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GENERAL COMMITTEES

Public Bill Committee

MODERN SLAVERY BILL

Seventh Sitting

Tuesday 9 September 2014

(Afternoon)

CONTENTS

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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

(Afternoon)

[Mr David Crausby *in the Chair*]

Modern Slavery Bill

Clause 13

Enforcement powers in relation to ships

Amendment proposed (this day): 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.—(Karen Bradley.)

2 pm

Question again proposed, That the amendment be made.

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

Michael Connarty (Linlithgow and East Falkirk) (Lab): The Minister has heard much that I hope will give her thought and send her civil servants scurrying to Scotland to talk about the extra-territorial nature of the clause, as it deals only with England and Wales. I will leave it at that for now.

The Parliamentary Under-Secretary of State for the Home Department (Karen Bradley): I finally get the chance to say that it is a pleasure to serve under your chairmanship, Mr Crausby, not yet having made a verbal contribution to the debate while you have been in the Chair.

We are debating numerous amendments, and I will come to each in turn. I will start by commenting on the contribution made by the hon. Member for Linlithgow and East Falkirk. I think he suggested that something that I said might encourage a yes vote in next week's referendum. I sincerely hope not. As a Member representing a landlocked English constituency, I feel I have little expertise to contribute to that debate, but I hope that next week we will see a resounding no vote, because I personally do not want Scotland to leave the Union. I do not think we will be better alone; we are more than the sum of our parts, and I very much hope that the people of Scotland will choose to stay with the people of England and Wales, who really do appreciate their part in the Union. I reiterate that if anything I have said might indicate that that is not the case, I hope that nobody will take it in that way.

Before I go into more detail, I want to say that there have been significant and extensive discussions with all devolved Administrations and other Crown and overseas territories and so on, because we want to ensure that the Bill extends appropriately. However, as I am sure hon. Members understand, these are complex issues. The last thing that I wish to do, sitting here in the Westminster Parliament, is to impose anything on devolved Administrations that is unacceptable to them. I hope we will shortly be in a position to deal with any anomalies or concerns, but I reassure Members that we are talking extensively to Members of the devolved Administrations in Scotland and Northern Ireland in order to ensure that the Bill's territorial extent is appropriate.

Mr David Hanson (Delyn) (Lab): The key point is that under schedule 2 to the Bill, to which we will come shortly, an enforcement officer may board a ship, search it or do various other activities described in the schedule. If that ship is outside the port of Stranraer or the city of Belfast, or in some other Northern Irish or Scottish waters, will those powers exist? That is the key question for the Minister.

Karen Bradley: Control over territorial waters of the devolved Administrations lies with those Administrations. We need to ensure that we have the right mechanisms in the Bill that are appropriate and acceptable to the devolved Administrations. I reassure Members again that those discussions are ongoing. I very much hope that any anomalies or concerns will be resolved shortly, but it is a complex issue.

Mr Hanson: I sat in this very Committee Room 18 months ago, where my hon. Friend the Member for Kingston upon Hull North is sitting now, discussing the National Crime Agency. The Minister then gave the

very same assurances with regard to that organisation, but 18 months later, the NCA still does not operate in Northern Ireland. Does the Minister regard Border Force officials as United Kingdom Border Force officials or Border Force officials for England and Wales? That is the key question in the Bill. We are being asked today to support clauses that mean Border Force officials, as the Bill stands, cannot board a ship in the territorial waters of my hon. Friend the Member for Foyle or in any of the territorial waters around Scotland.

Karen Bradley: As I say, it is an anomaly that we are dealing with. We are making sure that we do it properly and effectively and that we do so in a way that is acceptable to those devolved Administrations. I want to reassure the right hon. Gentleman—I am sure that he saw the press release over the weekend about the National Crime Agency and their role in Northern Ireland from the devolved Administration.

Mr Hanson: Tell me all about it.

Karen Bradley: That is not the topic of the debate, but I am sure that he will be reassured when he sees that press release. I also very much hope that soon, we will be able to come back to Members with a resolution to the problem.

Mark Durkan (Foyle) (SDLP): For the benefit of my right hon. Friend the Member for Delyn, I can confirm that things are moving in a way that seems to indicate that issues relating to the NCA are now more robustly Patten-proofed than had been the case. On the Minister's point about discussions with the devolved Administrations, is she trying to tell us that they have some sensitivity in relation to the issue of territorial waters, or is she saying that she hopes, as a result of those discussions, that the Bill could be amended in the future along the lines we are discussing today?

Karen Bradley: What I will say now is that this is a very complex area and we need to make sure that we get it right. However, the intention is that the Bill will extend and we will not have any anomalies or complications in the future that mean that those slave masters escape justice. That is what we are all looking to achieve.

On the topic of Border Force, I want to inform the Committee of a visit I paid to Glasgow over the summer, at the time of the Commonwealth games—I did not actually attend any of the Commonwealth games, but I just happened to be in the city at the same time. However, I did get the opportunity to spend time with Border Force at Glasgow airport and saw the extremely good work that Border Force is doing on combating slavery, particularly in the fishing industry and with the container ships coming into Stranraer. I learnt an awful lot about what it does and I was very impressed by the work it is doing in Glasgow. I am confident that slave masters, should they choose to come anywhere into the United Kingdom, will find that there is no welcome for them in Scotland and that the Border Force officials there are doing their utmost to find and catch them, and to make sure that slave masters are unable to carry out the activities that we all wish to stop them doing.

On amendment 57, it is absolutely vital that we create an effective new enforcement power in relation to ships. Again, I am committed to working with the devolved Administrations to ensure that we have a co-ordinated, effective, UK-wide approach to tackling all aspects of modern slavery. I am grateful to the hon. Member for Linlithgow and East Falkirk for setting out why the enforcement powers at sea might be more effective if they were UK-wide and also covered Crown dependencies and British overseas territories. I agree with many of his arguments. We are actively considering what further extensions to the clause might be required to make it effective. As I said, we are in the middle of complex discussions and it is critical that any extensions be taken forward following consultation agreement from the relevant legislatures, respecting their devolution settlements.

Michael Connarty: I am putting the Minister on the spot. If I write to the Justice Minister in Scotland—as I often do on many things—and ask him what is going on, will I get a description of an ongoing and, as she said, meaningful discussion with officials, with the detail of what is happening, or is this something the Minister is indicating will suddenly commence? Is there a genuine, ongoing discussion about these clauses with the Justice Minister and with the Minister responsible for the seas around Scotland at this moment?

Karen Bradley: I can absolutely assure the hon. Gentleman that those discussions are ongoing—perhaps not as we speak, but they are ongoing. Being slightly mischievous, I should add that some people might be surprised that I am so fervently in favour of a no vote, as it might mean that the hon. Gentleman is unable to quiz me in quite the same way as he does today. However, I still hope that the Scottish people vote no in their referendum next week. Given those reassurances, I hope he feels able to withdraw his amendment.

Amendments 27 and 58 focus on ensuring the transparent and appropriate use of powers in relation to land vehicles, ships or aircraft, as set out in clauses 11 to 13. I am committed to ensuring that there is proper accountability and scrutiny, so that all law enforcement powers are used effectively in relation to modern slavery. We must also ensure that partners are supported in using the new legislation effectively, and that this activity is reviewed appropriately. That is why the Bill includes provisions for an anti-slavery commissioner, who will have a critical focus on improving law enforcement's response to modern slavery. I look forward to the Committee's detailed scrutiny of the provisions relating to the anti-slavery commissioner. However, I reassure Members that the commissioner's remit includes encouraging "good practice" in

"the prevention, detection, investigation and prosecution of offences under sections 1, 2 and 4".

Reporting on the use of the powers set out in clauses 11 to 13 is also part of the commissioner's remit. I consider that method of review to be more appropriate than legislating for annual reports, as proposed in amendment 27. Similarly, the bi-annual reports suggested in amendment 58 could place a disproportionate burden on law enforcement and Home Office officials to provide and collate that information. Such requirements are not in place for the existing powers in relation to drug trafficking, on which clause 13 is based, or the existing powers of

[Karen Bradley]

detention and forfeiture in relation to trafficking linked to sexual exploitation, on which clauses 11 and 12 are based. Where law enforcement discovers a potential victim of trafficking through the use of these powers, they will be required to notify the National Crime Agency under the new duty to notify set out in clause 44, which will improve the visibility of this currently hidden crime.

Amendment 28 would require the Secretary of State to publish a memorandum on the system through which authorisation would be sought from the Secretary of State to act in relation to foreign vessels or in foreign waters under the enforcement powers at sea set out in clause 13. The mechanism used to authorise such activity will be the same as that already working effectively in relation to tackling drug offences at sea, through which the Secretary of State devolves authority to a director within Border Force, who is then available to decide whether to grant approval on her behalf. That function is available 24 hours a day through the Border Force national command centre. The process already functions effectively without placing a duty on the Secretary of State to publish a memorandum, and we do not consider that is required to extend the system to cover modern slavery. We want to ensure the new power is used efficiently and will therefore provide guidance to law enforcement officers on the relevant authorisation processes. We have been clear that legislation is just one element of the response required to tackle modern slavery, and I assure those Members who have tabled amendments that the Government are determined to provide front-line agencies with the guidance they need and to improve scrutiny, accountability and results through the new anti-slavery commissioner.

A number of specific points were raised, and I will try to cover them all. The right hon. Member for Delyn asked about a commitment made during the oral evidence session for something in writing. I understand that the request for the memorandum was made to the NCA, which then wrote a letter following the oral evidence session. If he does not have a copy of that, I am sure we can find one for him. He also asked about the territorial extent and the landward limits. In practice, those using these powers should recognise landward limits, which are marked on charts. We are also working with the devolved Administrations to see if those can be extended across the entire United Kingdom. From my experiences at Glasgow airport, I saw that Border Force officials clearly know exactly where territorial waters begin and end, and have due cognisance of what activity goes on within them.

Mr Hanson: My point is that people traffickers will know that as well.

Karen Bradley: I am sure that people traffickers do, but that, of course, is why we are extending the power for stateless vehicles—so that we can go into non-territorial waters. There are clearly issues in dealing with vehicles that are not stateless. At that point, we need to look at negotiating with the overseas power that the ship is registered with and ensuring that we have the appropriate warrants and the ability to board.

2.15 pm

Let us be clear: this is provision is intended to stop the traffickers hiding outside ports. It will enable officers to board ships on the open seas rather than having to wait until the traffickers come into port. I know from my conversations with Border Force officials that the risks to the victims of not being able to do that and the risks of what the traffickers and the slave masters may do to those victims to dispose of the evidence need to be tackled. We must have as much power as is reasonable to give our authorities to stop that dreadful situation.

The right hon. Member for Delyn asked about clause 13(6) and about a case where the home state requests assistance but does not authorise the UK to act. Have I got that right?

Mr Hanson: Clause 13(6) gives the Secretary of State authority in relation to foreign ships. It states:

"Authority for the purposes of subsection (6) may be given only if… the home state has requested assistance".

There may be occasions when the Secretary of State and enforcement officers wish to exercise the power under subsection (6), but the home state has not requested it. What happens then?

Karen Bradley: That was the point I thought he had made and I was perhaps not explaining it terribly well. Enforcement powers can only be exercised in relation to foreign vessels where to do so would be compatible with the United Nations convention on the law of the sea. This is because we have to respect the constraints of international law. The clause has been carefully drafted in conjunction with the Foreign and Commonwealth Office to ensure that this outcome is achieved. Generally, we would anticipate that action could be taken without referral to another state under clause 13(6)(c), but clearly we have to be aware of international law.

The hon. Member for Foyle asked how the powers would operate in relation to Irish vessels and Irish territorial seas. Activity in relation to Irish vessels or in the territorial seas adjacent to Ireland will follow the same process as for other foreign states. Action will never be taken in the territorial waters of another state without its consent. Authority will also need to be gained from the Secretary of State to ensure that activity on Irish vessels in UK territorial waters is consistent with international law, which will include gaining permission from the Irish Government if that is required.

The hon. Gentleman also asked about the co-ordination between the Home Office and the FCO in relation to fishing licences. We will publish a modern slavery strategy this autumn working across government. We will ensure that Departments are co-ordinated to stop modern slavery. We will listen to the contributions of this Committee as we develop that strategy to ensure that the points raised are fully covered. Finally, there was a question about a British-Irish strategy. Again, that is the point of overall strategy on modern slavery. The points the hon. Gentleman made will be reflected in the work we do to get that strategy right. Given those assurances and the fact that the Government intend to address hon. Members' concerns, I hope they will not press their amendments.

Michael Connarty: I made a point about how this measure would operate and I was genuinely seeking guidance about the methodology. I said that I understood

that no equivalent legislation would be brought forward; certainly, that is the case with the Jenny Marra Bill before the Scottish Parliament at the moment. So there is a requirement for this type of legislation on these issues to be carried somewhere. Why is it not a Sewel motion going forward? How will this be implemented? We are making law for England and Wales. We have the problem of Northern Ireland. We have a substantial problem, whether it is a no vote or not, if there is to be a similar anti-slavery Bill in Scotland but without these clauses. I do not know how we are going to have an agreement over jurisdiction unless Scotland is just going to hand us jurisdiction. The normal way is to have a Sewel motion that says Scotland accepts these measures as necessary to make anti-slavery effective in its waters. I do not know what methodology the Minister is thinking of.

Karen Bradley: The point that the hon. Gentleman makes highlights how complex the issue is. There is no simple answer and that is why the discussions have been, and continue to be, ongoing. I hope we will shortly resolve those issues in a way that is satisfactory to the Committee and to the devolved Administrations.

Mark Durkan: I appreciate what the Minister said about the point I made in an intervention about the British-Irish Council being one arena in which these issues should be considered right across the jurisdictions of these islands, whether they are devolved, sovereign or whatever. In the context of the questions about Scotland, the Scottish National party says that it is absolutely committed to maintaining and, indeed, enhancing the British-Irish Council. Regardless of what happens next week, that proposition still arises, and I am glad to hear that the Minister and the Government would look positively at that.

The Minister commented on territories, dependent Crown territories and dependencies in future, and about the work programme that her Department will introduce, which will reflect commitments across Government. However, the issues I have raised about what has been happening in some locations are real questions and the concerns are outstanding. There have not been clear answers or positions from the Foreign and Commonwealth Office, which is the Department issuing the licences in the circumstances with all the questions attendant on that. On that basis, I do not have the confidence not to press amendment 57, because the issue of dependencies and territories is as much a consideration in that amendment as questions of the territorial waters of the devolved areas.

I note the Minister's commitment to dealing seriously and sensitively with devolved Administrations. I cannot apprehend any concerns on the part of devolved Administrations if we were to legislate in the terms set out in the amendment. It is about fully rounding off the competence of those enforcement officers who would be deemed to be such under the Secretary of State in a sensible and straightforward way to avoid any loopholes. It does not prescribe any issues relating to any of the different authorities or agencies that might be working on the seas for the devolved authorities.

I passionately believe in devolution in our situation, and I know that there are a lot of questions today, not least that raised by the First Minister as to whether the devolved institutions will stay standing in Northern Ireland, which seems amazing to me. However, as a former Deputy First Minister, I cannot see that anybody in the Assembly, of any party, at any level would see anything untoward in the House legislating in the way I suggest in the amendment. On that basis, I shall press amendment 57, as I shall amendment 58.

I have listened carefully to the Minister, who said that amendment 58 would somehow be otiose, because the Bill proposes that the commissioner will provide reports that will look at some of the issues. I am breaching your guidance, Mr Crausby, by anticipating our later discussion in relation to the role of the commissioner. We need to make it clear that the commissioner will report on how their objectives have been met—they will not necessarily report directly on the actions and responsibilities of others—as they are widely described. The amendment states:

"The Secretary of State shall, by way of regulations"

provide for guidance, report and reflection on performance. That is hugely important, because there is no point in creating a power unless there is a real power of direction behind it to show an enforcement standard. It is right to vest that power in the Secretary of State but not to over-prescribe it; amendment 58 is deliberately not over-prescriptive. It allows the Secretary of State to provide for reports to be introduced on a broad basis—a much more reliable report for the House than the sort of report that seems to be envisaged for the commissioner, which will be by way of observation and exhortation and relates to specific periods in their strategy, but allows for them to have reports during the life of the strategy. The amendment is a much more firmly framed way of dealing with those issues and would allow the subsequent and overarching reports by the commissioner to have more meaning. It would allow the commissioner to rely on those reports by way of any subsequent assessment that they make in respect of their own reporting powers. The merits of amendment 58 are not offset in any way by the reporting power that is sketched out for the commissioner in the later clause, so I shall press it and amendment 57.

Karen Bradley: I have one final clarifying comment, which may assist the hon. Gentleman. We are working towards seeking the agreement of the devolved Administrations to the extension of clause 13 and schedule 1 of the Bill to Scotland and Northern Ireland. Aspects of that may require a legislative consent motion but the details of how that will work are in the process of being agreed. We are consulting with the Crown dependencies and overseas territories, so I reassure him that we are working on that, take it seriously and want to ensure that it happens.

Amendment 6 agreed to.

Amendment proposed: 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;

[Karen Bradley]

(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."—*(Mark Durkan.)*

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 10.

Division No. 4]

AYES

Champion, Sarah	Johnson, Diana
Connarty, Michael	Kane, Mike
Durkan, Mark	
Hanson, rh Mr David	Wilson, Phil

NOES

Bradley, Karen	Nokes, Caroline
Bruce, Fiona	Pincher, Christopher
Burns, Conor	Smith, Chloe
Hinds, Damian	Stunell, rh Sir Andrew
Lumley, Karen	Teather, Sarah

Question accordingly negatived.

Amendment proposed: 57, in clause 13, page 10, line 11, at end add

"and all territorial waters of the United Kingdom including its dependencies and territories."—*(Mark Durkan.)*

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 10.

Division No. 5]

AYES

Champion, Sarah	Johnson, Diana
Connarty, Michael	Kane, Mike
Durkan, Mark	
Hanson, rh Mr David	Wilson, Phil

NOES

Bradley, Karen	Nokes, Caroline
Bruce, Fiona	Pincher, Christopher
Burns, Conor	Smith, Chloe
Hinds, Damian	Stunell, rh Sir Andrew
Lumley, Karen	Teather, Sarah

Question accordingly negatived.

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

2.30 pm

Karen Bradley: Clause 13 empowers law enforcement officers to investigate modern slavery offences committed at sea. Previously, a loophole in the law prevented them from acting. The National Crime Agency has identified seven instances in the past two years where law enforcement was unable to act on reports of modern slavery on board vessels. If law enforcement officers have to wait for such vessels to return to UK territorial waters or a UK port before taking action, that can expose victims to extended periods of serious abuse and risk the loss of evidence that could lead to a prosecution. That situation is totally unacceptable, and the Government will put it right.

The clause creates a power to target that loophole. Given the relatively low number of incidents, we anticipate that the power will not have a significant impact on maritime activity, but it will provide a proportionate response to this serious crime. Where a modern slavery offence is suspected, law enforcement will have the power to stop, board, divert and detain a vessel, to search a vessel and obtain information, to make arrests, to seize any relevant evidence and to use reasonable force in performing those functions. Those powers are set out in schedule 1.

The clause mirrors existing powers on drug trafficking in the Criminal Justice (International Co-operation) Act 1990. The serious nature of modern slavery makes it critical that law enforcement has the powers before us so that it can effectively respond to the threat posed by the terrible crimes involved.

The power in the clause can be used by police in England and Wales, the National Crime Agency, and immigration and customs officers. Border Force staff on board Her Majesty's cutters will be able to act on suspected modern slavery offences. The power will also extend to the Royal Navy, which we anticipate will use it at the request of relevant law enforcement agencies. The provisions will ensure that those agencies with intelligence on modern slavery offences and the operational capacity to respond can use the new power.

The measure will enable action to be taken on any ship in domestic waters, meaning the sea and other waters within the seaward limits of the territorial sea adjacent to England and Wales. In addition, action can be taken against stateless vessels in international waters and against UK flagged vessels in international waters, including the territorial sea of another state.

Where action is taken on a foreign vessel in UK territorial seas adjacent to England and Wales, or on a UK vessel in the territorial waters of another state, authority must be sought from the Secretary of State, with the UK Border Force acting as the delegated competent authority. That is to ensure that activity is in line with international law and that permission has been provided by relevant personnel where appropriate.

The mechanism used to authorise such activity will be the same as that already working effectively in tackling drugs offences at sea, where the Secretary of State devolves authority to a director in the Border Force who is then available to decide on her behalf whether to grant approval. That function is available 24 hours a day through the Border Force national command centre.

The powers can be used only to prevent, detect, investigate or prosecute a modern slavery offence. As set out in schedule 1, they can be exercised only where an officer has reasonable grounds to suspect that a modern slavery offence has been, or is being, committed.

The measures respond to a specific scenario in which law enforcement officers have identified that they are unable to act effectively to stop modern slavery. They

will ensure that criminals can be brought to justice where modern slavery offences take place at sea. I therefore hope that, when the Chair puts the Question, Committee members will feel able to support the clause's inclusion in the Bill.

Question put and agreed to.

Clause 13, as amended, ordered to stand part of the Bill.

Schedule 1

ENFORCEMENT POWERS IN RELATION TO SHIPS

Mr Hanson: I beg to move amendment 69, in schedule 1, page 33, line 18, at end insert—

'(3A) Any person refusing to disclose such information shall be guilty of an offence and shall be liable on conviction to a fine not exceeding level 5 on the standard scale, or imprisonment for up to six months."

Schedule 1 is an important part of the Bill. It gives enforcement officers the power to stop and board a ship, to require a ship to be taken to a port, and to search a ship or anyone or anything on it, including cargo. Paragraph 10(3) currently states:

"A person guilty of an offence under this paragraph"—

which effectively means obstructing an enforcement officer, refusing to comply with instructions or providing false material—

"is liable on summary conviction to a fine."

Between you and me, Mr Crausby, I confess that the amendment is a bit clunky, is probably in the wrong place and is not elegantly drafted. Nevertheless, its purpose is to tease something out of the Minister. If an individual is found guilty of hindering an enforcement officer by interfering with the stopping of a ship, the boarding of a ship, the requirement for a ship to be elsewhere, or the searching of a ship, anyone on it or its cargo, is it appropriate that they will be liable only to a fine for which the schedule does not even stipulate a minimum amount?

I have tabled amendment 69, which, as I said, is probably in the wrong place, badly drafted and inelegant, in order to ask whether or not we should consider a higher level of penalty than a fine, whether the Minister should consider a minimum fine, and whether the courts should have the option of considering a custodial sentence. We are talking about potential people traffickers being stopped. If a people trafficker perverts an enforcement officer's role by not helping him to search the ship or not allowing him to search the cargo, that is a serious offence. If a ship is not stopped and further force is required, or people try to repel the enforcement officers who board a ship, what happens? Those are serious crimes that require a serious response, rather than simply making the guilty person "liable…to a fine".

I have tabled my amendment not in the hope that the Minister will accept it, but to ask her to look at the principle. If she comes back with a further, stiffer penalty for those who wish to pervert the course of justice, she will have our support.

Karen Bradley: I would never call an amendment tabled by the right hon. Gentleman "inelegant", "clunky" or "in the wrong place"—that was his description, which I will leave to stand.

Schedule 1 mirrors existing enforcement powers at sea and offences in force in relation to drug trafficking, which are set out in schedule 3 to the Criminal Justice (International Co-operation) Act 1990. The right hon. Gentleman suggests that there should also be the option of a custodial sentence over and above the maximum sentence set out in paragraph 10(3), which is a fine.

As currently drafted, the provision reflects how the same offence is dealt with in cases of drug trafficking. We consider the sanction to be proportionate to the nature of the offending behaviour if all that has happened is a failure to answer a question. However, in practice, the power is aimed at tackling modern slavery. If the individual has been engaged in a slavery or trafficking offence, the Bill ensures that they can be subject to a life sentence. Given that clarification, I hope that the right hon. Gentleman will be content to withdraw his amendment.

Mr Hanson: The point I am making is that the offence under schedule 1 could include someone preventing an enforcement officer from boarding, entering, searching or doing things on a ship. That person could subsequently be found not guilty of a human trafficking offence, but they might still have tried to pervert the course of justice. I am not sure that a fine is the appropriate mechanism for dealing with that. We should consider setting out the possibility of further action: either a minimum fine or a minimum custodial sentence. That might be hard-line on this issue, but it is an important signal to send. The measure might reflect other legislation, but sending that signal is important. It does not mean that a court has to exercise the power, but the Minister might want to reflect on that. I do not intend to press the amendment, but she would have our support if she wanted to reflect on the amendment and go further, which would send a strong signal.

Karen Bradley: I appreciate the right hon. Gentleman's kind offer, but we have based the offence and the sentence on existing powers. It would all depend on the facts of the case. I hope that anyone guilty of the serious crime that we seek to target with the Bill will be prosecuted under the Bill and be subject to life imprisonment, but I appreciate his words.

Mr Hanson: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Schedule 1 agreed to.

Clause 14

INTERPRETATION OF PART 1

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

The Chair: With this it will be convenient to discuss clause 15 stand part.

Karen Bradley: Clause 14 is a technical provision on which I will not detain the Committee, but clause 15 introduces the slavery and trafficking prevention orders, which are a critical part of our strategy for addressing

[Karen Bradley]

modern slavery. The pre-legislative scrutiny Committee talked a great deal about prevention being as important as pursuit in that context. We agree with that point. Prevention is critical, and the slavery and trafficking prevention orders on sentencing are being introduced to give law enforcement and the courts the power they need to prevent the harm caused by slavery and human trafficking offences. We will address the prevention orders in more detail later, so I will not detain the Committee further.

Question put and agreed to.

Clause 14 accordingly ordered to stand part of the Bill.

Clause 15 ordered to stand part of the Bill.

Schedule 2 agreed to.

Clause 16

Slavery and trafficking prevention orders on application

2.45 pm

Mr Hanson: I beg to move amendment 76, in clause 16, page 12, line 12, after "satisfied", insert "beyond reasonable doubt"

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

Amendment 77, in clause 20, page 15, line 24, after "satisfied", insert "beyond reasonable doubt"

Amendment 81, in clause 24, page 18, line 30, after "satisfied", insert "beyond reasonable doubt"

Mr Hanson: This a device to tease out from the Minister what the level of proof should be on the prevention orders. The amendments would simply add the words "beyond reasonable doubt" to various parts of the Bill. As the Minister will be aware, the report on the draft Bill looked at the prevention orders and other things that fall into part 2 of the Bill. There was concern about the level of the threshold and how the legal threshold would be determined. Concern was expressed that prevention and risk orders, including interim orders, would cause a range of problems because of the level of evidence required to impose them. I want to give the Minister an opportunity to clarify the matter. In their response to the Joint Committee's report on the draft Bill, the Government essentially said that they were sticking to their original position on the orders. On page 9 of their response, the Government stated that they had

"reviewed the Committee's arguments about legal certainty and safeguards with care. The Government will be writing to the Joint Committee on Human Rights to set out in detail why we believe our approach is fully compliant with our human rights obligations. We believe we have set substantial and appropriate safeguards to ensure that the Orders will only be used in appropriate circumstances".

As we consider the orders in Committee, it is appropriate for the Minister to reflect on those concerns. I have used the words "beyond reasonable doubt" to try to get some indication from her of the evidential threshold that she envisages for application of the orders, given that concern has been expressed by the Magistrates Association and the Joint Committee that considered the draft Bill. There is still a debate about the matter, on which we have received representations from Liberty and others. I do not want to prolong my contribution; the purpose of the amendments is simply to encourage the Minister to set out what the evidential test will be.

Karen Bradley: I am grateful to the right hon. Gentleman and other hon. Members for tabling the amendments and providing the opportunity to discuss the standard of proof required to impose a slavery and trafficking prevention or risk order, or an interim order. The purpose of those orders is to ensure that law enforcement bodies and the courts have appropriate powers to restrict the behaviour of persons who are likely to commit a slavery and trafficking offence. Although the protection of potential victims is paramount, we are also conscious of the fact that orders must be necessary and proportionate in their interference with a defendant's personal life. We believe that we have already built in effective safeguards to ensure that the orders will be used only in appropriate circumstances. When a court considers whether to impose an order, it must be satisfied of the necessity of that order.

The amendments suggest that a court should be satisfied beyond reasonable doubt, which is the standard of proof in criminal courts. Although the orders will be obtained through civil proceedings, the Government accept that that threshold will be akin to the criminal standard in line with relevant case law. We can go through that, if Members of the Committee wish to do so. The amendments are not needed, because the clause already meets the evidential threshold that hon. Members seek to include. Given that assurance, I hope that the right hon. Gentleman will withdraw amendment 76.

Mr Hanson: That satisfies the point that I wanted to put on record. Given that we are talking about a magistrates court test, rather than that of a higher court, the Minister's comments are important. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr Hanson: I beg to move amendment 68, in clause 16, page 12, line 26, at end add

"or

(c) who the chief officer believes has been to it previously or had connections with the area."

Clause 16(4) gives a chief officer the power to make an application for a prevention order in two cases, and states:

"A chief officer of police may make an application under this section only in respect of a person—

(a) who lives in the chief officer's police area, or

(b) who the chief officer believes is in that area or is intending to come to it."

In amendment 68, I have suggested a third category for the Minister to consider, which is someone

"who the chief officer believes has been to it previously or had connections with the area."

I hope that the amendment will help to provide additional certainty. I can envisage a chief officer wanting to impose a slavery and trafficking prevention order to reduce the level of people trafficking or slavery in his or her police area. Under the clause, they may do that only

if the person lives in their police area or if they believe that that person is in their area or intending to come to it. However, that does not cover, which I propose in my amendment, those who have been to the area previously or those who have connections to that area.

I will give an example. At present, it is possible for the chief constable of North Wales police to apply for a trafficking prevention order for someone who lives in my area. He could also do that if he thinks that they are in, or will come to, the area. There might be individuals who were previously involved in trafficking in my area who are not currently resident in the area or intending to return there, but they might have connections with it through their family or business or in other ways. I tabled the amendment because subsection (4)(a) and (b) does not cover every base. The amendment—the Minister may want to take it away, reflect on it and come back with words to similar effect—could mean that the police have full powers.

To use my area of north Wales again, it is quite possible that an individual could conduct activity that should be covered under a slavery and trafficking prevention order, but the chief of police would not be able to make an application for an order, because that individual does not live in the area, is not in the area and does not intend to come to the area, but they have been to it previously or have connections to it. I want to test whether the Minister feels that all the bases are covered in applications for orders under the clause.

Karen Bradley: I am grateful to the right hon. Gentleman for tabling the amendment and for providing me with the opportunity to explain the rationale behind the provision of powers to chief officers of police to make applications for slavery and trafficking prevention orders. The orders have been designed to manage the risk of harm that would be caused by an individual committing a modern slavery offence. Because the orders relate to risk of future harm, the relevant police areas are those that the individual is believed to be in or intending to come to for the purposes of triggering an application.

As the right hon. Gentleman said, cases in which an individual no longer lives in an area but the chief officer of police has reason to believe they are likely to return there, would be covered by the existing provision. In the few cases in which an individual posing a risk is unlikely to return to an area, it would be appropriate for the police to inform the National Crime Agency or the police force where the individual resides so that it could take steps to manage the risk. I see another role for the anti-slavery commissioner, which we will be debating later, in ensuring that police forces throughout the country talk to each other and to the National Crime Agency to gather all possible intelligence and information.

Given that the force that is best able to manage the risk is the one in which the future harm is likely to take place—the one where the suspected offender is residing or likely to reside—we believe that the chief officer of police for that force is the right person to make the decision about the order. For that reason, the clause as drafted provides appropriate powers for police in relation to slavery and trafficking prevention orders.

Mr Hanson: Given that that is the Minister's view, what would happen if, in an appeal under clause 22, I, as the recipient of an order said, "I don't live in the area any more, I am not in the area now and I do not intend to come back again"? We would then be reliant on one police force telling others to look at that person and then there are further potential defences. I am trying to box this off: the addition of amendment 68 would not water down subsection (4)(a) and (b), but give further potential, because that chief officer of police would have the most local knowledge.

Karen Bradley: I am grateful to the right hon. Gentleman for that comment. The National Crime Agency will have the power to apply for these orders for the whole of the United Kingdom, so it could do that in such cases. However, I will consider the points he has made and confirm that we are happy that there are no gaps. I do not consider that there are, but I do understand the point that he makes. I apologise, as earlier I should have said "England and Wales", not "UK". I wish to put on the record the fact that that is what we are talking about. Given that clarification, I hope the right hon. Gentleman will withdraw his amendment.

Mr Hanson: I do not wish to be difficult and press this to a vote. However, I do want a commitment from the Minister that she will take away amendment 68 and look at it. The Minister told the Committee that if a chief officer of police believes the conditions under subsection (4)(a) and (b) have been met, he or she may apply for a slavery and trafficking prevention order. If paragraphs (a) and (b) do not apply, but the officer thinks that the person might be away and working elsewhere, he or she can tell another police force or ask the National Crime Agency to act.

That is how things slip through the net. The National Crime Agency operates on a national basis. Another police force can operate as it so wishes. I genuinely do not see the harm in giving an extra power to the local police officer who has suspicions that are not covered by the provisions in paragraphs (a) and (b). It is for officials to look at whether that is legally the right wording. The principle is that there is still a gap. I would welcome the Minister's commitment to look at that and write to me as to whether she thinks that is a real gap, rather than my withdrawing the amendment today.

Karen Bradley: I appreciate the right hon. Gentleman's comments. I still believe that the right police force to manage the risk in its local area is the local force. I take his points and, as with all discussions in Committee, I will reflect on them and ensure that we test and check that any points of concern raised are clarified and confirmed, and that we are confident that the Bill covers all gaps.

Mr Hanson: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 16 ordered to stand part of the Bill.

Clause 17

MEANING OF "RELEVANT OFFENDER"

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

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

Clause 18 stand part.

Clause 19 stand part.

Mr Hanson: It is helpful to group these clauses together. I want to make only a couple of comments. I have nothing to say on clause 17, so the Minister can put away her notes on that, unless she wishes to contribute.

Clause 18 concerns the effect of slavery and trafficking prevention orders. Subsection (1) says bluntly:

"A slavery and trafficking and prevention order is an order prohibiting the defendant from doing anything described in the order."

Before we pass the clause—which, for the benefit of the doubt, I wish to do—it is important that the Minister deliberates and tells the Committee in more detail what is meant by

"from doing anything described in the order".

I am interested to know what measures the Minister believes the order could contain. These are important matters, with important liberties potentially being withdrawn. We had a lot of debate with my hon. Friend the Member for Kingston upon Hull North on the issue of control orders when dealing with terrorism offences. At the moment, under clause 18(1), the order could describe anything. It could put any restriction on an individual; it could limit contact by phone, e-mail or movement. It could force movement. It could mean a whole range of things. It is important that the Minister clearly sets out for the Committee what areas are likely to be in the order.

Clause 18(3) states:

"The order may prohibit the defendant from doing things in any part of the United Kingdom, and anywhere outside the United Kingdom."

We have debated control orders, and terrorism prevention and investigation measures, which I do not disagree with—I am not a lily-livered liberal—but we must understand what they do. *[Interruption.]*

Sir Andrew Stunell (Hazel Grove) (LD): *rose—*

Mr Hanson: With due respect to lily-livered liberals on the Committee.

Sir Andrew Stunell: Leaving aside the state of my liver, may I say that nobody on the Committee would be tempted to believe that the right hon. Gentleman is a Liberal?

3 pm

Mr Hanson: I will take that as a badge of honour.

The point of my discourse, before I became distracted, is that the order will

"prohibit the defendant from doing things in any part of the United Kingdom",

but what does that mean? The Minister must explain to the Committee what sort of things the defendant could be prohibited from doing in any part of the United Kingdom. In theory, the order could create a draconian power to prevent anything from happening in the court at large. Will the Minister explain what sanctions she believes could be imposed under clause 18, so we can compare and contrast them with the sanctions that can be imposed under control orders and terrorism prevention and investigation measures?

Clause 19 prohibits foreign travel

"for a fixed period of not more than 5 years."

Again, I do not disagree with the thrust of the clause, but it is incumbent on the Minister to indicate to the Committee how the prohibition on foreign travel will work. We have been debating a range of matters relating to terrorism, including the withdrawal of passports and citizenship. Although the clause does not have a direct parallel with those things, the order could impose a major penalty on UK citizens and people travelling inside or outside the country. Before we pass clauses 18 and 19, the Minister must put on the record how they will work so that Members from all parties can ensure their livers are in good stead before we continue to clause 20.

Karen Bradley: As somebody undertaking sober September at the moment, my liver has never been in better shape.

Mr Hanson: It is only the 9th.

Karen Bradley: It is still in better shape than it has ever been.

Clause 17, which I will not dwell on, is a definition clause to assist the courts and those issuing the orders. Clause 18, which the right hon. Gentleman has spent some time discussing, sets out what the slavery and trafficking prevention orders will do—namely, prohibit an individual from doing anything set out in the order if the court is satisfied that it is necessary to prevent harm. A slavery and trafficking prevention order may contain only prohibitions that the court deems necessary for the purpose of protecting people

"from the physical or psychological harm which would be likely to occur if the defendant committed a slavery or human trafficking offence."

The explanatory notes state:

"The nature of any prohibition is a matter for the court to determine. A prohibition may include preventing a person from participating in a particular type of business, operating as a gangmaster, visiting a particular place, working with children or travelling to a specified country. The court may only include in an order prohibitions which it is satisfied are necessary for the purpose of protecting persons generally, or particular persons, from physical or psychological harm which would be likely to occur if the defendant committed a slavery or human trafficking offence".

To enable law enforcement agencies and courts to respond to changing slavery and human trafficking practices, and to tailor prohibitions to the specific risk posed by individuals, we have deliberately not specified in the Bill the type of restrictions that can be included in a prevention order. That is appropriate, given the range of types of abuse that modern slavery involves, and the changing nature of the crime.

The prohibitions can apply to acts in any part of the UK and anywhere outside of the UK. They may apply for a fixed period of at least five years or until a further order is issued. The orders can specify different periods for different prohibitions. Where the court makes a

slavery and trafficking prevention order in relation to someone who is already subject to a slavery and trafficking order, the earlier order ceases to have effect. I therefore hope that the Committee will be able to support the clause's inclusion in the Bill.

Let me turn to clause 19 and prohibitions on foreign travel. Modern slavery, particularly human trafficking, is an international problem. The types of restrictions available under a slavery and trafficking prevention order need to reflect that. Clause 19 enables the court to prohibit travel to some or all countries outside the UK for a fixed period of up to five years, which may be extended for further periods of up to five years. As with other restrictions, the court can impose travel restrictions only where it is satisfied that the restriction is necessary to prevent harm that would be likely to be caused to an individual by the defendant committing a further modern slavery offence.

When the prohibition applies to all countries outside the UK, the defendant is required to surrender all passports to the police. The passports will be returned once the period of prohibition has ended, unless the passports have been returned to the issuing countries or organisations. I hope the Committee will be able to support clauses 17 to 19.

Question put and agreed to.

Clause 17 accordingly ordered to stand part of the Bill.

Clauses 18 and 19 ordered to stand part of the Bill.

Clause 20

Variation, renewal and discharge

Karen Bradley: I beg to move amendment 7, in clause 20, page 15, line 17, at end insert—

"() where the order was made on an application under section 16 by the Director General of the National Crime Agency ("the Director General"), the Director General."

This amendment enables the Director General of the National Crime Agency to apply to the appropriate court to vary, renew or discharge a slavery and trafficking prevention order.

The Chair: With this it will be convenient to discuss Government amendments 10, 11, 13, 16 and 17.

Karen Bradley: The National Crime Agency plays a key role in the fight against modern slavery. Where it has applied for a slavery and trafficking prevention or risk order, it is important that it also has the ability to continue to manage the risk posed by the individual concerned. Amendment 7 adds the director general of the NCA to the list of individuals who can apply to vary, renew or discharge a slavery and trafficking prevention order. Amendment 13 makes a similar change in relation to the slavery and trafficking risk order.

Amendments 10 and 11 require the director general to inform the relevant chief of police when he has made an application to vary, renew or discharge a slavery and trafficking prevention order. Amendments 16 and 17 make similar changes in relation to the slavery and trafficking risk order. This ensures that those responsible for law enforcement at a local level are aware of the NCA's activities in their area in relation to individuals who pose a risk of modern slavery. These amendments enable the effective onward management of individuals who pose a risk of causing harm by committing modern slavery offences.

Amendment 7 agreed to.

Karen Bradley: I beg to move amendment 8, in clause 20, page 15, line 24, after "defendant" insert

"or require the defendant to comply with section (Slavery and trafficking prevention orders: requirement to provide name and address) (3) to (6)"

This amendment provides that a slavery and trafficking prevention order may be varied to require the defendant to provide details of his or her name and address if the tests in clause 20(4) are met.

The Chair: With this it will be convenient to discuss Government amendments 9, 12, 14, 15, 18, 19, 20, new clause 1 and new clause 2.

Karen Bradley: Where an individual is made the subject of a slavery and trafficking prevention or risk order because it is necessary to prevent the likely harm caused by their committing further modern slavery offences, law enforcement bodies need to be able to manage the risk posed by that individual effectively. In many cases, it will not be possible to manage that risk appropriately if law enforcement bodies are not aware of where the individual lives and what name he or she is using. This group of amendments therefore enables the court to impose notification requirements in relation to the names and addresses of an individual subject to a slavery and trafficking prevention or risk order.

New clause 1 makes provision for the court to impose a notification requirement on individuals subject to a slavery and trafficking prevention order. The court can require an individual to provide details of any names used and their home address to a relevant authority, where they consider that this is a necessary measure to protect persons from harm likely to be caused by the individual committing a modern slavery offence.

New clause 2 makes similar provision in relation to risk orders. An individual must provide those details within three days of the order being served and notify any further changes within three days of such changes taking place. The order must specify to whom and how such notification is to be made. Where changes in those details are notified to the director general of the National Crime Agency or an immigration officer, the director general or the officer must give details of any notification to the chief officer of police for each relevant police area.

Amendments 8 and 9, which relate to prevention orders, and amendments 14 and 15, which relate to risk orders, ensure that an order may be varied to require the defendant to provide details of his name and address if the court considers it necessary to manage the relevant risk proposed.

Amendment 12 enables the court to impose a notification requirement in respect of name and address as part of an interim slavery and trafficking prevention order. Amendment 18 makes a similar change for risk orders. Amendment 20 makes it an offence for an individual to fail to give notification of that individual's name or address where that requirement has been imposed as part of a slavery and trafficking prevention or risk order, or an interim order. Amendment 19 is consequential

[Karen Bradley]

to that amendment and ensures that drafting of the provisions retains an offence of failing to surrender a passport when that is required by order under part 2 of the Bill. The amendments are important to enable the slavery and trafficking prevention and risk orders to be used effectively on the front line to manage the risk posed by individuals where a court has determined that their behaviour demonstrates a risk of committing modern slavery offences.

Amendment 8 agreed to.

Amendments made: 9, in clause 20, page 15, line 32, at end insert—

"(b) may require the defendant to comply with section (Slavery and trafficking prevention orders: requirement to provide name and address) (3) to (6) only if the court is satisfied that the requirement is necessary for that purpose."

This amendment provides that a renewed or varied slavery and trafficking prevention order may require the defendant to provide details of his or her name and address only if the court is satisfied it is necessary for the purpose in clause 20(4)(b).

Amendment 10, in clause 20, page 16, line 1, leave out from beginning to "to" in line 2 and insert

"Where an immigration officer or the Director General makes an application under this section, the officer or the Director General must give notice of the application"

This amendment requires the Director General of the National Crime Agency to notify the relevant chief officer of police of an application by the Director General to vary, renew or discharge a slavery and trafficking prevention order.

Amendment 11, in clause 20, page 16, line 4, after "officer" insert "or the Director General".—*(Karen Bradley.)*

This amendment is consequential on amendment 10.

Clause 20, as amended, ordered to stand part of the Bill.

Clause 21

Interim slavery and trafficking prevention orders

The Chair: I call the right hon. Member for Delyn to move amendment 78.

Mr Hanson: We have had quite a discussion about evidential tests, so I will not move amendment 78.

Amendment made: 12, in clause 21, page 16, line 42, at end insert—

'(5A) The order may (as well as imposing prohibitions on the defendant) require the defendant to comply with subsections (3) to (6) of section (Slavery and trafficking prevention orders: requirement to provide name and address).

If it does, those subsections apply as if references to a slavery and trafficking prevention order were to an interim slavery and trafficking prevention order." —*(Karen Bradley.)*

This amendment enables an interim slavery and trafficking prevention order to require the defendant to provide details of his or her name and address.

Clause 21, as amended, accordingly ordered to stand part of the Bill.

Clause 22 ordered to stand part of the Bill.

Clause 23

Slavery and trafficking risk orders

3.15 pm

Mr Hanson: I beg to move amendment 80, in clause 23, page 17, line 35, leave out "an" and insert "a senior".

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

Amendment 79, in clause 23, page 17, line 40, after first "a" insert "sufficiently serious"

Amendment 87, in clause 23, page 18, line 2, at end insert—

'(2A) An order will be "necessary" for the purposes of subsection (2)(b) where—

(a) there is insufficient evidence to bring a prosecution, but there is clear evidence of future risk of commission of trafficking or slavery offences,

(b) the defendant(s) have been convicted of offences linked to trafficking or slavery overseas (but not an equivalent overseas offence under section 17(4)) and where there is evidence of a future risk of offending involving slavery or trafficking,

(c) the defendant(s) have been charged, but not convicted of a slavery or trafficking offence, and protection from the risk of the commission of a slavery or trafficking offence cannot be achieved by bail conditions alone, or

(d) the defendant(s) are part of or affiliated with a group or organisation engaged in slavery or trafficking offences and whose core offenders are currently being prosecuted."

Mr Hanson: You were not in the chair this morning, Mr Crausby, but we had a discussion about the question of chief immigration officers in earlier parts of the Bill. Clause 23(1)(b) simply states that a slavery and trafficking risk order can be made by an immigration officer—the lowest level of officer. We discussed a menu of options when drafting our amendments, to get some certainty about the Bill, and chose to insert the word "senior", which is reflective of earlier clauses in the Bill. I would welcome the Minister's view on that, because there seem to be things that immigration officers can do in clause 23 that they cannot do in earlier clauses. I would like some indication of the level of responsibility involved. Why does a slavery and trafficking risk order have to be made on an application by a chief officer of police, rather than by a constable, yet an immigration officer—a lower grade—may also make an application, rather than the chief or senior immigration officer cited earlier?

Amendment 79 would insert the words "sufficiently serious". We have discussed the evidential test, and I do not wish to labour the point. I will be interested to hear what the hon. Member for Brent Central says about her amendment.

Sarah Teather (Brent Central) (LD): I have tabled amendment 87 to get some clarity from the Minister about the orders, and it picks up on some of the points that the right hon. Member for Delyn made about half an hour ago. Some of my questions about the evidential proof required were answered by the Minister's earlier response, but I have others I would like to put to her.

My main concern is that such orders could be used as an alternative to prosecution and thereby drive down, rather than up, the number of prosecutions in this area. A lot of the Committee's discussion thus far has been about the low rate of prosecutions—and, indeed, the low rate of convictions. I think everyone in the Committee is of one mind, and I know she is very determined that we should drive up prosecutions. However, I have some worries about how the clause has been drafted; it may not yield the desired results.

I have some concerns about the workability of the orders, which is something the Joint Committee focused on in its examination of the Bill. The key issue is that there is no connection with the criminal justice system; there is no need for prosecution or charge. I completely accept the difficulty of prosecution. The Minister will say that that is precisely why we need extra tools in the toolbox to protect victims, but there is a danger of that becoming a self-fulfilling prophecy. The key question for me is: under what circumstances would there be insufficient evidence to prosecute someone for what is a very serious offence—trafficking or slavery—and yet enough evidence for the court to deem a risk order necessary? She said to the right hon. Member for Delyn that the same evidential level of proof is required: a criminal level of proof. Will she clarify that?

In an earlier evidence session, the Magistrates Association stated:

"if there is not any evidence to lead to a prosecution, is there any evidence to lead to an STRO? Where is that line drawn? If it is at criminal proof, it is at a very high level—beyond reasonable doubt. There will need to be clarity about what the potential risk is and specific evidence that that risk is in danger of materialising."

The question is whether, if different standards of proof are required, that will be a shortcut to avoid prosecution. If the same level of proof is required, I cannot quite see how we are going to meet the required evidence level to pursue the risk orders. We cannot seem to have one or the other. The worst possible scenario would be if we ended up with risk orders being used as a shortcut to avoid going to trial when we need to ensure that people are prosecuted and convicted.

I am certain that the Minister is on the same page as me and I hope she will reassure me with facts. The Government's fact sheet on this part of the Bill says that the Government

"must be able to prevent very serious modern slavery offences where the risk is clear, but we cannot secure a criminal conviction for a previous offence.".

The fact sheet notes that the police have said that risk orders will be useful to disrupt peripheral activity when the investigation is focused on core offenders. Finally, it mentions that risk orders could be useful where it is proven to be "difficult to prosecute" in instances where witnesses

"are unwilling to give evidence".

The intention behind the amendment is to put that on the face of the Bill, so that it is a bit clearer on the circumstances in which such orders might be used.

These are significant powers—this picks up on the point that the right hon. Member for Delyn made. We need to know that they are used appropriately and to ensure that they are not used as a shortcut to avoid serious prosecution. I will not read out the amendment because Members are perfectly able to read it themselves. I am trying to ensure that we are absolutely clear about what the orders are for, rather than allowing them to hamper what I think the Committee is in one mind in trying to achieve.

Karen Bradley: I am grateful to right hon. and hon. Members, and to my hon. Friend the Member for Brent Central for tabling the amendments and for giving me the opportunity to explain how the Government have framed the provisions to ensure that they are used appropriately to manage the risk of harm from modern slavery offences. The Government's intention in proposing slavery and trafficking risk orders is to prevent modern slavery offences. As I have stated, prevention is a key part of the Government's approach to stopping these terrible crimes. Clause 23 is intended to give the courts appropriate powers to manage the risk of causing harm posed by an individual who may commit a slavery or human trafficking offence, such that it is necessary to protect others from physical or psychological harm that would be likely to occur.

Amendment 79 relates to the test for imposing a slavery and trafficking risk order. The test includes a requirement that the order must be necessary to protect people from the risk of harm from a slavery and trafficking offence or offences. The amendment seeks to ensure that the level of risk of the new modern slavery offences taking place is established—that it is sufficiently serious before an order is imposed. The change is not needed because the current test provides appropriate safeguards, which have a similar effect in practice to the proposed amendment.

To meet the existing test set out in the clause, the court must already be satisfied that a restriction is necessary. A court can conclude that a restriction is necessary only if the risk that the restriction is intended to manage is real and substantial and if no lesser steps would work to address the risk. For the court to be satisfied that a prohibition is necessary because no lesser measure will manage the identified risk, it is implicit that it must be satisfied that there is a sufficiently serious risk that must be managed in this way. I can assure Members that the clause as drafted provides sufficient safeguards regarding the appropriate application of orders.

On amendment 87, the orders are drafted in line with other existing orders—for example, those relating to sexual harm, which leave the determination of which behaviours and scenarios indicate that an order may be necessary to the courts. Therefore, it makes sense to mirror existing legislation that is already working effectively. There is a risk that, in defining a list of scenarios, some behaviours of individuals who pose a risk might not be captured. For example, an individual prosecuted for an offence other than one relating to slavery or servitude, but where there is nevertheless evidence of a risk of future modern slavery offences, might not be covered by the amendment.

My hon. Friend the Member for Brent Central wanted confirmation that such orders would not be used as an easy get-out from prosecutions or used as an alternative way. Her view is that the high threshold means that they are no different to a prosecution. There is a difference between proving the risk of future harm and proving that a specific offence has been committed in the past. We need to focus on that difference. Where a specific offence has been committed in the past and can be

[Karen Bradley]

proved, we would expect a prosecution to be taken forward. However, there will be instances where the future offence is the risk. For example, someone might be convicted of a different offence, but it might become clear during the court proceedings that there is a risk of their committing future modern slavery offences.

Risk orders can also be used where somebody is awaiting trial, but the trial will not take place immediately. Protections will need to be in place for the victims. Victim safety is paramount, even in the absence of conviction. My hon. Friend mentioned the National Crime Agency's point, which it made in oral evidence to the Committee, that the slavery and trafficking risk orders could be used where a prosecution could not take place because the victim was unable to give evidence. We all want prosecutions to take place, but there will inevitably be cases where the victims are just too vulnerable to give evidence—or are unable to do so safely—so that we can obtain a conviction. If a risk order can be applied for and obtained, that gives the public protection, because the individual cannot continue their activities.

Sir Andrew Stunell: The Minister is being extremely helpful, but will she comment on where the situation where a case collapses and a conviction has not been secured? There might be reasonable suspicions that the person concerned was still involved in the same business. Would such orders be applicable in those circumstances?

Karen Bradley: My right hon. Friend is right that there will be instances where that happens, and risk orders can be used at that point. We are all disappointed when prosecutions fail and convictions are not secured—that can happen for a multitude of reasons—but we will at least have something to fall back on if we know that we can prevent future harm.

It is worth saying that the police have indicated that they expect risk orders to be used to restrict the behaviour of individuals at the periphery of modern slavery investigations, where there may be insufficient evidence to convict those individuals, but the risk is still clear. The police also considered that risk orders could be useful in controlling the behaviour of others who posed a risk, but where it was difficult to prosecute—for example, brothel keepers who advertise internationally for women and who move the women backwards and forwards across borders. There may be insufficient evidence to convict them of a trafficking offence.

Where an individual has a relevant conviction overseas, but not for a specific modern slavery offence that would fall under the prevention order regime, risk orders could be used to effectively manage any threat that that individual posed in the UK.

In some situations, a victim does not wish to provide evidence or to support a prosecution, but the information they provide would give grounds for identifying a subject for such an order. Last week, we talked at length about the need for evidence, but some victims are just not prepared to give evidence, and they will have good reasons for that. In that case, risk orders could at least be used.

Risk orders follow the approach of existing non-conviction orders, such as risk of sexual harm orders, which have been used to prevent serious sexual offences.

My hon. Friend the Member for Brent Central asked a question to the effect of whether the orders were a second-best solution. It is important that they are available to law enforcement. We must be absolutely sure that victims are protected when they are at risk. We also absolutely want offenders to be brought to justice. Prosecution should be pursued whenever possible, but risk orders are there to give extra protection to those we so desperately wish to protect.

Sarah Teather: What is the Minister going to do to make it clear to the police and the Director of Public Prosecutions that the priority is prosecution, rather than using these orders? If people find they can apply quite quickly and get things sorted, the case might never proceed to conviction, especially when victims will undoubtedly be nervous about giving evidence. How will we ensure that we prioritise prosecution?

3.30 pm

Karen Bradley: My hon. Friend asks an important question, and that is part of the Government's overall strategy on modern slavery. The message from the Committee should be clear—that we wish to see prosecutions—but I also want to see the anti-slavery commissioner, which we will debate later, put in place to ensure that those prosecutions are pursued in the best way they can be. The orders will be used only when it is not possible to convict somebody or where we have no evidence that they have committed a crime to date, but we have evidence that they will commit crimes in the future. It is an enhancement; it is certainly not a replacement.

My hon. Friend's amendment 87 would make the process for seeking an order more complex by introducing further criteria and increase the likelihood of legal challenges as individuals subject to an order could argue that their behaviours were outside the triggering behaviours listed in the legislation. That is why we did not want to give an exhaustive list. We know that criminals tailor their behaviour to try to find loopholes in legislation, and there is a risk that they would use the list as a checklist by reference to which they could evade law enforcement.

Amendment 80 would ensure that only a senior immigration officer could make a slavery and trafficking risk order on application. The clause is drafted with reference to existing recognised legal persons, and specific positions of senior staff in immigration enforcement are not set out in legislation. We will establish, through Home Office policy, that any decision to apply for a slavery and trafficking prevention or risk order must be approved by the director of criminal investigations, a person of equivalent seniority to those who can apply for orders within the police and NCA. We consider that this safeguard will ensure that the orders are used appropriately without that provision appearing in the Bill. We have set substantial and appropriate safeguards to ensure that the orders will be used only in appropriate circumstances and with the approval of senior persons within enforcement bodies. Given that reassurance, I hope that right hon. and hon. Members will not press their amendments.

Mr Hanson: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 23 ordered to stand part of the Bill.

Clause 24

EFFECT OF SLAVERY AND TRAFFICKING RISK ORDERS

Mr Hanson: I beg to move amendment 124, in clause 24, page 19, line 3, after subsection (6) add—

'(7) The Secretary of State shall publish statutory guidance on the measures that may be included in a slavery and trafficking risk order within one month of this Act receiving Royal Assent."

Amendment 124 would simply make publishing statutory guidance a matter of course for the Minister following the passing of the Bill. Going back to a range of discussions on the draft Bill, it was suggested that guidance be brought forward on a statutory basis. Indeed, Ministers indicated in the response to the Joint Committee's scrutiny that they would bring forward statutory guidance, but I am conscious of the fact that saying they will and actually doing so are different things. I want to get that commitment from the Minister that she will publish statutory guidance on the measures that may be included in the risk order within one month of the Bill receiving Royal Assent.

We have had explanatory notes to the Bill and to the clauses, and we have the commitments that have been given in the response to the pre-legislative scrutiny, but I felt it appropriate to give the Minister an opportunity to say that she will publish statutory guidance, what it will include, when she will publish it and anything else she wishes to enlighten the Committee about. That was the purpose of tabling the amendment.

Karen Bradley: I am grateful to the right hon. Gentleman for setting out the intention behind the amendment. The Government will support law enforcement to implement the new slavery and trafficking prevention and risk orders and to use them appropriately and effectively to protect the public. Clause 32 will help to achieve that goal by requiring the Secretary of State to issue guidance to chief officers of the police, immigration officers and the director general of the National Crime Agency regarding the use of their powers in relation to the orders.

The guidance will include advice on how to use orders effectively, covering, for example, the types of restrictions that could assist in managing the risk posed by individuals and the onward management of others. We expect that the guidance will also be used to help law enforcement deal appropriately with more vulnerable people. We will work with law enforcement bodies and wider partners to develop the guidance. I can assure the right hon. Gentleman that guidance on the measures that may be included as part of a slavery and trafficking risk order, which he wants to introduce through the amendment, will be included in the broader guidance.

The amendment is also intended to ensure that such guidance is published within one month of the Bill reaching Royal Assent. Although we can anticipate what the guidance will include, we cannot finalise it until full discussion of the Bill has concluded. We will work with law enforcement and wider partners to develop the guidance, and we will consider including guidance on issues that are raised as the measures are debated in Parliament. Consequently, we must ensure that there is sufficient time to consult on the draft guidance. It would be unwise to bind the Government into achieving that in such a short time frame.

As the guidance will be issued at the same time as the provisions of the Bill commence, requiring the guidance to be issued one month after Royal Assent would tie the Government into commencing the provisions at the same time. The Bill may receive Royal Assent close to the date of the dissolution of Parliament before the general election. When a general election campaign is under way, it would be impractical to require any guidance to be completed within a month. I therefore hope that the right hon. Gentleman will withdraw his amendment.

Mr Hanson: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 24 ordered to stand part of the Bill.

Clause 25 ordered to stand part of the Bill.

Clause 26

VARIATION, RENEWAL AND DISCHARGE

Amendments made: 13, in clause 26, page 19, line 42, at end insert—

"() where the order was made on an application by the Director General of the National Crime Agency ("the Director General"), the Director General."

This amendment enables the Director General of the National Crime Agency to apply to the appropriate court to vary, renew or discharge a slavery and trafficking risk order.

Amendment 14, in clause 26, page 20, line 5, after "defendant" insert

"or require the defendant to comply with section (*Slavery and trafficking risk orders: requirement to provide name and address*)(3) to (6)".

This amendment provides that a slavery and trafficking risk order may be varied to require the defendant to provide details of his or her name and address if the tests in clause 26(4) are met.

Amendment 15, in clause 26, page 20, line 13, at end insert—

"(b) may require the defendant to comply with section (*Slavery and trafficking risk orders: requirement to provide name and address*)(3) to (6) only if the court is satisfied that the requirement is necessary for that purpose."

This amendment provides that a renewed or varied slavery and trafficking prevention order may require the defendant to provide details of his or her name and address only if the court is satisfied it is necessary for the purpose in clause 26(4)(b).

Amendment 16, in clause 26, page 20, line 20, leave out from beginning to "to" in line 21 and insert

"Where an immigration officer or the Director General makes an application under this section, the officer or the Director General must give notice of the application".

This amendment requires the Director General of the National Crime Agency to notify the relevant chief officer of police of an application by the Director General to vary, renew or discharge a slavery and trafficking risk order.

Amendment 17, in clause 26, page 20, line 23, after "officer" insert "or the Director General".—*(Karen Bradley.)*

This amendment is consequential on amendment 16.

Clause 26, as amended, ordered to stand part of the Bill.

Clause 27

INTERIM SLAVERY AND TRAFFICKING RISK ORDERS

Amendment made: 18, in clause 27, page 21, line 15, at end insert—

'(5A) The order may (as well as imposing prohibitions on the defendant) require the defendant to comply with subsections (3) to (6) of section (*Slavery and trafficking risk orders: requirement to provide name and address*).

If it does, those subsections apply as if references to a slavery and trafficking risk order were to an interim slavery and trafficking risk order." —*(Karen Bradley.)*

This amendment enables an interim slavery and trafficking risk order to require the defendant to provide details of his or her name and address.

Clause 27, as amended, ordered to stand part of the Bill.

Clause 28 ordered to stand part of the Bill.

Clause 29

OFFENCES

Amendments made: 19, in clause 29, page 22, line 8, after "19(4)" insert "or 25(4) (requirement to surrender passports)".

This amendment is consequential on amendment 20 and is rearranging existing provision in the Bill (relating to the offence of failing to surrender a passport) without changing its effect.

Amendment 20, in clause 29, page 22, line 9, leave out "25(4)" and insert—

"(Slavery and trafficking prevention orders: requirement to provide name and address)(1)", 21(5A), (Slavery and trafficking risk orders: requirement to provide name and address)(1) or 27(5A) (requirement to provide name and address)".—(*Karen Bradley*.)

This amendment makes it an offence for a defendant to fail to give notification of the defendant's name or address where this requirement has been imposed as a part of a slavery and trafficking prevention or risk order (or an interim order).

Mr Hanson: I beg to move amendment 109, in clause 29, page 22, line 14, leave out "not exceeding £5,000".

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

Amendment 83, in clause 29, page 22, line 18, leave out from "(3)(b)" to end of line 20.

Amendment 84, in clause 29, page 22, line 20, at end add—

'(6) The court may refer to the crown court any matter relating to the order for consideration of action by the said court under Part 2 of the Proceeds of Crime Act 2002."

Mr Hanson: Clause 29 provides a list of remedies to offences that could be committed in the event of an individual breaching a slavery trafficking prevention order, an interim slavery and trafficking prevention order, a slavery and trafficking risk order, or an interim slavery and trafficking risk order. The clause contains two sets of penalties for individuals who breach those orders. A person guilty of an offence is liable

"on conviction on indictment, to imprisonment for a term not exceeding five years",

and

"on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding £5,000 or both."

I think the prison terms are a reasonable punishment for breaching an order. However, I want to test what the Minister thinks about the fine not exceeding £5,000. Amendment 109 would delete "not exceeding £5,000", so that in theory a court could impose an unlimited fine on an individual who breached an order. People trafficking is a profitable business. Although there is the potential for custodial sentences, a fine of £5,000 seems a tad on the low side for someone who breaches an order. I would welcome hearing from the Minister why she has judged that £5,000 is a reasonable level of fine.

Amendment 83 would remove the Secretary of State's ability to increase the fine, because if we had an unlimited fine there would be no need to increase the fine from £5,000.

Amendment 84 states:

"The court may refer to the crown court any matter relating to the order for consideration of action by the said court under Part 2 of the Proceeds of Crime Act 2002."

I recognise that under clause 7 we dealt with the confiscation of assets under the Proceeds of Crime Act 2002. However, I tabled the amendment to find out what would happen if somebody had an order placed upon them, which was then subsequently breached. As well as a prison term and a fine—currently £5,000, but if my amendment is accepted it could be an unlimited sum—would the provisions of clause 7 apply to them? If we place an order on an individual and they have not had an order for the original crime, it may be an appropriate penalty to make them potentially subject, not automatically subject, to an attack on their assets. It would be quite draconian, but the offences in question are serious.

If we are serious about reducing trafficking and having strong enforcement of the orders that the Committee has already considered and approved, we need effective measures of deterrence. I accept that a five-year or six-month prison sentence is serious, but I am not sure that the £5,000 fine is sufficient to hurt people who breach their order. I am not sure whether an attack on someone's assets is an appropriate penalty for such an offence. As confiscations are covered in clause 7, my amendment seeks to ask that question. I would welcome the Minister's view on the level of the fine and whether measures can be taken to attack assets in the event of a breach of any of these orders.

3.45 pm

Karen Bradley: I am grateful to the right hon. Gentleman for tabling amendments 109, 83 and 84, which would remove the limit on the fine that can be imposed on summary conviction for not complying with a slavery and trafficking prevention or risk order and, consequently, the ability to amend that fine. The maximum fines have been set in line with existing limits on fines commensurate with the offence committed, and are in line with those for the sexual harm prevention orders and sexual risk orders introduced in the Anti-social Behaviour, Crime and Policing Act 2014. To ensure that the measures can respond flexibly to future changes in sentencing policy, the clause also provides for the Secretary of State to

amend or remove the maximum amount of the fine that may be imposed on summary conviction for breach of an order.

Members will be aware that the Legal Aid, Sentencing and Punishment of Offenders Act 2012 includes a provision that, when commenced, will remove any upper limit on maximum fines in the magistrates courts, which, on the commencement day, are set at £5,000 in the type of circumstances covered by the provision. The wording of the clause allows for amendment of the fine if the provision in the 2012 Act is commenced before the Bill receives Royal Assent in order to bring it into line with the new policy. I assure Members that the clause provides appropriate flexibility to respond to changes in sentencing limits, so the amendment is not required.

Amendment 84 suggests that we should add an explicit reference to the Proceeds of Crime Act 2002. I assure Members that asset recovery powers are already fully effective in relation to the breach of an order. The prosecutor is already able to apply to the Crown court for a confiscation order in relation to any offence where there is a benefit, which the court would then consider. That includes a conviction for the breach of a slavery and trafficking prevention or risk order. Where there is no financial benefit from the crime, a confiscation order cannot be made. The 2002 Act is designed for the seizure of criminal assets, not the imposition of financial sanctions. That is the approach taken to all offences; no other criminal statute makes specific provision for a reference for action under the 2002 Act, and I am not aware of any issues arising from that approach. Given that clarification, I hope that the right hon. Gentleman will withdraw his amendment.

Mr Hanson: We were just testing where the Proceeds of Crime Act fell into line with the Bill, and I did not intend to press amendment 84.

I am grateful for the Minister's explanation in relation to the current £5,000 limit. Perhaps she could give a little more clarification on when she expects the 2012 Act to which she referred to be implemented. The clause gives the Secretary of State the flexibility to remove or increase the limit, so that does not cause a problem, but, if she is anticipating that implementation, I would be grateful if she would indicate when that might happen. My amendment would achieve the same result without the need to look at that legislation and pass a further order later on.

Karen Bradley: We anticipate that the commencement date will be before the Bill receives Royal Assent, but I have no further details.

Mr Hanson: If that is the case, I cannot see why the Minister will not accept my amendment, which would leave out the £5,000 limit, because effectively it follows Government policy, and it would save a bit of parliamentary time and save her from having to produce the regulations to remove that limit at a later date.

Karen Bradley: The right hon. Gentleman will know that the provisions in the 2012 Act need to be accompanied by regulations that will enable the new powers to work properly in practice. Such regulations will be subject to the affirmative resolution procedure and, accordingly, require debates in both Houses of Parliament. We expect that to happen before the Bill receives Royal Assent, but I will reflect on his points.

Mr Hanson: I am grateful to the Minister. Like other members of the Committee, I wish send a strong signal to the people who will be affected by orders that there will be a penalty attached to breaching them. The orders will be in place for a reason—they will be part of a range of measures for tackling slavery, trafficking and the risks associated with those crimes. My amendment would remove the £5,000 limit on the fine for breaching the orders, which is a reasonable proposition and one that the Government have said they are considering. I accept in good faith what the Minister said, but we would save parliamentary time if we sorted this issue out today. I therefore wish to press amendment 109.

Question put, That the amendment be made.

The Committee divided: Ayes 6, Noes 9.

Division No. 6]

AYES

Connarty, Michael	Johnson, Diana
Durkan, Mark	Kane, Mike
Hanson, rh Mr David	Wilson, Phil

NOES

Bradley, Karen	Pincher, Christopher
Bruce, Fiona	Smith, Chloe
Burns, Conor	Stunell, rh Sir Andrew
Hinds, Damian	Teather, Sarah
Nokes, Caroline	

Question accordingly negatived.

Clause 29, as amended, ordered to stand part of the Bill.

Clause 30

CROSS-BORDER ENFORCEMENT

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

The Chair: With this it will be convenient to discuss clause 31 stand part.

Mr Hanson: With clause 30 we are back to the old chestnut that the hon. Member for Foyle and I mined earlier on the Bill's impact on Scotland and Northern Ireland. Clause 30 will give the Secretary of State the power to

"amend section 29(1) so as to add or remove from the list of orders in that section any relevant UK order."

"Relevant UK order" means

"an order under the law of Scotland or Northern Ireland which appears to the Secretary of State to be equivalent or similar"

to the orders we are discussing today.

The Scottish Parliament is considering similar orders to those in the Bill—it may have already put them in place—and Lord Morrow intends to introduce something similar in the Northern Ireland Assembly. Will the Minister update the Committee on the progress of the orders in the Scottish Parliament and the Northern

[Mr Hanson]

Ireland Assembly? That would help the Committee understand how we are to achieve UK-wide coverage on these matters for as long as we still have a UK, which I hope is a long time.

Karen Bradley: Modern slavery is a cross-border issue, so we must ensure that the UK has a joined-up approach to prevent these horrific crimes. That important principle is not only reflected in the Government's approach but was shown in the pre-legislative scrutiny Committee's report, which highlighted the fact that

"modern slavery straddles borders without respect for jurisdiction: the UK government must work closely with the devolved institutions as they produce their own legislative responses."

Clause 30 reflects that principle. It will enable the Secretary of State to add or remove any relevant UK order to the list of orders in clause 29 that would constitute an offence if breached in England and Wales. The Government have worked closely with the devolved Administrations on tackling modern slavery, and will ensure that similar reciprocal measures are in place so that orders made in England and Wales can be enforced throughout the UK. Both Scotland and Northern Ireland are introducing legislation on modern slavery that offers such an opportunity.

If Scotland or Northern Ireland pass legislation to introduce orders similar to the slavery and trafficking prevention and risk orders, the Secretary of State will be able to ensure that breaches of those orders are criminal offences in England and Wales. That will mean that individuals who pose a risk can be managed effectively across the UK. For example, if an individual was made subject to an order in one of the devolved Administrations and then moved to London, the risk they posed could be managed through enforcing the original order.

The Government recognise that making changes through regulations under the clause would broaden the offence in clause 29(1). The Bill therefore provides for the regulations to be subject to the affirmative resolution procedure in order to provide the appropriate level of parliamentary scrutiny.

Clause 31 ensures that the court proceedings for the determination of applications for orders against children and young people under part 2 of the Bill are managed appropriately. It sets out certain circumstances—essentially, whether it is in a young person's interest—in which rules of court may allow a youth court to deal with a person aged 18 or over in respect of applications for slavery and trafficking prevention and risk orders.

First, the clause provides that the rules of court may allow the youth court to give permission for it to hear an application against a person aged 18 or over when an application has also been made against a person under 18 and the youth court thinks that it would be in the interests of justice for the applications to be heard together. Secondly, rules of court may set out how to deal with cases against a person who is under 18 but reaches the age of 18 during the proceedings. The rules of court may set out the circumstances in which the proceedings may or must remain with the youth court and also make provision for transfers to an adult magistrates court, where that is the appropriate response. I hope that the Committee will support the inclusion of both clauses in the Bill.

Michael Connarty: We are on the cusp of a political change in the United Kingdom. Whether we get a yes or no vote on 18 September, if we continue as we are I think we will eventually end up with a yes vote, because I do not think that the Scottish people want to continue with what they sometimes see as a role of subservience to the laws of the rest of the UK. Despite people's lack of understanding, I believe that Scotland does have a social structure and set of moral aspirations that are different from those held by many of the people who appear to accept the way we do things through the UK in England.

I hope that Scotland will one day take a decision to take the kind of approach that was taken in Italy. International criminal organisations are massively international and flexible, and they do not recognise Governments, borders or politics. The only way to deal with the mafia was to pass a law such that suspicion meant that a person was immediately beyond the pale, their assets were seized and their ability to carry out criminal transactions was halted because it was their assets that gave them power. If anyone would like to study the mafia battles, which included, of course, the killing of quite a few prominent judges—it was a very violent organisation as well as being very large, with links to America and many of the drug-producing countries of the world—they will see that the only way to deal with that kind of organisation was to say, "If you are suspected, you are immediately removed, particularly in asset terms." Nothing in the Bill takes that stance. I would hope that some courage might be shown in a debate in Scotland and that that would be the stance, because it is the only way to deal with it.

I have been to the Serious Organised Crime Agency and seen the model it has created of international criminality in people trafficking, which is like a multi-dimensional, multi-layered spaceship to look at because it is so tortuous. To deal with that, we have to unplug it from its power source, which is money and assets. It is money that makes those people tick and function. The orders are useful, but they will not deal with the problem. Is the Minister willing, in cross-border enforcement and the meek, mild-mannered approach to crime that I see in England and Wales, to take a lead from Scotland? Is she willing to take the lead from a country with a different moral stance and approach?

4 pm

I read the provision as one that will be enacted in reverse, in the sense that Scotland will be expected to line up with the orders and not show the way. I would hope that it would show the way and the UK would follow. There is a lack of vision in the English approach. It is unfortunate, but I do not think they are offering to take a lead from another country and bring a much bolder approach to English law to tackle that massive criminal organisation that exploits children and other people in society.

Karen Bradley: I do not wish to repeat our earlier discussion about the role of the devolved Administrations, nor do I wish to dictate to those devolved Administrations. Scotland and Northern Ireland are working on their own modern slavery offences, and I look forward to seeing them and working with them to ensure that we can tackle the problem together.

Question put and agreed to .

Clause 30 accordingly ordered to stand part of the Bill.

Clause 31 ordered to stand part of the Bill.

Clause 32

GUIDANCE TO CHIEF OFFICERS OF POLICE ETC

Mr Hanson: I beg to move amendment 85, in clause 32, page 23, line 2, after "guidance", insert

"no later than within one month of this Act obtaining Royal Assent."

The Chair: With this it will be convenient to discuss amendment 86, in clause 32, page 23, line 8, after "published", insert

"in both Houses of Parliament and"

Mr Hanson: I will be extremely brief. We have had a full discussion on guidance being published one month after the Bill attaining Royal Assent, so I do not intend to develop that further. The guidance that is outlined in clause 32(3) states:

"The Secretary of State must arrange for any guidance issued or revised under this section to be published in a way the Secretary of State considers appropriate."

I tabled the amendment because it is appropriate that the Secretary of State publishes the guidance in both Houses of Parliament, as well as issuing it to the chief of police, director-general of the National Crime Agency and immigration officers. It is important that she inform the House what the guidance is, given that we are passing the legislation. I want to fetter the Secretary of State's discretion somewhat. Instead of the Government saying that they consider guidance appropriate, would they publish it for those officers and in both Houses of Parliament so that it is formally known?

Karen Bradley: I thank the right hon. Gentleman for his comments. Like him, I will not repeat our earlier discussion regarding the time frame within which the guidance will be published. Instead, I shall direct my remarks to amendment 86, which deals with where the guidance will be published. I assure the Committee that the document will be made public, and we will ensure that it is widely available on the Government website and easily available to everybody. Therefore, I do not feel that there is a need to dictate that is also published in both Houses of Parliament, as it will be available to any member of the public who wishes to see it. I therefore hope that the right hon. Gentleman is happy to withdraw his amendment.

Mr Hanson: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 32 ordered to stand part of the Bill.

Clause 33 ordered to stand part of the Bill.

Clause 34

THE ANTI-SLAVERY COMMISSIONER

Diana Johnson (Kingston upon Hull North) (Lab): I beg to move amendment 117, in clause 34, page 24, line 19, leave out "a person as the" and insert "an independent".

This amendment asserts the independence of the Anti-Slavery Commissioner.

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

Amendment 112, in clause 34, page 24, line 20, at end insert—

'(2A) Before making this appointment the Secretary of State's preferred candidate must go through a pre-appointment hearing with the Home Affairs Select Committee."

Amendment 118, in clause 34, page 24, line 23, leave out "may" to end of line 30 and insert—

"shall pay remuneration and allowances to the Commissioner and—

(a) shall before the beginning of each financial year specify a maximum sum which the Commissioner may spend on functions for that year

(b) may permit that to be exceeded for a specified purpose, and

(c) shall defray the Commissioner's expenditure for each financial year subject to paragraphs (a) and (b).

(4) The Commissioner may appoint staff."

Clause stand part.

New clause 19—*Establishment of the Anti-Slavery Commissioner*—

'(1) There is to be an office of Anti-Slavery Commissioner (in this section "the Commissioner").

(2) The Commissioner shall be appointed by the Secretary of State, following a pre-appointment review by Parliament of the candidate proposed by the Secretary of State.

(3) The Commissioner may appoint their own staff."

Diana Johnson: We now move on to part 3 of the Bill. The clauses in part 3 all relate to the role of the anti-slavery commissioner. First, on the amendments to clause 34 in this group, I am pleased that the Government have brought forward clauses to establish the anti-slavery commissioner. The Government have previously said that that is one of the most important aspects of the Bill. I refer to the Centre for Social Justice's report of March 2013 into modern-day slavery in the UK, "It Happens Here". That report said:

"Measures to address modern slavery…and provide support for…victims and survivors in the UK are the remit of numerous government departments, local government agencies and a wide range of NGOs from across civil society. Such diverse activity requires independent oversight and coordination for it to be effective.

There is significant need in the UK for the appointment of a single individual to oversee efforts to fight modern slavery in the UK, in light of the disparate national response".

Leading on from that, the report "Establishing Britain as a world leader in the fight against modern slavery", which came out of the work the Home Secretary commissioned from my right hon. Friend the Member for Birkenhead (Mr Field) and other right hon. Members, also made it clear that there was an important role for the anti-slavery commissioner. The report said that the role should be,

"independent from Government and accountable to Parliament";

that it should,

"act as a bridge between civil society and Government";

and that it should represent and be a voice for victims.

It was clear from the evidence witnesses gave to the Joint Committee on the Bill that there was a real need for coherent leadership on modern slavery. It was felt the independent anti-slavery commissioner could bring that to the role. I also noted that the Joint Committee,

[Diana Johnson]

in its pre-legislative scrutiny, raised two issues. The first relates directly to the clause before us on setting up the role, and concerns,

"the absence of statutory protection to secure the…stated intention of independence"

in the way the Bill is currently drafted.

I read very carefully what the Joint Committee said, because it paid tribute to the current Home Secretary and her commitment to an independent anti-slavery commissioner. I know the Minister has made it clear she wants a strong anti-slavery commissioner to do a lot of the work she has discussed in her contributions to the Committee, to ensure there are far more prosecutions and that victims see justice being done. However, the Joint Committee made the point that there is no guarantee that any future Home Secretary or Minister would take a similar approach to the current Home Secretary or Minister. The Committee therefore felt it was vital that the Bill explicitly stated that this role was independent.

The Joint Committee also raised concerns about the narrowness of the role as defined in the Bill. We will come on to that when we look at clause 35 next. The focus was far too narrowly on the prevention, detection, investigation and prosecution of offences; it needed to have a wider remit, but we will come on to that.

I would like to test the view of the Committee on amendment 117. The amendment is a simple one, which seeks to set things out clearly. As drafted, the clause reads:

"The Secretary of State must appoint a person as the Anti-slavery Commissioner".

The amendment would replace "a person as the" with "an independent" to make it clear that the role is that of an independent anti-slavery commissioner. For the reasons set out by the Joint Committee, it is important to include that word.

Amendment 112 seeks to require a pre-appointment hearing before the Home Affairs Committee in advance of the Secretary of State appointing a commissioner. Amendment 118 deals with the remuneration and allowances of the commissioner and gives permission to the commissioner to appoint staff, to beef up the independence of the role. We have used the text that was set out in the alternative Bill produced by the Joint Committee in amendments 117 and 118. Also, my hon. Friend the Member for Foyle has tabled new clause 19, which is included in this group. It has a similar effect to our amendments, so I will come on to that in a moment.

On the independence point, it is worth looking at the evidence taken by the Joint Committee on the role of an independent anti-slavery commissioner. The Joint Committee report, at paragraph 145, refers in particular to what the Dutch national rapporteur said. Her role

"illustrated the importance of statutory independence for a UK Anti-Slavery Commissioner when she told us that the long-standing effectiveness of her own role lay in its statutory independence and the trust engendered as a consequence."

The Joint Committee, which spent a lot of time looking at the matter, was concerned and wanted to see something similar to the Dutch model in the Bill.

As hon. Members recognise, there is a lot of good will and support from charities, voluntary organisations, churches and non-governmental organisations. It is important that the anti-slavery commissioner is seen to be independent of Government and to have the credibility to co-operate with all those other groups, organisations and sectors that we rely on to work with victims to ensure that prosecutions are brought whenever possible.

I wanted to mention the Finnish model to the Minister as well. That has been held up as an example of the best way to set up an anti-slavery commissioner. In Finland, the Ombudsman for Minorities is an independent and autonomous authority located administratively within the Ministry of the Interior. The national rapporteur on trafficking human beings within that organisation analyses and evaluates the implementation of legislation and activities to combat trafficking in human beings, and issues recommendations to make the Finnish Government's actions against human trafficking more effective.

4.15 pm

The main duties of the national rapporteur are to monitor issues relating to human trafficking such as the fulfilment of international obligations and the effectiveness of national legislation; to issue proposals, recommendations, statements, opinions and advice; to keep in contact with international organisations; to provide legal advice to and assist victims of trafficking as necessary; and to report annually to the Government and every four years to Parliament on human trafficking and related issues.

I will be grateful if the Minister could say why the Finnish model—or the Dutch model, as preferred by the Joint Committee—is not appropriate in this country. Obviously, this arrangement is being set up from scratch. It seems to me that we should look at good practice from around the world to see what is working, and if people think there is a case for using those models here.

I turn now to the amendment on pre-appointment hearings. It is important because Parliament should be involved in the process for two key reasons. Parliament has an opportunity to have a role in scrutinising appointments otherwise made by the Executive. Although we recognise and accept that the Secretary of State will make the appointment and does not have to follow any Select Committee recommendations about a pre-appointment hearing, we think it is an important role for Parliament to exercise.

Many hon. Members will recall when the Children's Commissioner had a pre-appointment hearing with the Education Committee, and that Committee chose not to say that that person should be confirmed in post, but the Secretary of State at the time went ahead and appointed that person. In a way, this is not saying that the Secretary of State would be bound. It is just an opportunity for Parliament to ask some questions.

That leads me on to the second point. A pre-appointment hearing would ensure that hon. Members felt that they could question and see for themselves, and ensure that Ministers were not deliberately appointing candidates who might be less challenging to them in the role of anti-slavery commissioner.

The point is to give Parliament that opportunity. It follows the line of the Wright proposals in giving Back Benchers more of an opportunity to have their say. In Committee on what is now the Justice and Security Act 2013, there was much interest in having the heads of the intelligence services come before the Intelligence and Security Committee for a pre-appointment hearing. If

the Government are minded to consider such hearings for that type of appointment, it would seem sensible to consider them in this case. I look forward to hear what the Minister has to say about pre-appointment hearings.

Amendment 118 provides an opportunity to amend the Bill to give more independence to the anti-slavery commissioner in staffing, accommodation, equipment and facilities. As the Bill is drafted, those are all to be provided by the Secretary of State. The Joint Committee on the Bill did us a great service by looking at this area and making some comments. Paragraph 147 of the report is on evidence of the Independent Police Complaints Commission. It stressed the importance of freedom to appoint to the commissioner's independence.

"The perception of that independence, if not its reality, may be affected by its statutory closeness to the department. Unlike the Prisons Inspectorate or the IPCC (or indeed the Victims Commissioner), the Anti Slavery Commissioner…will be unable to engage his or her own staff, or be located outside the department. He or she will therefore be relying on negotiating the right number and expertise of departmental civil servants, whose careers and ultimate accountability lie within the department. In my view, this is unfortunate, as it does not provide the Commissioner with any visible separation from the department."

The Joint Committee went on to consider other domestic and international commissioners, and focused particularly on the independent reviewer of terrorism legislation, David Anderson. He was able to appoint a specialist adviser. Given his role, he said that it was essential that he should be allowed to make that decision.

The independent chief inspector of borders and immigration, who at that time was John Vine—I think he has since left—told the Joint Committee that his staff

"were largely civil servants from across the civil service but that he was 'able to advertise for staff in newspapers in order to get a good mix of skills'."

The Joint Committee also noted that

"under the UK Borders Act 2007, section 49, 'the Chief Inspector may appoint staff'."

On the basis of the information provided to the Joint Committee it seems eminently sensible that the anti-slavery commissioner should also be able to appoint the staff that he would feel confident with, and be able to get the right skill mix. I ask the Minister to consider that again. I looked carefully at page 15 of the Government's response to the Joint Committee on the issue of staff, explaining why the commissioner should not be able to appoint his own staff. Perhaps the Minister can help me, as I am not sure it is the best answer I have seen.

The response states:

"The Commissioner role will be supported by a small team of analytical and support staff. It would not be effective or efficient for such a role to be supported by an independent human resources function."

I did not quite follow that. It seems to me that it cannot be beyond the wit of man, or woman, to provide assistance to an independent anti-slavery commissioner in the appointment of staff, without creating an independent human resources function. Perhaps the Minister can help the Committee on that point.

The amendments are intended to make it clear that the commissioner should be independent, should be subject to a pre-appointment hearing, and should have flexibility with respect to the appointment of staff and their budget.

Mark Durkan: As the hon. Lady has suggested, I want clause 34 to be deleted and replaced by new clause 19, which would be the hanger for new clause 20. That deals much more comprehensively with the role and functions of the anti-slavery commissioner.

I agree with the Opposition spokesperson. As she said, my new clause is intended in large part to achieve the same purpose, with the same principles, as her amendments. On that basis, I would not want to press matters or set up a rival context. However, I want to take the opportunity to reinforce the key point about making the appointment subject to a pre-appointment hearing.

In my new clause, I deliberately did not specify that the hearing should be held by the Home Affairs Committee because I believe that Parliament could devise a wider way of having the hearing, to make sure that, unlike with the Home Affairs Committee, the interests of the different devolved areas were reflected, out of sensitivity to the position in law of the devolved authorities. The hearing could also have proper regard to what I want to see, which is a wider and more effective remit for the Anti-slavery Commissioner than that in the Bill at present.

It seems that there is a sense—as we heard during the opening stages of our proceedings, when concerns were expressed that the position had already been advertised—that the job has already been decided. Inevitably, people will have suspicions that the job spec means that a likely candidate is standing. One reason why I sought to take the approach in new clause 19 is that, notwithstanding the fact that the Secretary of State would make the appointment and have a leading position in the process, people would be suitably assured about the basis on which the appointment was made.

Similarly, as the hon. Lady indicated, there is the issue of actual authority, in terms of the remit and competence of the commissioner. Under the Bill at present, the commissioner does not seem to be independent enough even in relation to their own competence in terms of determining staff arrangements and so on. Again, I have sought to improve that with new clause 19. I am glad to see that my hon. Friends are also trying to improve it with amendments 118 and 111, which assist us on that key word, "independent".

As the hon. Lady said, and as has been shown in evidence to the all-party group of which I have been a member for a number of years, when we look at best practice and world-leading examples, we find ourselves talking about the Netherlands and Finland. What the Government are proposing is a poor shadow of what those countries have. We need to do better if we are to maintain the idea that this is world-leading legislation or that we are even keeping pace with other countries. The Joint Committee found that to be the case, also, when it looked at these issues. Although there have been some improvements on the envisaged role and remit of the commissioner in response to the Joint Committee, the Bill still falls short of what was recommended. All members of this Committee will have received evidence submissions from many groups that work diligently and thoroughly in the field. They, too, have pointed out inadequacies they have identified in and concerns they have with the Government's provisions.

I know that these issues will be dealt with more substantively when we discuss other clauses and my own new clause 20, but, for the sake of establishing a

[Mark Durkan]

bridgehead argument about the need to beef up the role of the commissioner, the scope of the brief and, most importantly, the commissioner's standing, I am glad to hear that my hon. Friends are prepared to press some of their amendments.

Mr David Burrowes (Enfield, Southgate) (Con): I welcome this debate, particularly on clause 34. There is utter consensus on how important it is to have an anti-slavery commissioner. It will be an important appointment. The commissioner's functions will lock in on and hold close to the fire, in the Home Secretary's words, those agencies responsible for ensuring there is good practice, as we will debate later on clause 35, in

"the prevention, detection, investigation and prosecution of offences".

Covering all those functions gives the commissioner a wide remit, which is very welcome.

4.30 pm

The anti-slavery commissioner and indeed much of the Bill has come about as a result of a lot of effort by a lot of people on a lot of sides, not least the Centre of Social Justice, which in its important report, "It Happens Here", calls for an anti-slavery commissioner to

"offer independent oversight across the whole of the UK's government and non-government response to modern slavery, helping to improve its strategic coherence and continuity."

Amendment 117 looks to provide what the Joint Committee refers to as tangible evidence of independence. It is important to the debate to ensure that we are on the same page, which I think we all are. The explanatory notes, at paragraph 127, state:

"Subsection (1) provides for the establishment of an Anti-slavery Commissioner ('the Commissioner' who will be an independent office holder appointed by the Secretary of State…)".

We therefore all agree on the need for independence; it is how we get to that point of being assured of the tangible evidence.

The reality, as I understand it, is that the Government's intentions, as expressed through the explanatory notes, are that the commissioner should be independent, whether that is shown in the Bill or in practical effect. Nevertheless, I welcome the amendment, because I look forward to hearing from the Minister about that independence, which is what we all want. We have other commissioners, such as the Children's Commissioner or the Victims' Commissioner, but it is important to recognise that the anti-slavery commissioner is unique and important. It must stand alone and we must ensure that it does the job that we all want it to do.

I was also struck by other evidence to the Joint Committee, not least from the Dutch national rapporteur. I appreciate that we are not seeking to mirror the rapporteur system. Nevertheless, she said:

"in my view, independence is quite an important element. Why is it so important? If you worked for the Government, you could not pull off what I did with my research on the judiciary—the judges would not really believe you or care for you meddling. They would see that as political, which would make it difficult. Being independent, for me there was no restriction in doing that."

Whatever happens with the amendment, no one is suggesting that there would not be sufficient independence to allow the commissioner to hold to account all those responsible for ensuring that we increase the prevention, detection, investigation and prosecution of offences. I am not suggesting that we have a rapporteur system. We have a good history, with good models, not least some of our commissioners who are independent. Some things depend on who holds the post. The characteristics of independence are often dependent on particular individuals and how they hold everyone to the fire. It will therefore be interesting when we debate amendment 112 on the process of appointment and how it ensures that we get the right people for the job. Whatever we put in the Bill, the office holder will be important.

It is important to be sure that independence is very much at the heart and soul of the commission. That is important for all the agencies and people looking on, all of whom are involved in the worldwide issue of modern-day slavery, so that they understand that we mean what we say by independence. The debate has been a useful and important beginning, but partly we will do that when discussing subsequent amendments to clause 35, which is on the functions of the commissioner, how that clause demonstrates independence and how it does what we and the Minister all want to achieve in ensuring good practice. I look forward to hearing from her about amendment 117, which has much to commend it.

I understand the aims of amendment 112 on the appointment process, although I am not sure that it is necessary to give statutory effect to a pre-appointment process. A statutory basis for such a process for all the appointments around is unnecessary. It is healthy for there to be transparency in the appointment process and wide confidence built up around the office holder, but the provision does not need to be in the Bill to achieve that. It is important for Parliament to be involved with that vital office holder.

Mark Durkan: Does the hon. Gentleman recognise that other Bills have provided for pre-appointment hearings, not least in respect of financial services?

Mr Burrowes: I hear the point being made. That is one way, but it is not the only way for us to have both transparency and confidence in the process. Nevertheless, it would be good to hear the Minister's response to that point.

It is important that we recognise that, on the issue of the anti-slavery commissioner, we are very much on a similar page. We must ensure that we give proper effect and evidence to the reality of what we all want, which is to ensure that the commissioner will be independent and do the job that we want.

Michael Connarty: I apologise if I take some time over these provisions, but I keep referring back to the fact that I get the feeling that we on the Joint Committee wasted 12 weeks of our time and the time of the 112 people who submitted written evidence, as well as the time the other members and I took over drafting our recommendations, because the Government have entirely ignored the thrust of what we tried to absorb and then draft into recommendations in the draft Bill we submitted.

In the evidence from people from the Centre for Social Justice, the Children's Commissioner, the Finnish Ombudsman Eva Biaudet, the ombudsperson for the Netherlands and all the aspirant organisations that

wrote to us—such as Queen's university—the key word that came up again and again was independence. We were told that the commissioner must be someone who stands outside the remit of Government and who can criticise and assist the Government. That was the key to it.

The role was supposed to be bigger than what I described in a parliamentary debate as the Home Secretary's poodle, but that is what has been designed into the Bill. The role is not independent and it is not appointed independently. As the hon. Member for Foyle said, there is no parliamentary scrutiny of the appointment in the sense of the role answering to Parliament. We might say that that is how things operate in Parliament: people get appointed by Ministers and are somehow answerable to Ministers. I am not against that idea, but I do not like the idea that the Minister becomes the conduit through which they operate.

Quite honestly, the role is like that of some sort of prosecuting assistant on behalf of the Home Secretary. The remit is not what the Joint Committee discussed; it is about this obsession with the idea that we can prosecute our way out of the unbelievable, growing scandal of the abuse of human beings. Everyone tells us that we cannot do that. We have to build a bigger allowance and have a wider remit. If those things are not there, it is clearly not going to work. That is the point: the Bill is not going to work and the role of commissioner is not going to work. If the Government do not change, we are wasting the Committee's time and Parliament's time.

Mr Burrowes: I am reluctant to be too critical of the hon. Gentleman, because we all agree about the need for independence. Nevertheless, the explanatory notes say that the commissioner

"will be an independent office holder".

There is merit in the hon. Gentleman's argument—we are all concerned about independence—but to go to the point of saying that the intention is any way to have the commissioner as the Home Secretary's poodle and that we are completely on different pages is just protesting too much. It is important to look at where we can show the tangible evidence. We all agree—it is in the explanatory notes as well—that we want an independent office holder; the issue is how that is going to be achieved practically.

Michael Connarty: The point is that what is in the Bill does not achieve what the Joint Committee recommended or what was suggested by the people who gave us evidence—people who are already in post and are independent, and who have had to fight off the Government to ensure that no one interferes with how they do their job. Other jurisdictions, such as Finland, the Netherlands and as others, respect the fact that sometimes we have to drive Government in a different direction. The Government are obsessed with prosecution. It is clear that all these clauses lead towards an assistant to prosecution. That is what it is about, not the other things that were recommended.

We will come to this when get to later clauses, but the question at the moment is one of independence. I go back to the words of Lord Judge. We should say what we mean, not something that has to be interpreted. If we mean "independent," we should say "independent." If we mean "answerable to Parliament," we should say "answerable to Parliament." If we say "answerable through the Home Secretary"—not even "to the Home Secretary" but "through the Home Secretary"—we are saying that the Home Secretary will decide what the commissioner can do, so there is no independence in reality. Later clauses even say that the Home Secretary can amend what is said in a report. Is that in case a report criticises the Government? Is that the case? Someone is not independent if they cannot criticise the Government. If the Government are getting it wrong, as they are at the moment—over and again we find statistics about failures to prosecute, failures to arrest and failures to save children and other people—we will be in the same position.

The purpose of having a commissioner is properly to implement the recommendation of the directive. The directive recommended an ombudsman, a commissioner or something similar. What did we end up with? A joint ministerial committee that was often not attended by ministers but by civil servants. Some people from the Scottish jurisdiction tell me that they participated by telephone, and it was not the Minister but a civil servant. It was a deliberate attempt not to implement the directive. Looking back at the history, we have to remember that we dragged the Government to implement the directive. They fought it off for months, and I certainly embarrassed the Prime Minister on three occasions by being lucky and having parliamentary questions come up on the Order Paper, so I asked him again and again when he was going to find his moral compass and implement the directive.

It is not unusual to find me suspicious that the clause seems to do whatever it can to push the recommendation away from independence and from a commissioner who would drive the Government and the authorities across the board and who would link up with the NGOs, which are currently deeply suspicious of working with Departments, the national referral mechanism, the border police and everyone else because of the history of what they see as the diminution of the rights of victims and an increase in prosecutions, particularly for immigration breaches, and the dispatching of people back into the hands of the traffickers who sent them here in the first place. That is all history that should have been addressed by the clause, and we could have done that by saying that we want someone who will assist the Government on their own terms, not on the terms that the Government find acceptable.

When I studied business at university, I was told, "Finding a problem is like finding a gem in the works because, by solving the problem, you can make things work better." My worry is that, as described in the clause, the commissioner is so constrained by the Home Secretary's wishes that we will end up with someone who does not have the power to help the Home Secretary, the Government, Parliament or the process. The amendments are correct, and they are in the spirit of the Joint Committee's recommendations. But from all we have done so far, I do not get the feeling that the Government are willing to listen. They will just blunder on, forcing through the view they already had, which is that they want a prosecution Bill and someone who will come in to assist the Home Secretary on those prosecutions and just go on with it. They did not want the person to go outwith that remit in case the Government were

[Michael Connarty]

diverted from their equation, which is to get harder by pulling all these offences together and hitting people who are making money from trafficking over the head with them, and somehow we will win. But we are clearly not winning. Unless someone has a bigger vision, which would be the commissioner, the Government will never win and we will never win—we will have failed the people who sent us here.

4.45 pm

Fiona Bruce (Congleton) (Con): I welcome the Bill's provision for an anti-slavery commissioner, which will be a specific role to lead the charge against modern slavery and a key to reaching the goal of identifying and supporting more victims and prosecuting more criminals. However, such an important and strategic role must be equipped with the status and resources to enable the commissioner to speak critically to the Government, law enforcement agencies, Parliament and elsewhere in the public sphere. I hope that the Minister will take note of the concerns expressed across the House regarding these issues, particularly independence.

Stating from the outset that the commissioner must be independent, as amendment 117 does, has merit, and I hope the Minister will take note of this concern. The wording of the Joint Committee report on the draft Bill was quite strong. The report said:

"the statutory safeguards intended to ensure independence for the Commissioner fall short of those applicable to comparable roles, such as the Independent Reviewer of Terrorism and the Independent Chief Inspector of Borders and Immigration. The draft Bill does not offer sufficient protection for the Commissioner's independence in the long term. Failure to do so will undermine the Commissioner's credibility".

If the anti-slavery commissioner is to encourage good practice in identifying victims and in prosecuting offenders, they will need to interact with a variety of agencies overseen by different Government Departments, as well as with health professionals, teachers, social workers, prison officers, and with a range of non-governmental agencies and international experts. So their credibility is essential in ensuring good working relationships with that range of partners. Central to achieving that credibility is that the commissioner is, and is seen to be, an independent voice, able to be a critical friend who can challenge, where necessary, the Home Office, other Departments and indeed Government as a whole.

The process for appointing the commissioner set out in clause 34 also concerns me. It appears to be a process more like that used to fill an in-house civil service position than that required to create an independent commissioner. Again, I would appreciate it if the Minister could address concerns about that issue, which have been expressed across the House.

It is particularly concerning that under the existing provisions the power to appoint the commissioner rests solely with the Secretary of State. I ask the Minister to give careful thought to the alternative approach set out in new clause 19 and amendment 112. A role of such importance deserves to receive the scrutiny of Parliament, and it is essential for the credibility of the commissioner that the appointment process is seen to take place in public, and in a fully transparent manner.

On Second Reading, the Home Secretary suggested that other independent commissioners were

"fiercely independent regardless of the method of their appointment."—[*Official Report*, 8 July 2014; Vol. 584, c. 176.]

While that might be true of those particular officers, we need to bear it in mind that relying on the "fiercely independent" nature of an individual post holder is perhaps not always an adequate approach.

The right hon. Member for Hazel Grove reminded us that the Home Secretary also said that she wanted this Bill to be a "world-class Bill", perhaps setting a precedent for other legislatures to consider. That being the case, it is important that the statutory framework and the appointment process underpin and support the commissioner's independence, and that that independence does not necessarily rely on an individual office holder.

In earlier sittings, I raised a point of order about the recruitment process for a commissioner-designate, which is already under way. I repeat the point that by recruiting for a position that does not yet exist, and that has not yet been defined or endorsed by Parliament, we risk getting ahead of ourselves. I hope that the Minister will re-reassure the Committee that the Government are committed to listening to concerns and questions about the role of the commissioner, for example from NGOs, that they are willing to engage actively with those concerns and that the ongoing recruitment will not hinder that discussion and the possible development of the role of the commissioner, or indeed comments from this Committee.

In that regard, a pre-appointment scrutiny process by Parliament would perhaps be welcome, to offer the opportunity to establish a degree of transparency and review regarding the appointment, once the final form of the role has been confirmed. That can only benefit the commissioner's credibility.

I turn to new clause 19, tabled by the hon. Member for Foyle in his characteristically thoughtful manner, and to amendment 118, both of which would enable the commissioner to appoint staff. The chief inspector of borders and immigration, who has similar statutory powers, told the Joint Committee that the ability to advertise publicly for staff was a key factor in enabling him to gather a team with what he described as

"a good mix of skills".

Ultimately, the commissioner's staff will be funded by the Secretary of State, who should naturally be able to set the budget. If the commissioner is to carry weight as the head of his or her team, however, thought must be given to empowering the commissioner to appoint their own team. The staffing provision in clause 34(4) sets out that the Secretary of State will discuss with the commissioner how many staff are required and select them from existing Home Office staff. That might be required initially, but in the long term the commission may be better served by developing a staff team strategically and bringing in people with the necessary skills to achieve the commissioner's objectives in a truly robust way. I would be grateful if the Minister would reassure us of the expected involvement of the commissioner in recruiting staff under subsection (4), to allay our concerns.

Sir Andrew Stunell: I want to say by way of introduction that we should not talk the Bill down. It is extremely important in concept, and it can deliver a great deal of

good and tackle many of the evils that we all want to tackle. From the discussion that we have had in Committee so far, however, it is clear that someone will have to—

4.52 pm

Sitting suspended for a Division in the House.

5.6 pm

On resuming—

Sir Andrew Stunell: I was making the point that the Home Secretary has every reason to be congratulated on introducing the Bill. In many respects, it is excellent and can do a good job. We earlier noted that there are a number of aspects of the Bill that clearly require refinement, of which consent has been one. I will not rehearse them all because I would be out of order if I did.

One thing we can be clear about is that, however good the Bill, it is not on its own going to do the job. It is about ensuring that as part of the process of tackling the evils of modern slavery, we have somebody—a body or a person—who is dedicated 24 hours a day, seven days a week, 365 days a year to ensuring that we do not lose the focus on tackling modern slavery.

That is why the commissioner is so important. That person and office is going to be the body that year after year, Government after Government, says, "Hang on a minute, that is not working properly. Hang on a minute, victims are not getting the respect and support they need. Hang on, we have identified a gap in the law." That is exactly the kind of thing that the Children's Commissioner, the chief inspector of borders and immigration and the chief inspector of prisons do at the moment.

We need such a person to be there and to be able to speak truth to power. If any Government get it wrong, they need to hear that and so does Parliament, from the person who has been appointed to oversee the process. It is really important that this be an independent anti-slavery commissioner—not just in the intention of this Government or in the explanatory notes, but in the Bill. That will make it clear that that is the nature of the post we are creating.

The second important point, which is more a matter for the next string of amendments, relates to the scope the commissioner has. Whether the Minister is comfortable with my saying it, the truth is that the way it has been presented in the Bill is different from the vision set out in the Joint Committee's report. It is different in that it appears on the face of it to cramp the scope the commissioner will have for investigating and reporting on every aspect of modern slavery. I will not rehearse all the issues, but that is the criticism.

The problem is that at the moment the independence is not there explicitly and transparently, and the scope does not appear to have the breadth and width that the Joint Committee thought it should. In the long term, the role of the commissioner is not just to ensure that the job gets done, but to keep Governments honest and focused on the job. I am not suggesting for one moment that there is any lack of honesty or focus from the current ministerial team—from the Home Secretary or the Minister here—nor from the Government corporately. However, Governments change, their focus and emphasis change and it is important that the commissioner is there, through thick and thin, making the case for keeping the issue under control and tackling it properly.

The Home Secretary herself, in setting this is train—she and her colleagues deserve to be congratulated for doing so—spoke of the UK creating a world-leading Bill. Although it is not exactly going to be a unique anti-modern slavery Bill, it will certainly be one of the first and it could be one of the best. Our colleagues across the Commonwealth and in the United Nations are all struggling with the same issue and we have an opportunity to provide leadership. That is another good reason for us ensuring that we produce a Bill that is not just adequate or sufficient, but excellent. I hope the Minister will take note of that.

The Joint Committee took direct evidence from the gentleman who performs a similar role in the United States, from the lady who has the rapporteur role in the Netherlands and from our colleague in Finland. All of them value their independence from their respective Governments and their capacity to report directly to their legislative chambers as being fundamental to their ability to do their job in their political environments. Our political environment is somewhat different. We have systems in this country which, when written down on paper, make it unclear how it can possibly be said that people are acting independently. We have a system of appointing people inside the system who then, it seems, can turn round and, so to speak, bite the hand that feeds them.

To build that independence into a model that we believe is going to match international standards and be the one we would want to advocate to our Commonwealth colleagues—let us say in Nigeria or other areas where slavery is a significant problem, and where trafficking often originates from—and say that they should do as we do, strongly suggests to me that we should be saying to them, "What you need is an independent anti-slavery commissioner, not one appointed by your Minister of the Interior to sit inside your Interior Ministry." There are reasons to do so at the local and the practical level of operations here in the UK—or in England and Wales—and also in achieving the Home Secretary's ambition for us to be world-leading and trend-setting.

I mentioned the prisons inspector, the chief inspector of borders and immigration and the Children's Commissioner, all of whom have the capacity to appoint staff. That appears to be denied, or at least obscured, in clause 34. Therefore, it is important that the Minister give us some reassurances about what she has in mind. There is a certain amount of talk behind hands, and whispers that the Home Office does not want to create somebody who dares to be as independent as the Children's Commissioner. I hope that is not true, and it is not the fear that they might get somebody a bit stroppy or difficult to handle that is making the Home Office reluctant to accept the reality of what is needed here.

That brings me to a point that is in amendment 112 but particularly in new clause 19, tabled by the hon. Member for Foyle: ensuring that this person is answerable to Parliament. I want to see a process, and I am more interested in this person reporting to Parliament directly than I am in the pre-appointment review, although I do not see any objection to that. By the time we get to next year it might well be so routine that it is not even built

[Sir Andrew Stunell]

into legislation. What is important is that this person report directly to Parliament, without their reports and reviews being filtered through the Home Office.

5.15 pm

I want to make it clear that if there is debate about whether the Bill creates a glass that is half full or half empty, I believe it is more than half full. However, I also believe that, before it leaves Committee and certainly before it comes into law, we should ensure that we make it full. The new clause tabled by the hon. Member for Foyle is excellent in practically all regards, and measures my view quite well. Amendment 117, which adds the word "independent", is a statement of the obvious that I hope the Minister can indicate she is minded to take very seriously indeed. I do not think amendment 112 does a great deal, as the Home Affairs Committee is a creature of the House. I would like to see the version that appears in new clause 19, which is that the House should hold that pre-appointment hearing, and that it would be for the House to decide how that hearing should be conducted.

I am taking a pick-and-mix approach to what is before us, but what I am trying to get across to the Minister and the Committee is that we are at the heart of the mechanism for ensuring that this process continues beyond the length of this Parliament and the people elected and serving in it, and that it becomes and remains a core activity in tackling modern slavery. If we do not have that independent commissioner, with a wide scope in the form set out in new clause 20, I fear we will fail to do that.

Karen Bradley: I thank members of the Committee for their contributions. I will address my comments to the amendments and new clauses tabled, and to clause 34 itself. A number of other points have been raised relating to later clauses. I hope I will cover all the points that have been raised, if not during this contribution then in contributions to debates on later clauses and groups of amendments. If I fail to do so I will, as always, endeavour to write to the Committee to put on the record any points that have not been covered.

I am grateful to all members of the Committee for the amendments and new clause they have tabled, and for speaking to them. The amendments and new clause in this group seek to amend the appointments process for the role of the anti-slavery commissioner, how the commissioner's budget is set and how staff are appointed.

The creation of the anti-slavery commissioner is a very important provision in the Bill and marks a critical step forward in our collective fight to stamp out modern slavery in this country. Our debates over the course of the Committee, on Second Reading and during much of the pre-legislative scrutiny centred on the fact that this crime, while not unique, has an unusual aspect. The victims are so vulnerable that they need special protection and special provisions to be able to give the information and evidence we need to convict the slave masters. We keep talking about whether we catch and convict to protect, or whether we protect by catching and convicting. I do not think it matters which emphasis we apply. Ultimately, if we are to protect victims and make the UK an unwelcoming place for anybody who wishes to abuse other human beings, as slave masters do, we need to catch and convict successfully. The role of the commissioner is integral to co-ordinating the efforts of all bodies and agencies involved in protecting victims by catching and convicting, and in providing victims with the protections they need. I am pleased that we are talking about introducing a commissioner and that there is support across the Committee for the idea, although I appreciate that views differ about how the role should look.

Clause 34 establishes the role of the commissioner. For the first time, there will be a senior figure dedicated to tackling modern slavery and ensuring that law enforcement agencies do all they can to target and bring to justice those who seek to profit from the misery of others. We will debate the commissioner's remit in detail during our debate on clause 35, but I want to mention briefly that in making provision for the commissioner role, we have deliberately focused the role on the area in which it will have the greatest impact: encouraging good practice in the prevention, detection, investigation and prosecution of modern slavery offences, and improving the identification of victims.

We looked at a number of roles to establish the best framework. We purposely did not want to create a role that replicated that of existing commissioners and duplicated their work, nor did we want the commissioner simply to engage in general advocacy without a clear focus. To date, operational agencies have not done enough to understand modern slavery or establish the mechanics to drive an effective response, and I want the anti-slavery commissioner to change that.

My hon. Friend the Member for Congleton touched on the process of appointing an anti-slavery commissioner designate. Yesterday morning I attended our modern slavery operational leads meeting, which I hold regularly at the Home Office with representatives of all the bodies and agencies that are involved in operations to find and help victims, and find perpetrators. Sitting at that table, it was clear that there is a gap and that we need somebody who can come to those meetings and deal with the agencies and bodies beyond the regular operational meetings.

We need someone to ensure that the bodies all talk to each other and exercise best practice, so that we can get the prosecutions we want, prevent risk orders from being used instead of prosecutions, ensure that victims have the support and protection they need, and make sure that prosecuting authorities are not, as Christine Beddoe described in her evidence, looking for coercion or a "perfect victim". We need someone to ensure that that does not happen, and to make sure that the CPS knows that it needs to take on such cases and develop a track record of achieving successful prosecutions. Only when there is confidence in the criminal justice system will people start to see this crime as one that we can tackle and on which we can achieve results.

Mike Kane (Wythenshawe and Sale East) (Lab): The key point is about comparable roles. I would love to understand the thinking of the Minister and the Department on the difference—she just mentioned this point—between the new commissioner and the independent reviewer of terrorism or the independent chief inspector of borders and immigration.

Karen Bradley: I will come to that. I have looked carefully at how the different roles compare and I have a full analysis of the differences, so I will cover those points. We want a dedicated individual who will work tirelessly to resolve some of the problems surrounding the lack of investigations, awareness and prosecutions, which we debated last week when we considered offences. I also want an individual to focus on the prevention of modern slavery offences, working with agencies and organisations, including the strong and active NGO sector. Preventing people from becoming victims in the first place is paramount, but it is also critical to identify quickly and seamlessly those who become victims. Those are vital elements of the commissioner's role. We intend the role to have the autonomy and authority to work with senior ranks across law enforcement agencies to corral them into action. Ultimately, locking up more slave masters and traffickers is paramount.

Although the commissioner will be appointed by the Secretary of State, they will be independent from the Government. In practice, the commissioner will work independently with a number of partners and agencies to meet their objectives and deliver their plan without interference from the Secretary of State or Parliament.

If I may, I will compare the anti-slavery commissioner with the Victims' Commissioner, the Children's Commissioner, the independent reviewer of terrorism legislation, the independent chief inspector of borders and immigration, the surveillance camera commissioner and the biometrics commissioner. There are small differences in the way in which they operate, but in all cases they are appointed by the relevant Secretary of State, they are located in offices provided by the Departments, their remuneration and expenses are provided as determined by the Secretary of State—these are in subsection (4) for the anti-slavery commissioner—and they all send their reports for the Secretary of State for them to lay in Parliament. There are similarities in how this role fits with those of other commissioners.

Diana Johnson: Will the Minister repeat what she just said? She referred to clause 34(4), which sets out that the Secretary of State will provide staff, accommodation, equipment and other facilities in respect of the anti-slavery commissioner, but I did not catch what she said about the other commissioners that she referred to. Are all of them treated exactly the same as the anti-slavery commissioner?

Karen Bradley: All of them have the same provision. The Secretary of State pays remuneration and expenses as determined in the clause.

Diana Johnson: I was referring specifically to the staff, accommodation, equipment and other facilities.

Karen Bradley: I apologise; I will come to that point later if the hon. Lady will permit me.

Mr Burrowes: Following on from the Minister's comparison of the anti-slavery commissioner with the other bodies, and drawing on the earlier intervention, is the word "independent" referred to in statute for the other bodies—not least the independent reviewer of terrorism—and is that necessary?

Karen Bradley: I thank my hon. Friend for that contribution. I was going to come to that point. I checked the legislation, and although we do refer to the independent reviewer of terrorism and the independent chief inspector of borders, in both cases the term "independent" does not appear; rather, they are widely referred to in that way. We will come to amendment 117 and the need for the word "independent", but there is no reason why the commissioner could not use that term, in the same way that the reviewer of terrorism is known as the independent reviewer of terrorism, even though they are not called that in statute.

Amendment 117 seeks to include the word "independent" in the title of the role. I understand why right hon. and hon. Members have suggested such an amendment. Given that the word does not appear in the legislation for roles that are known by everyone as independent, I want to check whether putting it in statue would be problematic or without harm. I have heard the points made, and at this stage I would like to reflect on them. However, I can reassure the Committee that the commissioner's role will be independent, whether it says so in the name or not, despite their being, as with the other commissioners, physically located in the Department and appointed by the Secretary of State.

Sir Andrew Stunell: I very much welcome the Minister's approach, but approach is one thing and time scale is another. How long does she think it will take for the Home Office to decide whether including the word "independent" would be a cause of harm? Does she feel that it is something that might come by way of a Government amendment on Report?

Karen Bradley: I am sure that my right hon. Friend, who has ministerial experience, will know that the important thing is to get it right. I will therefore not give a time scale, but I will ensure that we look at this point carefully. I understand the strength of feeling across the Committee that it must be clear to all that the role of the commissioner is independent.

New clause 20 and amendment 112 seek to amend the appointments process in slightly different ways. New clause 20 suggests that the Secretary of State can appoint a commissioner only following Parliament's pre-approval. Will the hon. Member for Foyle clarify whether, by "Parliament", he means the Home Affairs Committee or some other body?

5.30 pm

Mark Durkan: I indicated that I was deliberately not prescriptive. The right hon. Member for Hazel Grove picked up on the fact that my amendment would enable Parliament to decide exactly how the process was done. My reservation about giving that role to the Home Affairs Committee relates to sensitivities around the devolved field—I would like the commissioner to look at areas of devolved responsibility as well—in that the amendment would leave it open for more involvement for those conducting the pre-appointment hearing than the Select Committee would allow.

Karen Bradley: I thank the hon. Gentleman for his comments; I thought that was what he had said, but wanted to be sure.

[Karen Bradley]

Amendment 112 suggests that the commissioner can be appointed only following

"a pre-appointment hearing with the Home Affairs Select Committee."

Before explaining the appointment process outlined in the Bill, I want to return to the other commissioner roles. The shadow Minister referred to the Children's Commissioner, which is different from the other commissioners, in that it is set up as a corporation sole—it is a non-departmental public body. It therefore has a different relationship with Government from the other commissioners, which are all statutory office holders. None of those has a pre-appointment hearing with the Select Committee or other bodies of Parliament. As is normal for an arm's length body, the Children's Commissioner does have a pre-appointment hearing. That is why there is a slight difference.

Sir Andrew Stunell: The Minister says there is a slight difference, but there is a rather fundamental difference between the person being appointed by the Home Secretary and then Parliament getting told, and Parliament having a look and the Home Secretary then appointing the person. Why should the approach to the anti-slavery commissioner be different from the Children's Commissioner?

Karen Bradley: As I explained, the Children's Commissioner is the only one of these bodies that is an NDPB—an arm's length body. The normal process with arm's length bodies is a pre-appointment hearing by the relevant Select Committee. For all the other commissioners, there is no pre-appointment hearing and they are appointed by the relevant Secretary of State. As this role is a statutory office holder—as are the Victims' Commissioner, the independent reviewer of terrorism and the biometrics commissioner—it will go through the same process. I will ask my officials to check whether any statutory office holders go through a pre-appointment hearing, but I believe it would be highly unusual to have one in this case.

Diana Johnson: Will the Minister say whether any thought was given to the creation of the anti-slavery commissioner as an NDPB? Why was the commissioner role created as a statutory role?

Karen Bradley: I will come to that point, but I will first answer the question about the other statutory office holders. There is no parliamentary pre-approval for any statutory office holder. In the case of the Children's Commissioner, there is a requirement in statute to do so, which has been decided by Parliament. That is not, however, the case with statutory office holders.

The reason why the anti-slavery commissioner is a non-arm's length body lies in the approach across Government to arm's length bodies and government bodies. We consider that this role can be carried out by a statutory office holder, and there is therefore no need to create a new NDPB.

Sir Andrew Stunell: I am very sorry to intervene again, especially as the Minister is being so helpful and constructive. I am encouraged that she is able to produce evidence to show that the word "independent" does not appear with the other statutory office holders. I hope she will not use that as a convincing and conclusive argument not to consider it in this case, bearing in mind the assurance she gave earlier.

Karen Bradley: I want to reassure my right hon. Friend. I want to check that there was no need to put the word "independent" into the legislation that set up and created the independent reviewer of terrorism and the independent chief inspector of borders. I want to check why that was done in that way, given that they are known colloquially as the independent reviewer of terrorism, for example. I want to check whether there was any particular reason why the word "independent" was not put in, and whether putting that word in leads to unintended consequences. I want to ensure we are absolutely clear on that point. Then we can obviously consider the implications of that finding. I hope my right hon. Friend understands.

Let me return to the appointments process envisaged in the Bill. A number of safeguards are already built into the appointment process for the anti-slavery commissioner. First, the appointment must be made through a fair and open competition. Secondly, the appointment can be made only following a clearly established public appointments process set out by the Cabinet Office. Thirdly, an appointment can be made only once all candidates have been sifted against the criteria for the role, interviewed by a panel, including an independent member, and, where appropriate, interviewed by the Home Secretary. Finally, in appointing the commissioner, the code of practice set out by the Office of the Commissioner for Public Appointments must be adhered to. Given the strategic importance of the role, the Prime Minister will also take an active interest in ensuring that the successful individual has the right experience and skills to perform the role effectively and make a real difference on the ground.

I want to make a point about scrutiny of the commissioner. A number of right hon. and hon. Members have talked about parliamentary scrutiny. It is highly likely that the anti-slavery commissioner designate will be called before the Select Committee on Home Affairs, as has happened in similar circumstances. We would not be surprised if that Committee wished to interview the commissioner designate and ascertain the role to be carried out. I believe the existing safeguards are sufficient to ensure that the right candidate is appointed to the role, and I hope that right hon. and hon. Members will see fit not to press their amendments.

Proposed new clause 19 and amendment 118 would give the commissioner statutory power to appoint his or her own staff. I fully understand the objective to ensure the commissioner's independence and I share the concern. I am grateful for the chance to explain to the Committee why I do not believe these changes are needed—and why, therefore, the extra cost involved would not be justified. The commissioner role will be supported by a small team of analytical and support staff. Following normal Government practice for roles of this nature, we would expect staff to be recruited from the civil service using Home Office human resources. By that we mean that having an independent work force or staff would require the recruitment process, the payroll and the HR procedures all to stand alone. That seems an

unnecessary expense at a time of austerity, when we are all looking to ensure that things are done efficiently and effectively.

Diana Johnson: I referred earlier to the fact that the chief inspector can appoint his own staff. Will the Minister explain why it is possible to make payment to staff and have payroll and HR functions to support the chief inspector appointing his own staff, but not possible for the anti-slavery commissioner to have the same powers?

Karen Bradley: In line with typical practice, we would expect the commissioner to take part in the selection process, to ensure that he or she has confidence in the team. We have looked at the support provided to the Victims' Commissioner, the Biometrics Commissioner and the Surveillance Camera Commissioner. That works in practice at an effective and efficient cost to the public purse, but it also ensures that the commissioner has a role in selecting staff. Given the role the commissioner will have, we feel they will play an important part in selecting their staff. There will be no fettering of independence—staff will not be imposed on the commissioner.

Diana Johnson: I am sorry to press the Minister, but I am not clear about why the chief inspector can advertise in newspapers for staff and appoint them, but we are being told that the anti-slavery commissioner cannot because the human resources support is not available and some whole new apparatus would have to be set up. How come the chief inspector can get away with it but the anti-slavery commissioner cannot? I just do not understand that.

Karen Bradley: We have taken the view that that is the most efficient and cost-effective way to do all this while still enabling the commissioner to be independent. It should be remembered that the chief inspector is running a substantial organisation—it is a full inspectorate—whereas we envisage a relatively small number of staff for the commissioner. The cost of setting up a stand-alone HR function, payroll and so on, would be prohibitive for that small number of staff. It is probably also worth saying that what is envisaged will mean that the staff themselves will have civil service pay grades, benefits and so on, which I am sure will be attractive to them.

Mark Durkan: The wording I used in my new clause 19 was that the commissioner "may" appoint their own staff. It does not have an absolute "will", or mean that from day one the commissioner has to have appointed staff. There are many situations where staff are in place, on secondment or otherwise from the civil service, and where responsibilities are worked up and a work programme is developed. Staff appointments are then made according to the scope of that work programme and the necessary capacity.

Karen Bradley: Given the size and scale of the operation we are talking about, we consider what we are proposing to be the most cost-effective and efficient way. In practical terms, the commissioner will have a say over the staff working in his or her team. The provisions are a way of achieving that in a cost-effective and efficient manner.

To go back to the pre-appointment hearings, I want to clarify something. I am concerned that I may have given the impression that provisions for the Children's Commissioner include pre-approval hearings. Having checked through all the legislation, there is no requirement in statute for any pre-appointment hearing for any of the other commissioner roles that we have been discussing or that I have set out in our consideration of the framework for the anti-slavery commissioner. That includes the Children's Commissioner: there is no requirement for a pre-approval hearing in the statutory provisions for that post. I wanted to put that clearly on the record.

Amendment 118 would require the Secretary of State to specify how much the commissioner may spend on performing his or her functions, would enable the commissioner to overspend where it is for a specified purpose and would require the Secretary of State to pay the commissioner's expenditure for each year. The Bill already includes provisions for the Secretary of State to pay expenses, remuneration and allowances to the commissioner. In practice, those will be agreed with the commissioner upon appointment for the term of office and set out in the framework agreement that sits alongside the formal terms of appointment governing the role. That agreement will also include the support staff, resources and equipment available to the commissioner, which will be agreed between the commissioner and the Secretary of State.

The hon. Member for Linlithgow and East Falkirk made a point that I know we will come on to later, but I want to make sure that the Committee is aware of this fact. He suggested that the Home Secretary would be able to amend the commissioner's reports to remove criticism of the Government through redaction, but that is absolutely not the case: the only redaction will be concerned with people's safety and with making sure that prosecutions or national security are not put at risk. There is no suggestion whatever that the Home Secretary will be able to amend the reports to take out criticism of the Government—that is absolutely not the case.

To return to amendment 118, I do not believe it is necessary. It is right and proper to have the appropriate checks and balances in place when setting up a statutory office holder, to ensure that the role adds real value, the post holder is provided with the necessary tools and resources for their specific role, and the role is cost-effective.

5.45 pm

Michael Connarty: In clause 36, which we will come to, the strategic plan can be modified or amended by the Secretary of State. If someone is given a remit that is then amended before they start, it is quite easy to decide what kind of report comes at the end.

Karen Bradley: As the hon. Gentleman rightly says, we will discuss that in detail shortly, so we will leave that until then. On the basis of the discussion that we have had and the comments on clause 34, I hope that hon. and right hon. Members will withdraw their amendments and support this important clause, which sets up the anti-slavery commissioner.

Diana Johnson: This has been a very helpful debate, aided by the fact that we have number of hon. and right hon. Members who sat on the Joint Committee and

[Diana Johnson]

could bring their experience of listening to all the witnesses' evidence to the issue of the independence of the anti-slavery commissioner. As amendment 117 was tabled some time ago, giving Home Office officials time to consider whether inserting "independent" into clause 34 would cause trouble or problems for them further down the line, I am not particularly persuaded that the Home Office is now going to suddenly decide that it can look at this and report back at a later date. I still take the view that it is important that we say loudly and clearly on the face of the Bill that this is an independent anti-slavery commissioner.

Karen Bradley: I want to be clear that I am reflecting the strong views that have been expressed in the Committee. The Government are firmly of the view that the word "independent" is not necessary but because I understand the strong views that have been expressed, I want to check whether putting that word in would have a detrimental effect. I want to reflect on and consider the views expressed, which is why I wish to look at that issue further.

Diana Johnson: I am grateful that the Minister has listened to views reflected on both sides of the Committee. That is very welcome. I am sure, having read the evidence to the Joint Committee, its recommendations and noting the hour upon hour of time that it spent looking at the particular issue, it is necessary for this Committee to take a view on whether adding "independent" to clause 34 is the best thing to do to make the views of the Committee very clear. New clause 19, tabled by my hon. Friend the Member for Foyle, is a good clause. We will not be able to vote on that clause at this stage but if that is pressed to a vote, I will support it.

The Minister talked at great length about pre-appointment hearings and went through a number of the statutory office holders and the children's commissioner, who has a slightly different capacity, and said that there was no requirement for any of them to have pre-appointment hearings. She needs to be mindful that Parliament now is trying very much to assert that it has a role to play in holding the Executive to account. Most hon. and right hon. Members would think that it was good practice for the Home Affairs Committee or other Committees of the House to have the opportunity to question and to listen to the answers of people who are being appointed to important roles by the Executive. Although it may not be a statutory requirement, it is good practice. On being able to appoint staff, I am not with the Minister. There is a case, as in new clause 19, for the term "may" to be included in the responsibilities of the anti-slavery commissioner—that they

"may appoint their own staff"

where appropriate. On that basis I will press amendment 117 to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 8.

Division No. 7]

AYES

Connarty, Michael	Hanson, rh Mr David
Durkan, Mark	Johnson, Diana
Kane, Mike	Wilson, Phil
Stunell, rh Sir Andrew	

NOES

Bradley, Karen	Hinds, Damian
Bruce, Fiona	Nokes, Caroline
Burns, Conor	Pincher, Christopher
Burrowes, Mr David	Smith, Chloe

Question accordingly negatived.

Clause 34 ordered to stand part of the Bill.

Clause 35

GENERAL FUNCTIONS OF COMMISSIONER

Diana Johnson: I beg to move amendment 50, in clause 35, page 25, line 1, at end insert—

"(c) the support offered to victims, including but not limited to, the operations of any Government agency and support offered in accordance with section 41 and section 42,

(d) any other area which the Commissioner feels is relevant to identifying and preventing human trafficking in the UK or elsewhere."

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

Amendment 111, in clause 35, page 25, line 1, at end insert—

"(c) the promotion and protection of the rights of victims of human trafficking and slavery.

'(1A) The Commissioner must monitor the implementation in the UK of the Trafficking Convention, Anti-Trafficking Directive and other international obligations."

The amendment extends the functions of the Commissioner beyond law enforcement and identification of victims and gives the Commissioner responsibility for monitoring the implementation of international obligations on modern slavery.

Amendment 51, in clause 35, page 25, line 4, leave out "permitted matter" and insert "matter pertinent to the prevention of human trafficking and forced labour in the UK or elsewhere"

Amendment 119, in clause 35, page 25, line 9, at end insert—

'( ) Undertaking investigations and studies to monitor and identify trends in human trafficking and slavery;

( ) Requesting inspections to be carried out by statutory inspectors;"

The amendment extends the permitted activities of the Commissioner in carrying out the general functions.

Amendment 120, in clause 35, page 25, line 12, at end insert ", including relevant civil society organisations"

The amendment adds that the Commissioner may work with relevant civil society organisations.

Amendment 52, in clause 35, page 25, line 13, leave out subsection (3) and insert—

'(3) Apart from under subsection (5), the Secretary of State must not take steps or impose measures that may impair, or may appear to impair the Commissioner's independence and shall ensure that the Commissioner is, to the extent the Commissioner is able, to determine, without limitation (other than as prescribed in this Act)—

(a) the Commissioner's activities;

(b) the Commissioner's timetables;

(c) the Commissioner's priorities, and

(d) the Commissioner's resources and funding."

Clause stand part.

New clause 20—General function and powers of Commissioner—

'(1) The Commissioner shall—

(a) monitor trafficking, slavery, exploitation, servitude, and forced or compulsory labour, the fulfilment of international obligations and the effectiveness of national legislation and policy;

(b) issue proposals, recommendations, statements, opinions and advice relevant to the fight against trafficking, slavery, exploitation, servitude, forced or compulsory labour and to the realisation of the rights of victims;

(c) engage with international organisations on trafficking, slavery, exploitation, servitude, forced or compulsory labour, child protection, and other relevant issues;

(d) report annually to Parliament on trafficking, slavery, exploitation, servitude, forced or compulsory labour, and related issues;

(e) periodically review the offences and related policy of trafficking and slavery to ensure that they reflect the UK's obligations under the Trafficking Convention and Trafficking Directive and that other international instruments are consistently applied to all trafficked, enslaved or exploited persons;

(f) periodically review public authorities' compliance with their duties under international and national legislation and policy in relation to trafficking, slavery, exploitation, servitude and forced and compulsory labour; and

(g) provide an impact assessment on the trafficking, slavery, exploitation, servitude, and forced or compulsory labour implications for government trade deals and trade and aid policy.

(2) The Commissioner is responsible for reviewing the practical implementation of the non-prosecution and non-punishment of trafficked, enslaved and/or exploited persons, and in doing so must have particular regard to women and children.

(3) The Commissioner shall, specifically in respect of victims—

(a) encourage persons exercising functions or engaged in activities affecting trafficked, enslaved or exploited persons to take account of the views and interests of victims;

(b) consult with and advise the Government on the views and interests of trafficked, enslaved or exploited persons;

(c) consider the operation of complaints procedures relating to trafficked, enslaved or exploited persons;

(d) consider any other matters relating to the services for, and interests and outcomes of trafficked, enslaved or exploited persons;

(e) be responsible for reviewing the practical implementation of the provision in this Bill for the non-prosecution of and non-application of penalties to trafficked, enslaved or exploited persons and victims of forced or compulsory labour, and in doing so must have particular regard to women and children; and

(f) publish a report on any matter in connection with trafficking, slavery, exploitation, servitude, and forced or compulsory labour considered by the Commissioner, which may include recommendations.

(4) The Commissioner must take reasonable steps to involve trafficked, enslaved and/or exploited persons in the discharge of his/her function under this section, and in particular to—

(a) ensure that trafficked, enslaved or exploited persons are made aware of the Commissioner's function and how they may communicate with the Commissioner, and

(b) consult trafficked, enslaved or exploited persons, and organisations working with them on the matters the Commission proposes to consider.

(5) The Commissioner is not obliged under this section to conduct an investigation of the case of an individual trafficked, enslaved or exploited person. The Commissioner may, however—

(a) investigate a particular case and/or intervene as a third party in a particular case where the case raises issues of public policy of relevance to other trafficked, enslaved or exploited persons; or

(b) investigate any decision or recommendation made, or any act done or omitted, in respect of any trafficked, enslaved or exploited person.

(6) All public authorities must supply the Commissioner with such information in that person's possession or control relating to those functions as the Commissioner may reasonably request for the purposes of his function under this section (provided that the information is information which that person may, apart from this section (6), lawfully disclose to the Commissioner).

(7) Where the Commissioner has published a report under this section containing recommendations in respect of any person exercising functions under any enactment, he may require that person to state in writing, within such period as the Commissioner may reasonably require, what action the person has taken or proposes to take in response to the recommendations.

(8) The Secretary of State must not take steps or impose measures that may impair, or may appear to impair, the Commissioner's independence and shall ensure that the Commissioner is, to the extent the Commissioner is able, to determine, without limitation (other than as prescribed in this Bill)—

(a) the Commissioner's activities;

(b) the Commissioner's timetables;

(c) the Commissioner's priorities; and

(d) the Commissioner's resources and funding."

Diana Johnson: As drafted, clause 35 sets out the general functions of the commissioner. It does that in paragraphs (a) and (b) of subsection (1), which state:

"The Commissioner must encourage good practice in—the prevention, detection, investigation and prosecution of offences under sections 1, 2 and 4; the identification of victims of those offences."

That is the extent of the function of the commissioner. Amendment 50 would add a paragraph (c) and a paragraph (d) to that subsection. Paragraph (c) states

"the support offered to victims, including but not limited to, the operations of any Government agency and support offered in accordance with section 41 and section 42"

and paragraph (d) states

"any other area which the Commissioner feels is relevant to identifying and preventing human trafficking in the UK or elsewhere."

We tabled the amendment because we feel that the current function as set out is too narrow and we need to widen it for the anti-slavery commissioner to have real effect. Paragraph 158 of the Joint Committee's report states:

"Several of our witnesses called for the Commissioner's role to go beyond simply encouraging the prosecution of specific offences and for it expressly to be extended to representation of, and advocacy for, victims of modern slavery."

The Modern Slavery Bill evidence review recommended that the commissioner

"should represent and give a voice to the concerns and best interests of victims and survivors of modern slavery."

[Diana Johnson]

It made reference to the United Nations High Commissioner for Refugees, who concurred, arguing that such an extension would be an important step in the fight against trafficking. Again, it is important for the Committee to pay regard to what the Joint Committee said about the functions the anti-slavery commissioner should have.

I agree with the Minister that we all want there to be more prosecutions and more convictions for human trafficking and slavery offences. However, it is quite clear from examining all the evidence that we need to work with and alongside victims to encourage them to be witnesses, so as to enable prosecutions to succeed. All this is connected together. The evidence that both this Committee and the Joint Committee heard shows that, and that is why we have tabled amendment 50.

We have also tabled amendment 111, which is similar to amendment 50. Amendment 111 is a probing amendment, because we wanted to test with the Minister the commissioner's role in implementing the UK's responsibilities under the trafficking convention, the anti-trafficking directive and other international obligations, including the Palermo protocol. We tabled amendment 111 to ensure that the commissioner would deal with those international obligations.

Clause 35(2) sets out all

"The things that the Commissioner may do in pursuance of subsection (1)",

which include

"making reports…making recommendations…undertaking or supporting…the carrying out of research…providing information, education or training…consulting people".

Because of the very narrow way in which subsection (1) is drafted, the commissioner may end up having to put off or curtail work that they wanted to carry out, because doing that work would be outside the tight remit set out in subsections (1)(a) and (b). That is why widening the remit, as set out in amendment 50, would help the commissioner to do the best job possible.

I turn to amendment 51, which would omit the words "permitted matter" in clause 35(2). That is important because a "permitted matter" means a matter that the Secretary of State has authorised the commissioner to report on, or a matter that has been approved by the Secretary of State in the current strategic plan. Again, that is too restrictive, and the amendment suggests a better wording. It would insert the expression:

"matter pertinent to the prevention of human trafficking and forced labour".

That would widen the commissioner's remit, so that they could deal with the many issues and matters that may arise. We know that this is a very fast-moving area, and what has been agreed with the Secretary of State about what is a "permitted matter" may change quickly if new forms of trafficking, slavery or forced labour are discovered. It should be open to the commissioner to have the discretion to examine, as amendment 51 sets out, whatever matter is

"pertinent to the prevention of human trafficking and forced labour".

The amendment aims to widen the commissioner's remit in that way.

Amendment 52 would amend clause 35(3) by inserting a new subsection (3) that reiterates the independence of the commissioner in terms of their "activities", "timetables" and "priorities"—that is, prioritising the issues they feel are important. That is also vital to ensure that the commissioner's role functions properly.

Amendments 119 and 120 are grouped together, and are about the role of the commissioner in collecting data. Both, particularly amendment 119, would be helpful in that regard. It is vital that we know numbers and how trends are developing around slavery or forced labour. That will help us work out where resources and assistance need to go to secure prosecutions.

6 pm

Paragraph 161 of the Joint Committee's report states:

"We note that the draft Bill includes no clear or specific mention of data collection. Our evidence suggests that this is a weakness: we heard of how the long-run statistical reports produced by the office of the Dutch national rapporteur had enabled authorities to make an informed assessment of the changing nature of modern slavery."

The Joint Committee was keen that that issue was addressed. Paragraph 164 says:

"Accurate and comprehensive data is an essential element in the prevention of modern slavery."

That fits with the first requirement of the function of the commissioner, which is about prevention. The report adds:

"It can also play an important role in prosecution by identifying trends in modern slavery crime. An independent Commissioner is ideally placed to act as a focal point for the collection, compilation, analysis and dissemination of information and statistics. The Commissioner's functions should reflect this."

That supports amendment 119. Amendment 120, on working with civil society, is a sensible amendment that would assist the commissioner.

New clause 20, which was tabled by my hon. Friend the Member for Foyle, is excellent. It sets out everything that we are concerned about comprehensively to ensure that the anti-slavery commissioner can do their job. It is well drafted and clearly covers all the areas where we think the clause is deficient. I support that new clause and look forward to hearing what he has to say. Overall, this group of amendments is about trying to improve clause 35 to give a wider remit to the anti-slavery commissioner to cover everything that would be useful for that person to have regard to in making that job a success.

Fiona Bruce: I will speak briefly to amendment 50 and then to amendments 119 and 120. Regarding amendment 50 and widening the commissioner's remit, when we looked at that issue in the Joint Committee, we concluded that including oversight of victim protection in the role of the commissioner was

"fundamental to achieving the Government's aim of improved law enforcement."

The importance of that connection was made clear to us by holders of similar positions in other countries, including the US ambassador-at-large and the Dutch national rapporteur who said:

"protecting victims and prosecuting criminals are two sides of the same coin."

I recognise that we need a commissioner who is appropriate to our situation in this country, but we would be wise to learn from individuals who have experience of such positions. That is why I ask the Minister to carefully consider the comments on amendments 50 and 111.

The concerns about an overlap with the role of the Victims' Commissioner, which the Government have raised in their response to the Joint Committee report, deserve to be taken seriously. However, the different circumstances of the victims of human trafficking should also be taken into account. Provision of assistance under the victim support programme, in accordance with international treaties, is not something provided to other victims. It has a separate process for eligibility, the National Referral Mechanism, and many other unique aspects, so I ask the Minister to reflect on whether the Victims' Commissioner cab promote best practice in that sort of support, which is so different from the experience of other victims and witnesses and does not directly involve the criminal justice system. There could be a gap here and action may be better taken by the anti-slavery commissioner who would have specific expertise in understanding the experience of victims of human trafficking and slavery.

It also seems sensible that the commissioner should be responsible for monitoring the implementation of international treaties to which we are a signatory, as amendment 111 requires. The same level of critical reflection on the implementation of international treaties is required as with the critical reflection on law enforcement, which we have already discussed. The reports published by the Inter-Departmental Ministerial Group on Human Trafficking over the past two years have provided a helpful overview of the situation of human trafficking in this country. However, as a ministerial body it cannot, by its very nature, be politically neutral. The work of the ministerial group and all Departments with responsibilities in this area would be enhanced by the independent analysis that could be offered by the commissioner.

I turn now to amendments 119 and 120 in my name and that of my hon. Friend the Member for Enfield, Southgate, and to amendment 51. As we have heard, amendment 119 allows the commissioner to undertake "investigations and studies" to evaluate the nature of trafficking and slavery in this country. I am concerned that clause 35(1) is limited to the commissioner encouraging good practice in the investigation of,

"offences under sections 1, 2 and 4".

If the commissioner is to promote good practice in enforcement of the law on human trafficking then he or she will need to have a detailed and up-to-date understanding of the nature of modern slavery, and how trends and patterns in forms of exploitation or strategies used by the criminals are developing. That knowledge will be essential to identify good practice and ensure that operational approaches are informed by the latest analysis of the wider landscape.

It is this wide remit for investigation that amendment 119 seeks to address. The ability to undertake such investigations and studies will enable the commissioner to establish this information if analysis is not available elsewhere. I am aware of similar roles in countries such as the Netherlands that operate very successfully with a wider analytical remit, not to mention the role of a national rapporteur or equivalent position set out in the EU directive.

Amendment 119 gives the commissioner the power to request statutory inspectors to undertake inspections. The hon. Member for Kingston upon Hull North mentioned that the Joint Committee referred to the need for data collection in this regard. The Centre for Social Justice also made that recommendation in its report, "It Happens Here". That report specifically suggested that there may be cause for the commissioner to ask Her Majesty's Inspectorate of Constabulary to assess the ability of a particular police force to respond to issues of modern slavery. The Committee has already heard concerns about variations in the capacity of different police forces to address this issue. Such inspections might also be useful in the Prison Service, where it is known that many victims of trafficking are not being successfully identified, as we have already heard. Both those examples would work towards meeting the commissioner's primary functions of promoting good practice in identifying victims, and the prevention, detection, investigation and prosecution of offences.

Amendment 120 concerns engagement with civil society and highlights the importance of the commissioner engaging with NGOs and other civil society groups. The charity Hope for Justice commented that the relevant functions of the commissioner should reflect article 21 of the trafficking directive, which includes,

"carrying out of assessments of trends in trafficking in human beings, the measuring of results of anti-trafficking actions, including the gathering of statistics in close cooperation with relevant civil society organisations active in this field".

While the need for this kind of interaction is established in the EU directive, it is more importantly a matter of common sense. The Minister may comment that engagement with civil society is so much a matter of common sense and so obvious as to be implicit in the Bill. Why not then make it explicit in the Bill?

The role of civil society in this area of concern is vast. NGOs, community groups, and think-tanks are all involved in raising awareness, training front-line officers, providing support and assistance to victims and monitoring the effectiveness of the law and its implementation. Indeed, over several years organisations such as Stop the Traffik, Hope for Justice, CARE, and many others already mentioned in this Committee, have highlighted this issue and I wonder whether, but for this work, we would be here today at all. It is vital that the Commissioner can work collaboratively and productively with these groups. I thank the Minister for adding reference in the clause to the commissioner's co-operating or working jointly with others, but feel that the role of civil society should be expressly mentioned. In his evidence to the Committee, Andrew Wallis from the charity Unseen spoke of the need for a "collaborative" approach and of the commissioner as a "focal point" to foster that collaborative working across law enforcement, charities, business and so forth.

Amendments 51 and 52 relate, again, to the commissioner's independence, about which there has been so much comment already. Restricting the commissioner to reporting only on matters previously agreed with the Secretary of State could impede their ability to respond, for example, on an urgent or topical

[Fiona Bruce]

matter and, again, would have rather an impact on the appearance of the commissioner as an independent voice.

The Dutch national rapporteur told the Joint Committee:

"'if you are directly under the Minister, he or she will not really be amused when you criticise their policies. If you want to be an effective rapporteur, you have to criticise, too, because that is the important part. It is not criticising for the sake of criticising, but it is very important not to cover up everything with nice political words."

We must not create a position where the independent commissioner is unable to be independent-minded and provide an independent voice, irrespective of the individual responsible, during their tenure.

Michael Connarty: I hope when the Minister reflects on the question of independence, she will go back and reads the evidence that we were given by two gentleman in positions with titles that both contain the word "independent". David Anderson QC, who is the independent reviewer of terrorism legislation, at Brick Court Chambers and John Vine CBE QPM, independent chief inspector of borders and immigration, who both gave evidence to us, stated that when their titles were first put into the public domain they did not contain the word "independent". They argued strongly and were given approval by the Home Affairs Committee to put "independent" into their title. I will mention some of their evidence about how they perform their duties, which shows that they have, in fact, won the battle for independence. They also state that in Australia—in what might be called a more modern situation—they call the relevant person "independent".

We keep referring back to the habits, legislation and behaviour of the 20th century. We moved into the 21st century 14 years ago, and we have to start thinking about the reality. If someone has to fight for their independence—

Karen Bradley *rose—*

Michael Connarty: I will give way when I have made my point.

If someone has to fight for their independence and to get the word "independent" put into their title, it shows that their original title did not cover the necessary remit and give the necessary name and direction to the person in post. I will come to some other evidence—again, not the main evidence, because that was covered in clause 34—from people who said how important it was that they were independent and called themselves that.

I wonder why we do not move into the 21st century. The Minister said earlier that she would be thinking about it. I do not need to get into another debate about that, but I hope she thinks seriously about it and considers how these gentlemen made their tasks work by being independent and then made sure that the title was there, too, to underline their position.

Karen Bradley: I thank the hon. Gentleman for giving way. He would agree that "independent" does not feature in the statute that set up the independent chief inspector of borders or the independent reviewer of terrorism legislation, and that those roles were set up without that word. I also hope he will understand that it would be negligent of me, as a Minister, to agree to put the word "independent" in the Bill until I have checked—as I have committed to doing, because I understand the strength of feeling in Committee—that to make such a change would have no unintended consequences. I am sure that he will accept that that is the responsible approach.

6.15 pm

Michael Connarty: I take the offer in good spirit, and I hope that the Minister will show us that she is someone who wants to live in the 21st century rather than the 20th century.

On the question about staffing and whether the commissioner may appoint staff, David Anderson said that the need for the commissioner to appoint his or her own staff might be reduced if they will, in fact, be

"more of an adjunct to the law enforcement process".

As I have said repeatedly, I worry that that is all that the commissioner will be—a prosecuting assistant and not a commissioner. David Anderson made this point:

"It depends very much on whether you are looking for a watchdog or a tsar."

I think that we need a tsar, rather than just a watchdog, to tackle the problem of human trafficking. I hope that the Minister will be influenced by looking at the evidence about what works, and that she will decide accordingly.

I commend the hon. Members for Congleton and for Enfield, Southgate on the amendments that they have tabled. I have before me article 19 of EU directive 2011/36 on preventing and combating the trafficking of human beings. Originally, the Government had to be dragged screaming and kicking into implementing the directive, although they have now done so. It is good that hon. Members have noticed that the Bill contains a serious omission. The directive states that the Government should be

"carrying out…assessments of trends"

and

"gathering…statistics in close cooperation with relevant civil society organisations".

I hope that the Minister will put that into the Bill so that we get what we need.

If there was time—I realise that there is not, because we have had some serious debates—I would have taken people back to the Joint Committee's recommendations. Many people who read this debate will not realise what was in the Joint Committee's recommendations and thus why the proposals for the commissioner in the Bill are so lacking in spirit and content. The Office of the Children's Commissioner—the Children's Commissioner has been mentioned a few times—submitted some evidence to us in November 2013. Paragraph 9 sets out the powers that should be given to an independent anti-slavery commissioner; I note the use of the word "independent" in the submission. According to the evidence, the anti-slavery commissioner should, first,

"monitor and assess measures adopted by the Government to tackle modern day slavery with a power to require public authorities/ those exercising public functions to provide information, and to research and publish reports on any connected matter."

The words "any connected matter" are important, because they would take the commissioner's role far beyond the Bill's definition of general functions, which are basically prevention, detection, investigation and prosecution of offences. That shows us that the main focus of the role is to be a prosecuting assistant for the Secretary of State.

Secondly, the Office of the Children's Commissioner states that the anti-slavery commissioner should have:

"Formal oversight of the National Referral Mechanism".

That would not simply be a review; we were promised a review a year ago and told that it would take six months, and it has not reported yet. That is one of the things that the Government can kick into touch. A commissioner in that role would not have the same problems with politics as the Government do, so they could get on with the job and provide a serious assessment through the national referral mechanism.

The evidence states that, thirdly, the commissioner should

"report annually to Parliament on the success of the Government's efforts to tackle modern day slavery".

That is an interesting suggestion, because such a report would not be filtered out by the Secretary of State. The Minister commented earlier about the Secretary of State interfering in which reports come forward. The Opposition have tabled amendment 51 to deal with clause 35(3), under which the Secretary of State can authorise the commissioner to report on a "permitted matter". How much more constrained could that be? We might as well tie their hands behind their backs and dictate to a typist what we want the commissioner to say. It is as though the Home Secretary is afraid the commissioner will say something about the Government getting things wrong. That is a serious worry.

I am sorry for those who believe this is a half-full glass, but I believe we have a glass and we have still to assess how half-full or quarter-full it is. In reality, when it is all put together into action, we will have to work out whether this will improve things or not. I have seen many things already. People will think it is such a guddle—a lovely British word; I do not think we use it in England. It means getting tied up in knots and never moving forward. I am still one of those people who want to see how much is in the glass at the end of the day.

The amendments are very sensible. They try to ease out the role of the commissioner, to help the Government succeed in the things that they set out to do. The comments of the Office of the Children's Commissioner were salient—it could come back to give us even more advice. In addition, we were given an overview about

"developing a better understanding of modern slavery; supporting better identification (of perpetrators and potential victims); gathering and using data and intelligence to inform investigations; effective investigative techniques; disruption of organised criminal networks"—

that seems to be the whole focus of the Government's thrust—

and

"increased prosecutions and convictions."

They are in the overview, but they are not the main point. It went on:

"We want to ensure that the Commissioner has the authority and autonomy they need to carry out their functions effectively, whilst at the same time ensuring that their remit is clearly focused."

That seems to be the way the Government should have designed the clause. It is what was in essence the recommendation, without going into detail, of the Joint Committee, but it was not effected in the writing of these clauses, and that is a worry.

The Centre for Social Justice gave evidence. It was quoted by my hon. Friend the Member for Kingston upon Hull North. It was about the enhancement of knowledge. It was worried about the paucity and fragmentation of data. That is one of the things we came across again and again. People do not have good data about what is happening in the human trafficking world and in terms of tackling it. The CSJ believes absolutely that the anti-slavery commissioner should be independent of the Home Office, and Government as a whole, as the brief is likely to be interdepartmental, and most organisations outside Government will work much more effectively with an independent body.

I met on various occasions the ombudsperson from the Netherlands. Although they had been appointed by government, they were clearly outside the system, gathering their strength from a huge network of NGOs—the biggest I have ever seen outside the Human Trafficking Foundation. They brought that power in to help the Government. They did not see themselves as being opposed to the Government, and the Government worked with them and moved forward sensibly.

The other model is the one in Finland. The commissioner there had been a Member of Parliament for years and a Minister for two years. She was clearly inside the system. We met her in the serious organised crime office when we went there with Parliamentarians Against Human Trafficking. She was embedded there, and she worked closely with it. She worked in the system, but bringing in other forces that the system allowed her to bring in—not interfering with prosecution in any way, but conscious of prosecution from her previous position as a Minister.

Those are two different models, but they both drove their own ship. In the evidence they gave us, they said that quite clearly. There was a good dialogue between my hon. Friend the Member for Slough and the Finnish commissioner, which can be looked at in the evidence of Thursday 6 March 2014. Asked clearly about the Children's Commissioner describing the anti-slavery commissioner as a Home Office civil servant, the Finnish commissioner became quite heated. She said:

"If I may be blunt, no."

If the new commissioner is seen as an extension of the Government, a civil servant, it will not work. She said:

"If it was a national co-ordinator, it would work. I think there is also a need within Government to co-ordinate the work that is done in different Ministries"—

having been a Minister, she is looking at things from the inside. She continued:

"To be able to look at it without this kind of need to compromise is important",

and that is the point. If the position is in any way compromised, it will not be effective.

We therefore had good evidence that led us to think that we should have a different structure, with a different set of tasks, from the one set out in clause 35. The Labour Front Benchers and Government Members have tabled sensible amendments. I hope that those amendments will be looked at seriously.

[Michael Connarty]

I will end with what Andrew Wallis said. He is from Unseen UK and chaired the Centre for Social Justice report, "It Happens Here", which alerted so many people across the political divide to the fact that we should have a joint approach, which worked its way into the Joint Committee. He said in evidence that

"the profits—not the turnover—of slavery is $150 billion per annum"—

it is a big criminal organisation. Part of what we have to do

"is having someone that can galvanise and focus because this issue goes right across Government. It is not just a Home Office issue...Unless you have got someone who can focus with real precision right across the issue and who also has the representation of victims, then good luck."—[*Official Report, Modern Slavery Public Bill Committee,* 21 July 2014; c. 27, Q56.]

What he meant was, "I think you will fail."

I hope that the Minister will take on board the amendments of the Labour Front Benchers and her own colleagues and realise that we have to move away from the general function of the commissioner as set out under clause 35 if we are to have an effective commissioner to help the Government and the victims of human trafficking.

Ordered, That the debate be now adjourned.—*(Damian Hinds.)*

6.27 pm

Adjourned till Thursday 11 September at half-past Eleven o'clock.

Written evidence reported to the House

MS 18 Kalayaan

MS 19 PWC