the conviction and of the sentence that can be given with that offence. However, the court will consider all relevant circumstances when sentencing, including any of what the shadow Minister and others might refer to as lesser related offences.

To return to the intervention made by my right hon. Friend the Member for Hazel Grove, the answer is yes: the point of the Bill is to target the traffickers, and there is no requirement to prosecute the victim for us to prosecute the trafficker.

Michael Connarty (Linlithgow and East Falkirk) (Lab): May I just say, as invited by the Minister, a few words about Jim Dobbin for the record? Back in the 1980s when I was leader of Stirling council, we heard of a council called Rochdale that was doing wonderful work in devolving power to its local communities so we decided to go and talk to the people there. When I arrived, I discovered that the leader of the council was a Scotsman from Fife called Jim Dobbin. He had settled as a scientist in one of the hospitals there and had become involved in local politics. We were friends ever since. We—my wife, Margaret, and I, and Jim and his wife Patricia—would often take visits together so that we could spend some time outwith the official agenda to spend time together. They were a lovely couple with four lovely children, including Mary who worked for Jim for a time at the hospital and revealed that she, in an earlier life, had been a bass guitarist in a punk band. I saw pictures of her in which that respectable young woman was totally transformed. They are a lovely family, very close, and Jim was dedicated to them and very proud of them. Several of them are musicians and others are scientists.

Jim and Pat had grandchildren with a rare chromosome disorder that only occurs if both parents have the same chromosome alteration. That meant that the two grandchildren had a kind of sleeping sickness whereby their eyes suddenly shut, but in fact their body is shutting down on them. They have been under medication and one has had very serious operations to insert a metal rod into his spine to keep him upright, but they are very bright children and one has just been accepted to university. Jim was very proud of the family through all their troubles.

Jim was very stressed when I spoke to him on Friday because he had had what he said was the worst month of his life. He was going through the reselection process and had discovered some nasty things on the internet, which caused him great concern. He was selected unanimously to return to Parliament, which showed the confidence the people in his community had in him. When we heard the news of his death, we sent messages to Patricia, who will be absolutely devastated—she was in Poland with him when he died.

[Michael Connarty]

Jim was a great Member of Parliament and a dedicated Christian; the Pope made him a knight of St Gregory for his work. He sat on the Council of Europe with me and was the UK's representative on the One in Five campaign against the sexual exploitation of children in Council of Europe countries, a crime that sadly keeps occurring in the UK and is rife throughout not just European but other countries. We have lost a great colleague and a wonderful man, and I am sure members of the Committee will send their condolences and warm best wishes to Patricia and the children.

Fiona Bruce (Congleton) (Con): May I join the hon. Gentleman by extending the condolences of the all-party pro-life group to Jim's family? Jim was a dedicated fighter for the lives of the unborn and the sanctity of all life. When I entered Parliament, he was chairman of the pro-life group, and latterly he and I have been joint co-chairmen. The group has lost a great fighter for life, and I pay tribute to all he did over many years for that cause. Over the weekend, he was described as a principled man, and he certainly exhibited his principles on that issue.

Michael Connarty: I thank the hon. Lady for her comments. Jim was dedicated to that cause and many others. He led the campaign against the massive addiction of many people in the UK to prescription drugs. As a scientist, he had become aware of that problem and was trying to prevent people from being given prescriptions without having to visit a doctor, a practice that was becoming more prevalent, resulting in many people becoming addicted to prescription drugs.

Sarah Teather (Brent Central) (LD): I was also extremely fond of Jim, a fellow Catholic. I always found him kind and wise. He was extremely helpful to me when I had a constituent who was addicted to prescription drugs. He supported her attempt to get attention for what had happened to her. He did extremely good work. He is an example of an MP who stuck to a couple of causes and kept going doggedly, which shows how much difference somebody can make if they focus on one thing.

The Chair: Before I call Michael Connarty, I want to say that I am being lenient, first, because Jim Dobbin was a member of the Speaker's Panel; secondly, because much of his campaigning was about the sexual exploitation of children, which is a key part of the Bill; and, thirdly, because it reminds us that people are remembered not for their titles—whether ministerial, shadow ministerial, non-ministerial or non-shadow ministerial—but for their principles and personal conviction, which Jim Dobbin had.

Michael Connarty: Thank you, Mr Pritchard. I am grateful to you for saying that. Those sentiments are shared across the House.

Jim Dobbin was also a tolerant individual. Although I am a humanist, an atheist and a lapsed Catholic, he was one of my best friends. He probably offered a prayer or two to his God for my salvation; maybe it will be useful at some time in my life. He was a lovely man, and a greatly happy person—he received tremendous joy from his family and his dedication to the causes that have been referred to.

9.45 am

I turn to the topic before us. The Minister's assurances do not convince me; the evidence convinces me otherwise. Christine Beddoe, who for 10 years was the director of ECPAT UK, an organisation dedicated to challenging the exploitation, trafficking and enslavement of children, said in written evidence:

"The Home Office is becoming numb to these figures and Ministers must be alive to the practice of 'normalising' child abuse statistics when officials are briefing them on modern slavery. A referral to the NRM does not mean the child is safe from the control of their trafficker and even just one child abused is one too many."

We would all agree with that. She reminds us that in oral evidence the Director of Public Prosecutions told this Committee:

"I do not think that cases are slipping through because the legislation is not there to prosecute; I think cases may not be brought before the courts because we have not got the evidence and we have not got the complaints in the first instance."—[*Official Report, Modern Slavery Public Bill Committee,* 21 July 2014; c. 9, Q17.]

Christine Beddoe informed me that Chief Inspector Colin Carswell, whose evidence we referred to earlier, had indicated that two of his more recent cases had been thrown out of court because coercion could not be proved. That is one of the great problems. It would be impossible to sentence people under clause 6 if the charges cannot be brought to court and the conviction cannot be made. Sentencing becomes irrelevant. She also says in her written evidence:

"The so-called CPS lack of evidence is not a lack of evidence of trafficking or exploitation, it is a lack of evidence of threat, beatings and bruises that can be shown to the jury."

That is exactly why the two most recent cases brought for child exploitation failed. It could not be proved, the evidence wanted by the court could not be shown.

Christine Beddoe reports that at a recent meeting with a senior police officer investigating organised criminal networks that traffic children, he said:

"Even though the law says there doesn't have to be coercion because a child cannot consent to their own exploitation they [CPS] are not willing to prosecute without it. We had evidence of movement and evidence of exploitation. CPS threw the case out and there were no other criminal charges we could use so the criminals went free."

That is the reality of the collection of crimes that people are prosecuted for at the moment. The present Bill does not add to those crimes. It uses exactly the same laws as before and, therefore, they will fall.

Christine Beddoe refers to how

"This insidious trend of creating an image in the eyes of the law of 'the perfect victim' has far-reaching ramifications."

If we are looking for key elements, which obviously we cannot present at different times, without an offence of child exploitation, that will always be the problem. She adds that the decision not to prosecute and the evidential threshold is the problem. If we do not change the law—the specific crimes—all the assurances given by the Minister are pointless. We will have no more prosecutions.

To give evidence of the numbers, in the five years to the end of March 2014, 1,620 children were referred to the National Referral Mechanism. How many more were not referred? Anthony Steen has often said, through his work with the Human Trafficking Foundation, that this is the tip of an iceberg. This is one fifth or one tenth of the actual numbers of children who are being abused and exploited at the moment.

The evidence from Christine Beddoe and the chief inspector in the Met responsible for pursuing this crime is that they cannot get to court or secure prosecution because of the evidential problem. That is because we do not have a specific crime of exploitation of children.

Karen Bradley: I feel I should respond to those points. I have also read Christine Beddoe's evidence and take the point she makes. I want to say on the record that I find the idea that anybody could be numb to the child abuse statistics slightly insulting. I could not possibly be numb. I am a mother; I hear the stories of the victims. It would be impossible to be unmoved by the stories that are heard. The reason I want the Bill to become an Act is so that we can help as many victims as possible. We will come to many of the points Ms Beddoe made, because so much of what she says concerns what we will be discussing later: the need for a commissioner and ensuring that the practice of professionals on the ground lives up to what we in Parliament expect.

I do not want to re-run our discussions about offences from last week, but we need to put this issue in the context of the overall picture. The commissioner is a vital part of the jigsaw that will ensure that all those who come into contact with victims understand what Parliament wants them to deliver: protection for the victims and to gather the information needed to bring a prosecution that a jury will convict on.

Michael Connarty: The point that has been made is that unless the Government put in the necessary crimes against children to try people under, no matter how much we are moved, we will be no further forward. I have one final quotation from Christine Beddoe:

"It is sobering to note that there have been no cases prosecuted under section 71—Slavery, Servitude and Forced or Compulsory Labour—of the Coroners and Justice Act 2009, where the victim was a child."

There have been no prosecutions, yet that is all we are offering by way of protection for children in the Bill.

Karen Bradley: As I said, I do not want to re-run the discussions we had last week about the offences. We spent considerable time on that and I am reflecting carefully on the point about consent made during the debate on clause 1, as well as ensuring that the guidance reflects the comments and intent of the Committee.

On children going through the NRM, we agree that that needs review, which is why such a review has been ongoing since April. It is vital that we ensure that the NRM is fit for purpose, because we owe that to victims. It has many deficiencies, but I am confident that the results of the detailed review will help to ensure that we can assist victims and provide them with the support they need.

Diana Johnson: I know that the NRM review is ongoing and I understood that an interim report would be made available to the Committee for its deliberations. Is that correct and, if so, when are we likely to receive it?

Karen Bradley: We will discuss the NRM review later. We are not working to a deadline just to produce something, because we want to get it right, but we intend to publish the document before the Committee reports the Bill. I hope that gives the shadow Minister some reassurance.

Finally, the point Ms Beddoe made about the DPP's comments about evidence still stands. This package of measures is about ensuring that we have the evidence, because ultimately we are looking for prosecutions to be brought that convince juries of lay people that the person being brought to court is guilty of the most hideous and heinous crimes. We must ensure that evidence and information is gathered appropriately, in a way that protects the victim within court, and we must also look at policy issues in areas such as evidence gathering, so that we get successful prosecutions, because we all agree that, to date, there have not been enough of them.

Question put and agreed to.

Clause 6 accordingly ordered to stand part of the Bill.

Clause 7

Confiscation of assets

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

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

Clause 8 stand part.

Clause 9 stand part.

Diana Johnson: I have some questions about this group of clauses, which we all welcome, as they represent a sensible way forward. We want human traffickers to lose all their assets, if at all possible, so we support clause 7. Nevertheless, I want to press the Minister on a number of points.

What assets recovered under clause 7, if any, will be retained by the police to provide further resources to fight human trafficking? We know that the confiscation of major criminals' assets has so far been far from satisfactory—a lot more can be done. The Labour party has been working with the former Director of Public Prosecutions, Sir Keir Starmer, on a review of the current situation with a view to tabling a series of amendments in the other place, where another Bill is currently being examined. Depending on what happens in the other place, we might wish to revisit clause 7 on Report and table some amendments to improve it.

Will the Minister comment on the need to improve the court's power to get full disclosure of assets, particularly in relation to third-party claims, and on the role of international co-operation? Human trafficking obviously involves many countries—not only in Europe, but around the world—so will she say what more she thinks must be done to allow UK courts to restrict the disposable assets of foreign nationals and demand that liquid assets be returned to the United Kingdom? Will she

[Diana Johnson]

also comment on the need to improve—if she thinks such improvement is appropriate—the mutual assistance arrangements with other countries, notably EU partners?

Turning to clauses 8 and 9, the Opposition fully support compensation for victims wherever possible, but I want to press the Minister on why clause 8(1) says that the Crown court "may" make

"a slavery and trafficking reparation order against a person".

Will she explain why it does not say that the Crown court "shall" make such a reparation order?

When we were discussing clause 3, I gave an example of a case in Lincolnshire where 25 victims were rescued from forced labour, of whom 12 gave witness statements. If the CPS could take those 12 individuals' cases to court and it was found that human trafficking and forced labour had taken place—bearing in mind that there were 25 victims, but only half had their cases taken to court—would it be possible under this Bill for all 25 victims to receive compensation, even though the court had reached findings on only those 12 cases? I want to be clear about whether that would be possible, or whether compensation will only ever be for victims in cases where there is a specific conviction.

10 am

Clause 9 is about the court having to consider a defendant's means to pay a reparation order. Will the Minister tell us how we can be sure that, whatever means the individual has to pay, compensation for the victim is prioritised? The Bill already says that compensation will take precedence over fines, but could she go further and say how she will ensure that the highest priority is given to the victim?

When a court considers fines and confiscation of assets, it normally protects assets that it considers are necessary for the defendant to continue with their livelihood. That presents us with some interesting problems, particularly around the issue of a business using forced labour. I am particularly thinking of a farm, or cases such as the Rooke case, which I referred to earlier, or the cases that were also referred to earlier of gangs of labourers being moved around the country to tarmac people's front drives. Can the Minister set out her thinking about how assets in such cases—I guess they would include a van, a piece of land or a building—could be dealt with, in terms of protecting the defendant's livelihood?

With these orders, a defendant will normally produce evidence about their means. Will the CPS challenge what the defendant says? Will it go on some kind of fact-finding mission to establish whether what the defendant says about their assets is correct and that full disclosure has been made? If the CPS is not responsible for doing that work, who is? Will victims be able to make representations and challenge the evidence that a defendant presents about their assets? As we have discussed, many victims of trafficking and forced labour are vulnerable, and a court can be a very intimidating place for them, so will legal aid be available to assist them to pursue or challenge compensation orders?

Earlier, I made the point that there are people who are victims but whose case has not been tried in court. Will they be able to take action to challenge any compensation order made in court? Will they be able to access lawyers or legal aid, or will such access be restricted to victims in cases where there has been a conviction? Is there any opportunity for an order to be made at a later date?

Sarah Teather: The hon. Lady is asking some interesting questions about legal aid. Has she considered the influence of the residence test and, if so, does that influence underlie part of her concern? Effectively, I am putting that question through her to the Minister.

Diana Johnson: The hon. Lady asks an interesting question and I hope that the Minister can shed some light on the issue. Legal aid has gone through major changes in recent times, but I am not sure that much thought has been given to the effect of those changes on this particular group of victims. I guess that it is quite a small group at the moment, but we hope that more victims will come forward and that there will be more prosecutions. The Minister said that that was one of the aims of the Bill, but would she focus on legal aid? For practitioners in this area, it would be helpful to know what resources are available to assist this particular group of victims.

Finally, is it possible to make a claim for compensation or reparation at a later date? If a trafficker or someone engaged in the use of forced labour has assets that they have managed to hide away but it becomes obvious at a later date that those assets are available, is there a limit on how long people have to make a claim, or is the period indefinite? Those are my questions about the practical application of clauses 7 to 9.

Mr David Burrowes (Enfield, Southgate) (Con): I want to make a couple of comments about clauses 8 and 9, which I welcome.

The shadow Minister mentioned clause 8(1), which states:

"The Crown Court may make a slavery and trafficking reparation order".

I welcome the orders, but will the Minister clarify how the reference to "may" rather than "shall" interplays with the court's statutory duty always to consider compensation, which is provided for under the Legal Aid, Sentencing and Punishment of Offenders Act 2012? Given the statutory duty always to consider compensation, will the court always be obliged to consider slavery and trafficking reparation orders?

On the impact of the orders, clause 9(3) says:

"The amount of the compensation is to be such amount as the court considers appropriate having regard to any evidence".

I would be interested to hear what evidence the Minister anticipates. There has been lots of debate about how far a victim impact statement can lead to effective compensation orders. In this instance, work could be done on how such statements can properly express the true impact of modern-day slavery on a victim. Ordinarily, when a matter comes to the court, the court looks at the impact of the immediate crime on the victim. Statements are taken, and compensation claims are made. With a victim of trafficking or modern slavery, however, the concern is that the impact is not just about the immediate time when they come before the court; there are long-term consequences, which can last a lifetime. It is important

that those are expressed, particularly when looking at the health consequences for a victim, and that victims receive adequate compensation. It is also important that those responsible for putting people in a state of slavery and for the long-term impacts of that make reparation over what could be a number of years. I therefore ask the Minister for assurance that the slavery and trafficking reparation order will really bite and reflect not just the immediate, short-term impact on victims, but the long-term consequences.

Karen Bradley: I thank the shadow Minister and my hon. Friend for their contributions.

On clause 7, it is vital that we take seriously the confiscation of criminals' assets, and the Government do. There are many serious and organised criminals for whom a jail sentence is merely an occupational hazard. Serving time in jail is no disincentive to leading a life of crime if, at the end of that sentence, and often during it, a serious criminal has access to the assets they accrued through their criminal activities and can continue those activities using those assets.

The clause looks specifically at confiscation orders relating to modern slavery offences. It should be looked at in the context of the other work the Government are doing, through the Serious Crime Bill, to strengthen the Proceeds of Crime Act 2002 in relation to the confiscation of the assets of serious criminals.

The clause acts on recommendations made by a number of parties, including the pre-legislative scrutiny Committee, to change the definition of offences in the 2002 Act to include the offences in the Bill and make them lifestyle offences, which means the courts will have access to more of the assets than they otherwise would. That is a sensible suggestion, which the Government were happy to act on.

The Serious Crime Bill, which is going through the other place, amends the 2002 Act to enable law enforcement agencies to seize criminal assets more quickly, close loopholes that criminals use to get around confiscation and crack down on those who try to avoid paying them. There are harsher penalties for those who do not pay the confiscation orders. There are new rules about the disclosure of assets and who has the right to assets before the guilty verdict is given, to ensure that we stop the legal wrangling that has taken place, with many people having claim to assets once a defendant has been found guilty. I hope that the Committee agrees that we are taking significant action against serious and organised criminals to ensure that they are deprived of the assets that enable them to continue their criminal activities.

The shadow Minister and my hon. Friend the Member for Enfield, Southgate, asked a number of questions, which I will do my best to try to get through. I will write to the Committee to clarify any points that I do not answer directly. The shadow Minister asked how much money will be recovered from those responsible for modern slavery. It is difficult to predict, as I am sure she understands. More than £2 million has been recovered from human traffickers in the past four years, but there could and should be more. The inclusion of the "criminal lifestyle" offences under clause 7, for the purposes of the Proceeds of Crime Act, will assist the courts in recovering more assets from the criminals.

The shadow Minister asked about the proportion of assets that would be recovered and how much would be available to the police to enable them to fund further operations. I will deal with clause 8 in a couple of moments, but the first priority in all cases will be to use seized assets to provide reparation to the victims. I understand the point that she raised; victims will be the number one creditor. I am going back to my accounting days and remembering priority creditors; the victims under a reparation order will be the priority creditors and will have first call over any seized assets. Any seized funds that are left over will benefit criminal justice agencies through the asset recovery incentivisation scheme, which returns a proportion of sums recovered to law enforcement, prosecution and enforcement agencies. The amount of assets recovered using confiscation orders continues to increase since ARIS was introduced and over the past three years more than £238 million has been returned to front-line agencies.

Michael Connarty: There was some discussion in the Joint Committee about when someone's assets could be frozen. There was some good evidence about freezing assets on suspicion, which happened in Italy when it passed the anti-Mafia Act. As soon as someone was suspected of being involved in a Mafia scheme, all their assets were frozen before they were taken to court or charged; millions of pounds were gathered that would be spirited away if they waited until that person was charged. That was one of the reasons why the Mafia war was successful. Have the Government reached a view on whether they would, in fact, take the same line in freezing assets of suspected traffickers before they are even charged?

Karen Bradley: I will come to that in a couple of moments, but first I will finish discussing ARIS. Although the scheme is not on a statutory footing, there is an expectation that the moneys distributed under ARIS will be used to fund improvements in asset recovery or for front-line policing. There is therefore no need to ring-fence a proportion of assets specifically for the police to fund modern slavery operations. It is for the police to determine how they use the funds available to them, but we expect that seized assets will be used for front-line operations.

I have briefly discussed the Serious Crime Bill. Third-party claims are responsible for delays in the confiscation process, which they needlessly complicate and lengthen. The Serious Crime Bill enables the court to determine the extent of the defendant's interest in a particular property at the confiscation stage to help prevent late applications as a result of third parties delaying proceedings. The defendant will be required to confirm or deny the details of any potential third party interests, including spouses, identified by the prosecution. They will also be required to provide details of any actual or potential third party interest in any of the property that the court will take into account at the confiscation hearing that has not already been identified by the prosecution.

10.15 am

The shadow Minister asked if there was more that could be done by police and prosecutors to restrain or confiscate assets overseas. That is something that is close to my heart because I have been on a number of

foreign trips where the topic of asset recovery has been discussed. Making that a priority for overseas Governments as much as for our own is incredibly important to ensure that we can seize those assets and ensure they are taken from the criminals. We are looking through the serious and organised crime strategy at the recovery of hidden assets abroad. The UK is engaging with key countries to encourage and improve international co-operation in asset recovery, which, historically, has been poor. We have already engaged with Spain, China and the United Arab Emirates and will be working with the Foreign and Commonwealth Office and the CPS to negotiate further agreements and understandings with other key countries, including Romania, South Africa and Ghana. Those agreements relate to asset sharing. There is a long-standing international position that the country that enforces an overseas order in its territory keeps the assets that it confiscated. There is a young but developing international concept of assets being shared between countries, particularly where victims are involved. I emphasise that that is a new concept in international law—the CPS, for example, now has dedicated resources located in the priority countries, and works with prosecutors overseas and with others. We understand the ways in which we can seize assets from UK criminals who are located here, but there are other hurdles that have to be overcome locally in overseas jurisdictions. We need to understand all the nuances of the law and the legal systems to ensure that we are getting hold of those assets in a correct and appropriate way and depriving criminals of those assets.

The shadow Minister asked if there were any additional powers that might be useful in promoting success and recovering overseas assets. The tools for international recovery already provide for successful co-operation between the UK and our overseas counterparts. However, the tools have historically been underused, both here and overseas. The situation has undoubtedly improved, but there is more that can be done to encourage the use of those tools. Bilateral agreements that we have recently concluded and are seeking to negotiate with priority countries should have the effect of improving co-operation overseas. I hope that the new European Parliament and Commission will taking the issue seriously and look at it on a Europe-wide basis, ensuring that we have appropriate agreements to deprive serious criminals of their assets and to act as a much bigger deterrent than any jail sentence ever could.

There was a question about the integrity of the financial information and who carries out the investigations. Disclosure of assets is done as part of the financial investigation process that takes place for the confiscation hearing prior to a confiscation order being made. Financial investigators typically work for the police or the National Crime Agency and ensure that that information is gathered.

Clauses 8 and 9 deal with reparation orders, which are a new measure that the Government felt strongly should be introduced to ensure that victims received reparation for the suffering that they had been put through. Too often, the courts looked at financial loss in compensation orders and a victim of slavery clearly does not experience financial loss. We felt that a new order that recognised the unique circumstances of slavery victims was important. We have talked about success, but I want to put on the record the fact that there have been only three human trafficking cases in the past 11 years where both a compensation order and a confiscation order have been imposed. That is simply not good enough. We owe it to the victims to ensure that they receive the reparation that they properly and rightly deserve. We expect the courts to introduce reparation orders as a priority. I repeat that the victim has top priority over any assets seized. We expect victims to receive their reparation before any other authority or public body does so.

My hon. Friend the Member for Enfield, Southgate and the shadow Minister asked why the word "may" is used rather than "shall". We have considered that point long and hard. Should we impose this as a mandatory condition on the courts? On balance, we feel it is better to give the courts discretion not to make orders if, for example, the defendant does not have the assets to make full payment. We would do a disservice to victims if we led them to believe that the reparation order would come to them and then there were no assets and they felt deprived of the reparation they expected.

Diana Johnson: I listened with interest to what the Minister just said. If the clause said "must", which is mandatory, I would understand the argument that the Minister puts forward. However, would not changing the wording from "may" to "shall" indicate the weight of opinion that we should wherever possible apply for one of these orders? "May" is a lesser encouragement to do something; "shall" would be a better way to make clear our intention.

Karen Bradley: The shadow Minister drags me back to my previous life as a tax adviser, where I argued at length with an inspector of taxes whether "shall" was mandatory. It was an interesting debate that I will not share with the Committee. There is some debate around "shall" and many in law consider "shall" is mandatory *[Interruption.]* As the Whip says from a sedentary position, in English as well.

The provision makes it clear that the court must give reasons if it makes an order. We encourage courts to make an order wherever possible. That is certainly the message to come out of the Committee: we expect the courts, where possible, to impose a reparation order on someone who is found guilty as part of a confiscation hearing. Assets must be available if that is to be possible.

The shadow Minister asked whether a victim who was not part of the case can be covered by a reparation order. A reparation order follows a conviction. Inevitably, it can be given only where the court has been persuaded that the defendant committed a slavery and trafficking offence against the victim. Therefore, if someone is a victim of a defendant who has been found guilty, and the jury has been convinced of that, a reparation order can be applied. If there is another victim who has not been through the court process and the defendant has not been found guilty of offences against that victim, I do not see how the reparation order could be applied. We will look at that to see if there are possible ways to do so.

Sir Andrew Stunell: I support the provision as drafted, because it will give some encouragement to victims who are considering whether they are able to give statements. They would know that if they did give statements and a

conviction was secured, they would be eligible for reparation. That perhaps connects back to the point the Minister made about "shall", "may", "if" and "must"—I admit that every time I hear a discussion in this place about the interaction of those words, I leave slightly more confused than I started.

It would be helpful if the Minister indicated how the guidelines would address that and the interaction between that and what the CPS might do. I can see the situation that was suggested of 25 victims but only 12 going to court. It might be the CPS that chose which 12 go to court, not the victims. There might be an element of discrimination as a result of more offences not being brought to the court's attention for some legal, utility purpose. Will the Minister take that away and give some thought to the idea?

Karen Bradley: I thank my right hon. Friend for his contribution. It is useful to see the reparation order as an incentive to give evidence, which will help victims to have the confidence to give the evidence that is needed to get prosecutions. I will cogitate on my right hon. Friend's point.

My hon. Friend the Member for Enfield, Southgate asked whether the court could consider the victim impact statement. Clause 9(3) allows the court to consider evidence when setting a level of compensation, which could include victim impact statements or evidence about health problems.

A question was asked about the time limits for reparation orders. There is no time limit on making reparation orders, and confiscation orders can be made or varied after the fact. If more assets are discovered later, the court can increase the value of the reparation order to reflect the new information.

On clause 7, the shadow Minister asked about the test for restraint of assets. In the Serious Crime Bill we intend to reduce the test from a reasonable cause to believe that the defendant has benefitted from criminal conduct to a reasonable suspicion. We believe that will allow restraint orders for freezing assets to be applied for at an earlier stage of an investigation.

I hope I have covered all the points that were made. If I have not, I will write to the Committee to clarify any points I have not covered. Given the welcome that the shadow Minister gave to the clauses, I hope the Committee will accept them.

Question put and agreed to.

Clause 7 accordingly ordered to stand part of the Bill.

Clauses 8 and 9 ordered to stand part of the Bill.

Clause 10

Slavery and trafficking reparation orders: supplementary provision

Karen Bradley: I beg to move amendment 5, in clause 10, page 6, line 34, leave out paragraph (d) and insert—

"(d) the reference in section 133(3)(c)(iii) to a slavery and trafficking reparation order under section 8 were to a compensation order under section 130 of that Act;"

This amendment is consequential on the amendment to section 133(3)(c) of the Powers of Criminal Courts (Sentencing) Act 2000 made by paragraph 9D of Schedule 4 (as inserted by amendment 25).

The Chair: With this it will be convenient to discuss Government amendments 25 and 26.

Karen Bradley: The Bill introduces important provisions in clauses 8, 9 and 10 to ensure that victims can receive reparations directly from their trafficker or enslaver for the abuse and suffering they have endured. Bespoke slavery and trafficking reparation orders send out a clear signal that those who seek to make a profit by using others as a commodity will not only be prosecuted, but will need to compensate their victims from their ill-gotten gains. I am grateful that the Committee has agreed to clauses 8 and 9, and I look forward to debating the related provisions in clause 10.

These consequential amendments relate to the setting up of slavery and trafficking reparation orders. They will ensure that existing legislation that makes provision in relation to compensation orders makes similar provision in relation to slavery and trafficking reparation orders. The legislation being amended includes the Powers of Criminal Courts (Sentencing) Act 2000, the Administration of Justice Act 1970, the Criminal Justice Act 1991, the Social Security (Recovery of Benefits) Act 1997, the Courts Act 2003, the Criminal Justice Act 2003, the Health and Social Care (Community Health and Standards) Act 2003 and the Prevention of Social Housing Fraud Act 2013.

Amendment 5 agreed to.

Clause 10, as amended, ordered to stand part of the Bill.

Clause 11

Forfeiture of land vehicle, ship or aircraft

10.30 am

Mr David Hanson (Delyn) (Lab): I beg to move amendment 70, in clause 11, page 8, line 25, leave out "or ought to have known".

[Hon. Members: "Hear, hear!"] It was worth waiting for. I welcome you to the Chair, Mr Pritchard, and I thank my hon. Friend the Member for Kingston upon Hull North for taking clauses 1 to 10.

Amendment 70 is one of a series of probing amendments that we have tabled to the next few clauses in order to get some clarity about how the Government are thinking on particular issues. We support clause 11—we do not have a problem with it. It is absolutely right that those found guilty of an offence under clause 2 can potentially forfeit a land vehicle, ship or aircraft. There is no problem with that.

As the Minister will know, clause 11(5) contains a definition of how the clause will apply to individuals found guilty of an offence under clause 2. As drafted, subsection (5) says:

"This subsection applies where a person who, at the time the offence was committed—

(a) owned the ship or aircraft, or

(b) was a director, secretary or manager of a company which owned it,

knew or ought to have known of the intention to use it in the course of the commission of an offence under section 2."

It is perfectly reasonable to apply the clause to an individual convicted of an offence under clause 2 who

[Mr David Hanson]

owns the ship or aircraft: people who own an asset should have knowledge of what it is being used for. It is perfectly reasonable for an individual who is the director, secretary or manager of a company that owned the ship or aircraft to be held responsible for the ownership and actions involving that asset. It is self-evident that if someone knew that an asset for which they were responsible was being used for the commission of an offence under clause 2, their inclusion under the clause is perfectly reasonable.

I have tabled amendment 70 to test what the Minister means by including in subsection (5) the words "ought to have known". That is a very wide phrase. I potentially ought to know what is on television tonight, but I do not. I ought to have known about Government amendments 5, 25 and 26 to the previous clause, but I did not, because my hon. Friend the Member for Kingston upon Hull North dealt with them. There are lots of things that I ought to have known but did not. Will the Minister define what she means by "ought to have known"? It is important, not because I want to delete those words from the Bill, but because when the Bill becomes law, at some point in time, somewhere in the United Kingdom, someone will be in the dock in a court because they "ought to have known" what an asset was being used for. I do not want either the defence or the prosecution to make a case that is full of holes because of subsection (5).

I would like some clarity, so I challenge the Minister to use this opportunity to put into *Hansard* what she means by "ought to have known". There is clarity in "ownership of an aircraft", in "director, secretary or manager" of a company, and, subject to prosecution tests, in "knew" what an asset was being used for. "Ought to have known" is slightly more off beam and needs clarity. I have tabled amendment 70 to give the Minister an opportunity to supply that clarity.

Karen Bradley: I thank the right hon. Gentleman for his contribution. It is nice to hear from him for the first time in this Committee, and I look forward to him challenging me during our consideration of the Bill, which I am sure he will.

Mr Hanson: I am here to help.

Karen Bradley: I thought nothing less.

The amendment raises important issues about the balance of property rights and property owners' responsibilities not to allow their assets to be used in human trafficking. It relates to circumstances where the trafficking offender themselves did not own a ship or aircraft or was not the director, secretary or manager of a company that did, but where the actual owner of the ship or aircraft—or the manager, director or company secretary of a company that owned the ship or aircraft—knew or ought to have known of the intention to use the ship or aircraft in the commission of a trafficking offence. The provision is effectively a safeguard for dealing with larger, and so more valuable, ships or aircraft, as smaller ships or aircraft used in trafficking can be forfeited regardless of the knowledge of the owner.

I am grateful for the opportunity to set out why I believe it is right for individuals who ought to have known that their ship or aircraft was being used in human trafficking to be at risk of forfeiting that ship or aircraft. First, the focus of the Bill is to bring modern slavery out into the open and to encourage individuals to act to tackle that horrific abuse. The amendment suggests that, even when faced with evidence that any reasonable person would recognise as signs of human trafficking, an individual remains free from any responsibility to take any action to stop exploitation being carried on through his or her assets. It seems reasonable that an owner of a ship or aircraft who is faced with obvious signs of human trafficking should take steps to stop their own asset being used to carry out such a crime—for example, by reporting their suspicion to the authorities. If the owner opts to turn a blind eye, it seems reasonable that he or she puts himself or herself at risk of seeing that ship or aircraft detained and ultimately forfeited.

Secondly, the test set out in subsection (5)—

"knew or ought to have known"—

is a widely used test in legislation, in particular in the field of criminal law. It appears in the legislation on sexual offences, and the test of "knows or ought to know" also appears in clauses 1 and 2 of the Bill. Without the second arm of the test—"ought to have known"—defendants can argue that they did not know what was taking place even in scenarios where it is unfeasible that they could have been unaware that their property was being used to commit a human trafficking offence. That would make it extremely difficult for the power to be used in practice, and we need to ensure that the Bill delivers meaningful and effective powers for law enforcement to improve its response to modern slavery.

Finally, the forfeiture power is based on an existing power in relation to trafficking for sexual exploitation, in section 60A of the Sexual Offences Act 2003. I am not aware of any practical problems with the unjust use of that power. The test is an objective one: if a reasonable person ought to have known, the test is met. The ordinary meaning in English is often used in law as well.

Given that clarification, I hope that the right hon. Gentleman will feel able to withdraw his amendment.

Mr Hanson: The purpose of the amendment was to test and to put on the record the Minister's understanding. I am grateful for her explanation, and I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 11 ordered to stand part of the Bill.

Clause 12

Detention of land vehicle, ship or aircraft

Mr Hanson: I beg to move amendment 66, in clause 12, page 8, line 34, leave out "senior"

The Chair: With this it will be convenient to discuss Amendment 67, in clause 12, page 9, line 17, leave out subsection (7).

Mr Hanson: This is another short probing amendment that I hope the Committee can deal with quickly. The detention of a land vehicle, ship or aircraft is a reasonable power, but the clause allows that

"a constable or senior immigration officer may detain a relevant land vehicle, ship or aircraft."

A constable is defined in law as anything from a chief constable to a constable on the ground—they all hold the warrant of constable—yet subsection (7) defines a "senior immigration officer" as

"an immigration officer not below the rank of chief immigration officer."

Simply for the record and to test the Government's intention, I want to the Minister to explain the logic behind why a constable, who could in effect be anyone from a police constable to a chief constable, may detain a vehicle, ship or aircraft under the powers in the clause, while immigration officers may not, unless they are of the rank of chief immigration officer.

I tabled the amendment because, if we look at later clauses—which, given the context of this discussion, I hope you will allow me to do, Mr Pritchard—we see that clause 23, on "Slavery and trafficking risk orders", defines, for a magistrates court making a risk order, that an application should be made by

"a chief officer of police…an immigration officer, or…the Director General of the National Crime Agency".

Different types of individuals undertake different things under the Bill. Clause 12 gives powers to a police constable, but the chief officer of police must be involved in slavery and trafficking risk orders. Furthermore, an immigration officer at the lowest level has clause 23 powers, while the chief immigration officer must be involved under clause 12. Therefore, what judgment have the Minister, her officials and the Department made as to why different levels of authority are given in clause 12?

Karen Bradley: I am grateful to the right hon. Gentleman for tabling and explaining the amendments, which relate to what rank of immigration officer should be able to use the power to detain a land vehicle, ship or aircraft. This gives me a helpful opportunity to set out the Government's view about how best to ensure the power is used appropriately and proportionately.

The power applies where an individual is arrested for a human trafficking offence. If the constable or senior immigration officer has reasonable grounds to believe that a land vehicle, ship or aircraft has been used, or was intended to be used, in the commission of the human trafficking offence, the officer can detain that vehicle at the point of arrest. Detention is made prior to a court finding an individual guilty of an offence and without prior reference to a court. That reflects the need to disrupt traffickers' activities.

The individual can apply for the release of their property. Given that detention of a potentially valuable asset will often cause significant disruption and that detention can take place even when the asset's owner is not the person arrested, we consider it appropriate to have the safeguard of reserving the power for senior immigration officers. That reflects the existing legislation on which the power is based. Immigration enforcement is already using the power with the safeguard, and I am not aware of any difficulties with it.

Mr Hanson: I am not disputing that, and I am quite content with the Minister's explanation, but I am interested in why the power in the clause can be exercised by a constable or a senior immigration officer. Why not a chief superintendant or senior police officer? That is the point I am interested in.

Karen Bradley: As I said, the measure is based on powers used elsewhere.

Mr Hanson: That does not mean there is any logic in it.

Karen Bradley: The right hon. Gentleman tempts me to say something I will not say on the record.

The powers in the clause are powers of detention, which could involve the long-term detention of property, with a significant impact on an individual—for example, if the vehicle is used as part of their daily activities. In addition, the owner of the vehicle may not be the trafficker.

Clause 13, by contrast, provides for short-term powers for the purpose of preventing, detecting, investigating or prosecuting a slavery or trafficking offence. The potential impact of clause 12 on an individual is considered to be greater than that of clause 13, so the different levels of seniority in the two clauses are appropriate.

Michael Connarty: I can see the point, having been in the police game, that a constable is not a citizen and has the warrant. An ordinary immigration officer—not a senior immigration officer—might think that detaining a vehicle would allow someone to investigate so that a warrant could be found to keep the vehicle much longer, but if they do not have the power, a trafficker might escape. Are we not, in fact, making an error if we do not make sure that there is at least some power for an immigration officer to hold a vehicle so that a senior officer can decide whether a warrant is required?

Karen Bradley: Constables have relevant training and expertise. Police staff, for example, cannot use the power, but constables would have the appropriate training. Given the differences between the two orders, it is appropriate to have the different levels of experience, and we stand by the clauses.

Mr Hanson: I am grateful to the Minister for attempting to explain that. Whether or not a similar measure is in previous legislation, it seems illogical that a PC on the ground could detain a vehicle, ship or aircraft, but an immigration officer would have to go via a chief immigration officer, because the definition in the clause refers to a "senior immigration officer".

I am not party to this information, so will the Minister tell me how many chief immigration officers are on duty at any particular time at any particular port? A constable will not necessarily be present at the time of the potential offence. I am simply seeking the logic, and there may be a logic in this for the Minister. If there is a logic in a PC being able to seize a vehicle, why is there no logic in an immigration officer being able to do the same? If it is an issue of training, perhaps that should be examined.

[Mr Hanson]

I do not wish to make difficulties. I am genuinely interested in why there are two levels of authority in regard to this valuable power, which should be exercised to help to prevent trafficking. I will give the Minister one more opportunity to explain, and then I will withdraw the amendment.

10.45 am

Karen Bradley: The position of chief immigration officer is an operational grade on the front line. We would expect to see chief immigration officers operating where such a power is needed. Of course, a constable is a warranted officer and has the power of arrest, so we consider that to be the appropriate grade for the power.

Mr Hanson: We have had an explanation, although there is still an element of illogicality in it. Nevertheless, I am happy to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 12 ordered to stand part of the Bill.

Clause 13

Enforcement powers in relation to ships

Karen Bradley: I beg to move amendment 6, in clause 13, page 9, line 23, after "waters" insert "or in international waters that do not form part of the territorial sea of any State".

This amendment enables law enforcement officers to exercise enforcement powers in relation to stateless vessels in international waters that do not form part of the territorial sea of any State, where a modern slavery offence is suspected.

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

Amendment 28, in clause 13, page 9, line 44, at end add—

'(6A) The Secretary of State shall set out in a published memorandum how the authority under subsection (3) is to be exercised."

Amendment 58, in clause 13, page 10, line 4, at end add—

'(7A) The Secretary of State shall, by way of regulations—

(a) establish means to ensure that trends in maritime trafficking and forced labour in the UK and international waters are identified and tracked;

(b) establish means to ensure that intelligence and information on maritime trafficking and forced labour are communicated to the enforcement officers set out in this provision;

(c) establish means to ensure that co-ordination and intelligence sharing in relation to maritime trafficking and forced labour occurs between the agencies responsible for the enforcement officers as set out in this provision;

(d) establish means to ensure that enforcement officers set out in this provision are aware of their responsibilities to potential and actual victims of trafficking and forced labour;

(e) receive bi-annual reports from the agencies responsible for the enforcement officers in relation to their attempts to identify and disrupt maritime trafficking and forced labour, and to assist the victims."

Amendment 57, in clause 13, page 10, line 11, at end add " and all territorial waters of the United Kingdom including its dependencies and territories."

Amendment 27, in clause 13, page 11, line 3, at end insert—

'(10) The Secretary of State must submit a report annually to Parliament on the use of sections 11, 12 and 13 of this Act in the previous 12 months."

Karen Bradley: This grouping takes in a range of amendments to clauses 11 to 13 regarding powers in relation to land vehicles, ships or aircraft. Trafficking involves the movement of people with the intention of exploiting them. Slavery, servitude and forced labour can also take place at sea, for example on fishing vessels, so it is important that law enforcement has appropriate powers to stop those engaged in trafficking and slavery at sea. It is also important that law enforcement can disrupt the activity of traffickers by detaining the ships, vehicles and aircraft being used to bring modern slaves into the UK, and ultimately ask the courts to forfeit the assets used in trafficking. I am grateful to members of the Committee who have agreed with me about the principle that these powers are justified.

I now turn to the detail of the amendments; I will start with Government amendment 6 and then move on to the amendments proposed by honourable Members.

Government amendment 6 is about the enforcement powers in relation to ships without nationality where modern slavery is suspected, as set out in clause 13 and schedule 1 to the Bill. Currently the Bill enables these enforcement powers to be exercised in relation to stateless vessels within domestic waters. The amendment extends the enforcement powers in relation to ships, so that enforcement officers can act on a stateless vessel in international waters that are not part of the territorial sea of another state. Such vessels are not protected by any state, and therefore states are able to exercise enforcement jurisdiction over them, both in their own waters and in international waters. Currently, however, this is not provided for in domestic legislation.

The Committee will want to know how a stateless vessel is defined—

Mr Hanson: The provisions of clause 13(5) relate to "territorial sea adjacent to England and Wales", so does the Government amendment gazump that measure?

Karen Bradley: If I may explain the definition of a stateless vessel, perhaps we could then consider the issue of the waters that are covered by the amendment.

A stateless vessel is a "ship without nationality", to use the term in the Bill for a stateless vessel. The definition in the Bill sets out that a vessel is stateless where it is not registered to a state or otherwise entitled to fly the flag of any state, or where it flies the flag of two or more states, using them according to convenience. The amendment will mean that enforcement officers have appropriate powers to act in relation to stateless vessels, in line with international law, where modern slavery is suspected. Clause 13(5) only relates to "foreign" ships within UK territorial waters, whereas the amendment is about stateless vessels; it enables immigration officers to board those vessels in waters that are not the territorial waters of any one state.

I now turn to amendment 57. I am grateful to the hon. Member for Foyle for tabling this amendment to the enforcement powers in relation to ships. These powers are currently focused on the waters surrounding England and Wales. The amendment aims to extend them to cover territorial waters around the entire UK, and around Crown dependencies and overseas territories.

There are certain technical difficulties with the amendment, but I wish to focus on the important issue that has been raised. The Government are committed to creating an effective new enforcement power in relation to ships. More broadly, I am committed to working with the devolved Administrations to ensure that we have a co-ordinated and effective UK-wide approach to tackling all aspects of modern slavery. So I am grateful to the hon. Gentleman for tabling this amendment, and I look forward to hearing his contribution when we discuss the amendment. It is perhaps incumbent on me to allow him to speak to that amendment and then maybe I can respond.

Mr Hanson: Amendment 27 seeks to have an annual report submitted to Parliament on the uses of what would be sections 11, 12 and 13 of the potential Act in the preceding 12 months. Amendment 28 seeks to set out a memorandum as to,

"how the authorities under subsection (3) is to be exercised."

I have tabled these amendments as a debating point and to clarify some of the issues relating to clause 13. I am pleased that my hon. Friend the Member for Foyle has tabled his amendments; some of the issues that I wish to test are effectively the issues that he has focused on more directly, relating to the use of the powers in England and Wales.

Clause 13 is very welcome and we do not seek to divide the Committee on it. I welcome the clause and the powers in schedule 1. Schedule 1 allows an officer appropriately to,

"stop the ship…board the ship…require the ship to be taken to a port (in England and Wales or elsewhere) and detained there."

The enforcement officer may search the ship and anyone or anything on it. Those are extremely valuable powers that are needed to enforce the prevention of domestic slavery and other forms of trafficking.

The reason why I have tabled the amendments in the way I have is not necessarily because I want an annual report, nor that I want to have in the clause how the authority is to be exercised, but I want clarity from the Minister as to the purposes of the clause. For example, clause 13(3) says:

"The authority of the Secretary of State is required before an enforcement officer may exercise Schedule 1 powers in relation to a United Kingdom ship in international waters if their exercise would occur at a time when the ship is in the territorial sea of any State."

I have tabled amendment 28 to request a memorandum to look at how that authority would be exercised, because I am keen to know how the Secretary of State gives that authority prior to an enforcement officer boarding or stopping that ship, or using other mechanisms in schedule 1. If we have officers responsible for that, at what stage, how and in what form is the authority of the Secretary of State given? Does the Secretary of State give a blanket authority to those officers? Does the Secretary of State have to give an individual authority for each potential incidence of enforcement under clause 13? Does the Secretary of State need to be available to give authority for enforcement to happen?

I asked those questions in our pre-Committee scrutiny of the officials and they replied that they would write to us. I do not think I have had much detail on that. If I have and it has escaped my memory, it would be useful for the Minister to re-emphasise it. I am interested in how that authority will be exercised. That was the purpose of the memorandum, because there are a range of potential areas where the authority under clause 13(3) is required.

Secondly—this leads into the amendment tabled by my hon. Friend the Member for Foyle—I have asked for an annual report on the exercise of clauses 11, 12 and 13 because, again, under clause 13(5):

"The authority of the Secretary of State is required before an enforcement officer may exercise Schedule 1 powers in relation to a foreign ship outside the landward limits of the territorial sea adjacent to England and Wales."

Does an official of the National Crime Agency, a constable of a particular force or an immigration officer know where Scotland waters stop and England waters commence? Do they know where the waters around Northern Ireland stop and the waters of England or Wales commence? They may have a magnificent map on their desk to show them, but I believe there is a potential gap there in the operation of clause 13. Irrespective of anything else, we already know, through previous legislation—my hon. Friend the Member for Foyle may have different views on this from me—that, for example, the National Crime Agency does not yet operate in Northern Ireland. We have debated that issue elsewhere. The Border Force does operate in Northern Ireland, and yet, under clause 13(5), the powers are only exercised on

"the landward limits of the territorial sea adjacent to England and Wales."

Again, although there are devolved Administrations in Scotland and in Northern Ireland—we anticipate that Northern Ireland will be part of the United Kingdom for the foreseeable future, but who knows what will happen in Scotland in the next few weeks?—there is a gap, and I would welcome a view on that gap.

I would also welcome a view on clause 13(6), which states:

"Authority for the purposes of subsection (5) may be given only if—

(a) the home state has requested the assistance of the United Kingdom for

the purpose mentioned in subsection (2)(a),

(b) the home state has authorised the United Kingdom to act for that

purpose, or

(c) the Convention otherwise permits the exercise of Schedule 1 powers in

relation to the foreign ship."

I am asking for an annual report because there may be occasions when the home state does not request assistance or authorise the United Kingdom. It does not mean that the United Kingdom has no concerns about either the potential conduct of a vessel or its potential cargo. It would be helpful for the Minister, at some point—preferably now—to indicate to the Committee what happens when the home state refuses the United

[Mr Hanson]

Kingdom permission under the clause. I have used the device of an annual report because, in an annual report, that refusal of permission could be notified and made public and be subject to debate. Although that may not happen on occasions, there are many rogue states out there. There are many states that do not have agreements with the United Kingdom. There are many flags of convenience and organisations that would not necessarily wish to give permission to the Secretary of State to exercise his or her powers under the clause.

All of that provides an opportunity for the Minister to explore those issues. I am particularly interested in what my hon. Friend the Member for Foyle has to say, because it is vital that we do not have a blip on the radar by not having Scotland and Northern Ireland covered, in terms of territorial waters, by the enforcement powers under the Act.

Mark Durkan (Foyle) (SDLP): I am delighted to follow the right hon. Gentleman in addressing this group of amendments. First of all, I note that the amendments in his name are, in many ways, complementary to the amendments that I have tabled. Although they overlap in large part, they diverge in other directions, but they are complementary rather than competitive. I am conscious that what I am proposing in amendment 58 is a field of work to be developed that would very much be the subject of the sort of memorandum that he is proposing in one amendment and the annual reports that he proposes in another. I will get to the details of amendment 58 shortly.

I shall start with amendment 57. It appears second on the amendment paper, but given that the Minister has addressed the issue of territorial jurisdiction in near waters by the UK, and that the right hon. Member for Delyn has discussed it too, I will begin with that amendment. Essentially, it is about the question not only of Northern Ireland and Scotland, but of the dependencies and territories—about which, more soon. At the minute, the wording of clause 13 seems ripe for confusion and uncertainty, so amendment 57 is aimed at clarifying some of that. The number of references in clause 13 to waters both in and outwith England and Wales gives rise to confusion about the applicability of the legislation.

11 am

I note fully that the Minister has again said that the Government want to work with the devolved Administrations in ensuring that overall arrangements are as strong and coherent as they can be. As I said about previous amendments, I do not think there would be any untoward anticipation regarding the interests or views of devolved Administrations, as long as they remain devolved. That depends on what happens soon in the case of Scotland. I do not think there is any untoward anticipation in our clarifying the legislation here.

Later in the Bill we will look at issues around the commissioner. Given that the Minister has set such store by the important role of the commissioner in ensuring that more is done to enforce proper pursuit and convictions, we need to be careful that in the criminal law aspects of the Bill we do not leave gaps and loopholes through which people can evade proper capture and enforcement. We could end up creating difficulties for the commissioner with questions, doubts or gaps about their competence and the scope of the geographic competence of the agencies they deal with or look at.

Amendment 57 deals with all territorial waters of the United Kingdom, including its dependencies and territories. It is trying to ensure that we do not end up with questions about which part of the Irish sea a particular boat was in, or a boat's whereabouts between Northern Ireland and Scotland, and therefore not around England and Wales. Given my background as an Irish nationalist and an MP in a border constituency, I am very conscious of the sensitivity of the definition of territorial waters and the historical claims of the Irish constitution. The aim is to ensure that, as a legacy of those uncertainties, we do not end up with doubts or gaps in this legislation. The aim is to make that good. I am confident that devolved Administrations, certainly the Northern Ireland Assembly and Executive, would want to be able to develop means and mechanisms under their own capacity that are compatible with the best purposes of the Bill. In relation to some of the enforcement issues of the law at this level, I think they would find it more than acceptable, proper and proportionate for this legislation to scope the issue.

Dependencies and territories are very important in this regard. I do not know whether other hon. Members followed earlier in the summer the *Guardian* investigation that looked at a number of problems that affected what should be UK territorial waters in the north and south Atlantic. I know that Anti-Slavery International—particularly its staff in the Bangkok office—supplied some of the information and background that assisted the *Guardian* investigation. In response to that, other concerns have been raised by other people. Anti-Slavery International has received very credible reports from people who have worked in environmental inspections in fisheries, who identified clear signs of forced labour on fishing boats in UK territorial waters in the north and south Atlantic. Their evidence and concerns corroborated recent *Guardian* reports and, indeed, other evidence gathered by Anti-Slavery International that included fisheries outside of Asia.

One person who brought evidence to Anti-Slavery International noted that fisheries in the waters of the Ascension Island overseas territory seemed to be poorly managed and that the Foreign and Commonwealth Office has been selling licences to Asian fishing vessels. There does not seem to be much oversight of environmental and safety issues and certainly not of working conditions. Those licences are being sold to vessels from Taiwan, Japan, China, the Philippines and Korea. Evidence has recently come to light of considerable concerns in south-east Asia about trafficking on Taiwanese boats and some cases of trafficking of Cambodian men into Taiwanese boats that went to fish off the coast of Africa. Korean boats have been similarly implicated, using Filipino, Indonesian and other exploited labour in New Zealand and neighbouring waters. If the Foreign and Commonwealth Office is selling licences in that context and there is a lack of oversight, it raises the question of how joined-up the Government's stated commitment to have world-beating legislation and provisions really is, particularly if we leave gaps in the legislation about what happens at sea—not just in international waters

but in seas that the UK has some particular territorial responsibility for. It seems amazing to leave those sorts of gaps.

Amendments 57 and 58 are aimed at addressing that problem. Amendment 58 would ensure that

"trends in maritime trafficking and forced labour in the UK and international waters are identified and tracked"

and establish

"means to ensure that intelligence and information on maritime trafficking and forced labour are communicated to the enforcement officers".

The other provisions of amendment 58 are also aimed at ensuring that when issues or concerns such as those that I outlined arise, they are properly addressed and tracked. Later in the Bill, some of us have tabled amendments to ensure that the commissioner is able to look at just how robustly those other responsibilities are being observed.

Amendment 57 purely deals with the issue of territorial applicability, to make good the gaps in the legislation and to prevent any misunderstanding. When the right hon. Member for Delyn spoke to his amendments, he made the point about the language that appears around home states. The confusion arises as to whether the Minister is going to tell us that, for these purposes, the devolved Administrations count as home states or whether the reference to "home state" can be interpreted as territory, meaning that the devolved Administrations are to count as territories or whatever. It would be better to make that much more explicit and clear in the form of some of the amendments before us, rather than the unwieldy and confusing wording that is currently in the Bill.

I raised the issues about things happening in the waters around and in overseas territories in the south Atlantic and, to a degree, in the north Atlantic. The question is not only to clarify the geographic scope of the provisions, but to make sure that there are powers to deal with those issues. The way to deal with the sorts of problems that I have raised and of which Anti-Slavery International has evidence is properly to empower enforcement authorities to inspect and to follow up their inspections. It is not enough simply to provide that power; as in other clauses, we must ensure that there is direction behind it. I understand that the United States is starting to consider similar measures.

I do not believe that amendment 58 would go beyond what the Government want to do by over-prescribing powers or procedures. It would, however, frame the necessary responsibility in the legislation and make provision for proper follow-up so that we can deal with the evidence that we are receiving about such problems. If we ignore that evidence, we will be ignoring aspects of trafficking and forced labour in different parts of the world on the seas. Without such provision, the Bill will be less relevant than the Government claim it will be.

Michael Connarty: I was reminded, in the contribution by my right hon. Friend the Member for Delyn, of the capacity of Donald Dewar in a Bill Committee to take a small probing amendment and turn it into a major constitutional crisis. He usually used such devices to reveal that the Government had not thought the thing through, and my right hon. Friend's questions show that that is true of this Bill. The Minister's response, in which she referred to the devolved parts of the UK, shows why there is such an upsurge in anger in Scotland, which may split the United Kingdom up.

Leaving out the rest of the UK waters, as the hon. Member for Foyle pointed out well, would leave us with a massive problem, particularly if there is a yes vote on 18 September. We would have a putative independent country to the north, covering a large part of the waters around the UK, with absolutely no fixed memorandum for how the Bill would operate. It may be that the arrogance and complacency of the Government, and perhaps even of everyone down here in the Westminster bubble, have led them to believe that that would never happen and that people would never do it. I hope that they do not, but it still leaves a big question: why is this not a Sewel Bill? Why have the Government not seriously considered introducing a Sewel motion to the effect that we would come up with something that covered all the United Kingdom waters, and particularly all the waters in Scotland? That would normally be done with a matter that affects Scotland. Or are we really saying that we only want to cover to wherever the border is—as we know, that is greatly disputed in the sea—so that ships can sail a few miles up the coast on the east or the west and nobody will pursue them, because they will be in Scottish waters rather than in English or Welsh waters? The Government have not thought that serious question through.

If the Minister—or anyone, in fact—had been listening to the words spoken by the First Minister and his colleagues since the Scottish National party became the majority party in 2007, he would understand their obsession with Margaret Thatcher's selling off the rights of the Scottish people in the Scottish fishing industry to the EU when she was Prime Minister. Some say that she did so for the rebate. That basically gave the EU sole competence over fisheries around Scotland, and it is a great problem. The First Minister recently said that the first priority of a possible independent Scotland would be to seize back control of the seas around Scotland. That is a serious matter.

That is the ambition of a possible independent Scotland. For me, as a member of the European Scrutiny Committee, there has always been a problem when the UK Government inflict on Scotland problems that it was not consulted about and not designed to deal with: although we receive statements from Scottish Ministers about whether the devolved Assembly have been consulted about a proposal, we are never told what the devolved Assembly said; we are just told that they were consulted. We have to assume that such consultations affect the explanatory memorandums produced by British Ministries.

11.15 am

In this case, we are putting together a Bill. Unlike my right hon. Friend the Member for Delyn, who asked some salient questions earlier, I do not know a great deal about the minutiae of the seas, but I do know quite a lot about the politics of Scotland and the sensitivities of the Scottish Administration of any colour—whether a Lib Dem-Labour alliance or the SNP—to the fact that they were not properly brought on board in the designing of Bills in this place that would affect Scotland. To overcome that problem, we came up with a great idea. Lord Sewel, who was formerly the president of the Convention of Scottish Local Authorities before he was

elevated to the House, said he was sensitive to that problem, having tried to hold together all the local authorities. He said we should have what are commonly known as the Sewel processes, by which we indicate by means of a motion that we are going to put together a Bill that will have an effect in Scotland, and after properly designing the Bill and consulting the Scottish Administration, we put into our law the consequences for Scotland. It is clear that we have not done that for the Bill. So massive questions are raised just by the probing amendment tabled by my right hon. Friend the Member for Delyn.

What is the Government's response to the possibility that we might have an independent Scotland following 18 September? Are we really so arrogant that we thought if we just ignored them, it would not happen? Did we not think that maybe even if it did not happen, the maritime section would put Scottish waters at risk if they were not covered in the Bill?

It was quite clear from the evidence to the Joint Committee of Jenny Marra, the Member moving an anti-slavery Bill in Scotland—a private Member's Bill that has been taken on by the Scottish Government—that there is nothing in the Scottish Bill to deal with these issues. That is such a huge omission that, as it clearly is the aspiration of Scotland to have a Bill that is parallel to ours that would make all of the UK secure against human trafficking, and as this measure is so important to our Bill, either the measure should have been discussed and included in the Scottish Bill, or a Sewel motion should have been introduced in this place, stating that what we pass in this place for England and Wales applies to Scotland. Possibly, the hon. Member for Foyle might feel the same way.

Mr Hanson: This measure has practical applications for situations such as the recent tragic case in Dover, in which people were found in a container. What would happen if knowledge came to us about a container ship off the coast of Stranraer, which is outside the domain of England and Wales? Would the enforcement authorities be able to do anything about it? If they could not, what would happen to that ship?

Michael Connarty: That is a very relevant question, because I understand that one of the passageways into the UK for many asylum seekers who end up in Scotland is through Stranraer. They get into the Republic of Ireland, travel on to Belfast and get on a ferry to Stranraer. They then claim asylum, having been trafficked halfway round the world sometimes, into Ireland and then on to UK waters through what is now an open border with the north. So that is a really relevant question. It is not just about an individual, but planned trafficking on a ship that picks people up either outside or inside the Republic or from Northern Ireland to land in Scotland. Going from the south to the north of Ireland is a problem, but a ship can do it. It is something that I had not thought greatly about until I had heard the tenor of this debate, particularly the detail given by the hon. Member for Foyle, whose constituency has a sea border to the north and is very close to the Republic.

Mark Durkan: I do not assert sea borders in Ireland too often. Does the hon. Gentleman agree that the British-Irish Council, which comprises all eight Administrations of these islands, including the Irish Republic, should be a forum in which these questions are discussed, so that everyone, whether at sovereign or devolved level, can come up with enforcement arrangements for the waters surrounding these islands that are as compatible and comparable as possible?

Michael Connarty: That is an excellent suggestion. I do not know why the British-Irish Council has not been approached. I am a substitute member and our colleague Jim Dobbin, who has sadly just passed away, was a very active member. It is the kind of forum where the politics could be discussed, so that people are sensitive and accommodating, but matters must then be discussed with the officials. The officials of each Administration that is not England or Wales have to think about how they will cope with that. We have a small fisheries protection strategy at the moment with a very small allocation of protective vessels, but do people recall the cod war with Iceland, when ships were firing at and deliberately crashing into each other? I think we lost that war, quite honestly, because Iceland is now one of the sovereign places that can deny us the right to fish cod in their area and it still has a fishing industry, whereas we in the EU have been pillaged by the Spanish and others, who bought up great numbers of quotas.

It is a serious question. If we have independence—this is one of the great debates—what will be the configuration of a Scottish navy and army? They have said that they will have some protection vessels, but we say—

The Chair: Order. I understand that the hon. Gentleman is using other examples to focus on the clause, which is narrow in scope, so may I encourage the hon. Gentleman—

Michael Connarty: This is very important, because the extent of the clause, and the Bill, without amendment, stops at the border of England and Wales. We do not have adequate protection vessels for what is going on now. Tam Baillie, the Commissioner for Children and Young People in Scotland, said that he could name 150 children who had been trafficked into Scotland in an 18-month period. Where did they come from?

I will give an example. In my constituency, I have an Iraqi family. Two of their children came to Scotland. The case is somewhat contentious. When I asked how they arrived, I was told that they came in a big ship that came up the River Forth. They were taken by boat to land at a small fishing village in Fife and then they made their way to Grangemouth. They were up for deportation, but one of them turned out to be a rather good violinist and I received a letter from the head teacher of Grangemouth high school asking me to support its petition to have that young man allowed to stay. The head teacher was a friend of mine and a Labour party member and I said that I would write a letter in support of that child, even if that child was the most disruptive child in his school and was not a talented violinist, but he had been trafficked into Scotland on a boat up the River Forth.

We do not know much about what is happening now in the many ports and small fishing villages around Scotland, because we do not have adequate means to deal with it. The Bill basically says that the clauses do not cover Scotland, so "tough"; we do not do anything

with it. That is an omission that the Government will surely address, which has been exposed by our sensitive probing amendment.

Amendment 58 is full of many things that we should be doing. The points about overseas territories where we are licensing vessels are serious. I want to know whether the Minister will do anything about making sensible amendments to the Bill. Will she say that if ships are sailing out of England or Wales, we will try to do something about it, so if ships are licensed by and sailing out of British territories around the world, which we should be controlling, we will also do something about that?

I want to point out to the Minister something in the clause. We previously debated seniority. Clause 13(8) variously describes an enforcement officer as a constable or an immigration officer; it does not specify a senior immigration officer, as was defended stoutly, if illogically, by the Minister, who was sticking to her brief—

11.25 am

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

Adjourned till this day at Two o'clock.