PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

CULTURAL PROPERTY (ARMED CONFLICTS) BILL [*LORDS*]

First Sitting

Tuesday 15 November 2016

(Morning)

CONTENTS

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Saturday 19 November 2016

The Committee consisted of the following Members:

Chairs: † Ms Karen Buck, Mr Andrew Turner

† Allin-Khan, Dr Rosena *(Tooting)* (Lab)
† Borwick, Victoria *(Kensington)* (Con)
† Brennan, Kevin *(Cardiff West)* (Lab)
† Bryant, Chris *(Rhondda)* (Lab)
† Burrowes, Mr David *(Enfield, Southgate)* (Con)
† Crouch, Tracey *(Parliamentary Under-Secretary of State for Culture, Media and Sport)*
† Davies, Mims *(Eastleigh)* (Con)
† Djanogly, Mr Jonathan *(Huntingdon)* (Con)
† Doughty, Stephen *(Cardiff South and Penarth)* (Lab/Co-op)
† Nicolson, John *(East Dunbartonshire)* (SNP)
† Offord, Dr Matthew *(Hendon)* (Con)
† O'Hara, Brendan *(Argyll and Bute)* (SNP)
Smeeth, Ruth *(Stoke-on-Trent North)* (Lab)
† Smith, Jeff *(Manchester, Withington)* (Lab)
† Stuart, Graham *(Beverley and Holderness)* (Con)
† Sturdy, Julian *(York Outer)* (Con)
† Thomas, Derek *(St Ives)* (Con)
† Warburton, David *(Somerton and Frome)* (Con)

Katy Stout, *Committee Clerk*

† attended the Committee

Public Bill Committee

Tuesday 15 November 2016

(Morning)

[Ms Karen Buck *in the Chair*]

Cultural Property (Armed Conflicts) Bill [*Lords*]

9.25 am

Ordered,

That—

(1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 15 November) meet—

(a) at 2.00 pm on Tuesday 15 November;

(b) at 11.30 am and 2.00 pm on Thursday 17 November;

(2) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 17 November. —*(Tracey Crouch.)*

Resolved,

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

The Chair: Before we begin, could everyone ensure that their phones are switched off? The selection list for today's sitting is available in the room and online, and it shows how the amendments have been grouped together for debate. Amendments grouped together are generally on the same or similar issues. I am aware that there are very experienced Members in the room, but there are also some who are not so experienced, so I will spend a moment running through the process.

A Member who has put their name to the lead amendment in a group is called first. Other Members are then free to catch my eye to speak on any or all of the amendments within that group. A Member may speak more than once in a single debate. At the end of a debate on a group of amendments, I shall call the Member who moved the lead amendment again. Before they sit down, they need to indicate whether they wish to withdraw the amendment or seek a decision. If any Member wishes to press any other amendment or new clause in a group to a vote, they need to let me know. I will work on the assumption that the Minister wishes the Committee to reach a decision on all Government amendments tabled.

Please note that decisions on amendments take place not in the order in which they are debated, but in the order in which they appear on the amendment paper. In other words, debate occurs according to the selection and grouping list, but decisions are taken when we come to the clause that the amendment affects. New clauses are decided after we have finished with the existing text—that is, after considering schedule 4 to the Bill. I shall use my discretion to decide whether to allow a separate stand part debate on individual clauses and schedules following the debates on the relevant amendments. I hope that explanation is helpful.

Clause 1 ordered to stand part of the Bill.

Clause 2

"Cultural property"

Kevin Brennan (Cardiff West) (Lab): I beg to move amendment 2, in clause 2, page 1, line 18, at end add

"and shall be taken to include cultural property in digital form."

The Chair: With this it will be convenient to discuss amendment 6, in clause 8, page 5, line 5, at end insert—

'( ) Where cultural property is in a digital form, the cultural emblem may be displayed in a digital format."

I call Kevin Barron.

Kevin Brennan: We are very good friends, Ms Buck, so I do not need to remind you that I am Kevin Brennan, not Kevin Barron, although that mistake has been made previously; the *Daily Mail* online accidentally knighted me, briefly—

Mims Davies (Eastleigh) (Con): Very accidentally.

Kevin Brennan: The hon. Lady is quite right. Like her, I am much more shovelry than chivalry.

Amendment 2 stands in my name and that of my hon. Friend the Member for Tooting. As with all the Opposition's amendments to the Bill, it is a probing amendment. Having closely looked at what was said on Second Reading, Members will realise that we merely seek to scrutinise and stress test the Bill a little. The Bill has completed its stages in the House of Lords, but some outstanding issues remain that we need to explore in Committee, particularly through the amendments that my hon. Friend and I have tabled. An amendment has also been tabled by a Government Back Bencher.

We made it clear on Second Reading that we very much support the Bill, which has been a long time coming. It brings into UK law the 1954 Hague convention, which the UK did not ratify at the time and which has been hanging around waiting for ratification for some considerable time, including after the second protocol was added in 1999. Indeed, it was the Labour Government in 2004 that announced their intention to legislate in this way. They introduced a draft Bill in 2008, which was then scrutinised by a Select Committee but unfortunately ran out of time prior to the 2010 general election and then went into a deep sleep under the coalition Government. It has been revived by this Government, which we think is a good thing, although it is now 62 years since the convention was originally passed.

We are not seeking to challenge the spirit of the convention or the principles of the Bill. In fact, we understand that it is in many ways a different kind of Bill. As the Minister reminded us yesterday in the Programming Sub-Committee, the schedules are in effect there to give the Committee information, rather than to be debated or amended. They actually represent the wording of the convention and the subsequent protocols to it. The first six parts of the Bill are very much for us to debate and amend. As I have said, our amendments will, for the most part, be probing amendments, as this one is. I agree with what the Secretary of State said on Second Reading:

"We want to get on with it".—[*Official Report*, 31 October 2016; Vol. 616, c. 700.]

That is why we are here today. I hope that we will be able to conclude our proceedings in the plenty of time given by the programme motion that was agreed by the Government and the Opposition.

We would like the Government to clarify some aspects of the Bill that could create difficulties in future for those who have to interpret and implement it when it becomes law. Amendment 2, which we are considering in conjunction with amendment 6, speaks to one such difficulty. An inevitable consequence of the Bill's 62-year gestation is that certain aspects of it may well have become outdated. The convention was written in the light of the cultural destruction of the second world war, but quite a lot has happened in the intervening period. The descriptions of the types of cultural property that are in need of protection, which can be found in schedule 1 to the Bill, show their age in the way they refer to physical artefacts and the buildings that house them, with no mention of, for example, those objects that take a digital, rather than physical, form.

The convention, as it is worded, covers cultural property that is "movable or immovable", but the question that was quite reasonably raised in the other place is whether it covers digital cultural artefacts. For example, would it cover moving images as well as movable or immovable images? I understand that the list in schedule 1 is illustrative and not necessarily exclusive, and that the omission might be seen in some ways as a natural consequence of technological developments rather than any particular negligence at the time, but I still think that it would be useful for the Minister to set out the Government's position on that.

Having said that it is because of technological developments, it may also reflect a change in mindset since 1954 with regard to what are regarded as cultural objects. It is quite telling that the wording of schedule 1 and the definition of cultural property under article 1 of the convention do not seem to say or to imply that, for example, film would be included as cultural property in that regard. Perhaps people in 1954 did not envisage that film, which was still a relatively new form of artistic expression, albeit more than half a century old, would fall into the category of a cultural object. Lord Stevenson spoke quite eloquently in the other place about the growing and indisputable importance of film, and subsequently television, and the way that they are woven into everyday life, and the way that they reflect, reproduce and challenge the worlds that we inhabit. Therefore, the national film archives in England, Wales, Scotland and Northern Ireland, as well as regional archives, are all of critical importance.

In fact, a couple of years ago I was fortunate enough to visit the British Film Institute's archives, which are located near Milton Keynes—if the Minister gets an opportunity in her busy life, I recommend she visits them at some stage—to see the work being done to preserve the cultural heritage of the British film industry. In recent years we had the fantastic discovery of the very early Mitchell and Kenyon films, which catalogue life in the Edwardian era in an incredibly moving and powerful way. They reveal the cultural life of ordinary people in this country, not just so-called high culture, showing how they lived and spent their leisure time and their working lives more than 100 years ago with an amazingly vivid quality. While I was there, I was given a DVD of some of the early colour films of Claude Friese-Greene, who developed an early technique for making colour films but was largely forgotten for many years. There are amazingly vivid images of life in the UK from a tour he took in the 1920s.

To confirm that "cultural property" can be interpreted to include that which takes a digital form would clarify that items do not need to be ancient to be covered by the Bill and by the convention. Our creative industries are thriving, dynamic and constantly changing, producing precious commodities that deserve our protection. I therefore hope that the Minister will assure us that they will be granted the protection outlined in the Bill in the event of armed conflict.

The Minister may argue that the Bill, once passed, will take its place among other UK laws on the protection of cultural property and that we would be better off ensuring that digital culture is covered by those Acts, rather than risk amending the Bill. I understand that argument, which is why I outlined that this is a probing amendment to ensure that we have the Government's position on the record. However, to ensure that we have informed the future interpretation of the Bill, we want to ensure that UK law is as consistent as possible and that there can be no doubt about the importance of digital cultural property or the severity or importance of anything done to destroy it. I hope that the concerns raised are remembered when we decide which items of cultural property are to be safeguarded by the cultural protection fund.

When this topic was debated in the House of Lords, the Minister, Baroness Neville-Rolfe, said that the wording of schedule 1—in other words, the 1954 convention—was

"flexible enough to meet the concerns expressed about what sort of cultural property might be covered."

However, earlier in the same speech she responded to Labour's amendment on the topic by saying

"the noble Lord's amendment risks allowing the development of an interpretation of the definition in the United Kingdom which is not consistent with its internationally accepted interpretation. That would be undesirable. It would create uncertainty and inconsistency in the application of the convention and its protocols and could result in the UK failing to comply with its obligations under them."—[*Official Report, House of Lords,* 28 June 2016; Vol. 773, c. 1478-1479.]

In those two statements there is some possibility of misunderstanding. Is interpreting cultural property so as to include that which takes a digital form a fair interpretation of flexible wording, as the Minister seemed to hint at one point in her remarks? Alternatively, is that interpretation—as expressed in a probing amendment in the House of Lords—a threat to the ratification of the convention? She seems to be suggesting that, and both those things cannot be true. We would be most grateful if the Minister clarified the Government's exact position on that point. The more strongly she expresses the Government's view that digital property is covered under the wording of the convention, and therefore by the Bill, the better.

Amendment 6 probes how part 3 of the Bill, which relates to the cultural emblem, fits into the digital age. Hon. Members will have noted that the Bill is unusual in another way, besides the fact that we are not debating the schedules, because it contains a picture. That is unusual in a parliamentary Bill.

Chris Bryant (Rhondda) (Lab): The Red Cross symbol.

Kevin Brennan: As my hon. Friend the Member for Rhondda notes from a sedentary position, there is an analogy with the Red Cross symbol, in the sense that we are dealing with an international emblem recognised in law. The picture is not in colour, but the Bill tells us that the colours of the emblem, which is intended to indicate cultural property protected under the convention, should be royal blue and white.

As I mentioned earlier, it is inevitable that a Bill based on a convention written more than six decades ago will be framed partly in ways that are outdated. I have discussed that in relation to the definition of cultural property, but it may be equally applicable to the form of the emblem. There has been broad cross-party agreement on the importance of protecting cultural property. The cultural emblem is crucial to that process, making the protected status of an item known to all those surrounding it, and reducing the chances of it being damaged because that status was not known.

On Second Reading mention was made of the famous use of the cultural emblem in recent years, during the second Iraq war—perhaps in the first Iraq war as well—when it was painted on the roof of a museum in Iraq so that those flying above would know that it was under the convention's protection. However, there is the potential for that to backfire, as it could signal to looters where cultural property is being stored—we know what happened in Iraq after the invasion.

Leaving that aside, the blue shield is often described as the cultural equivalent of the Red Cross symbol, as my hon. Friend the Member for Rhondda noted. I reiterate the point, made on Second Reading, that the Red Cross supports the Bill. That is a testament to the fact that culture is recognised as important to identity, even by those such as the Red Cross whose first responsibility is the protection of life. Given the importance of the blue shield, we have tabled the amendment to clarify the potential scope of its use.

We welcome the measures that protect against unauthorised use of the blue shield. Its impact should not be diluted. However, the wording in schedule 2 about its authorised uses may be slightly outdated. My concern is to ensure consistency as to formats and the protection available.

I appreciate that the wording of schedule 2 is flexible in the sense that the regulations on the execution of the convention specify that the cultural emblem

"may be displayed on flags or armlets; it may be painted on an object or represented in any other appropriate form."

The Government have previously said that there is nothing to preclude the emblem being displayed in digital form, for example on a screen or by projection. There could be clear benefits to being able to use the blue shield in digital form; in certain circumstances, for example, it could be projected to prevent the need for it to be painted or physically fixed on protected objects. When this issue was discussed in the Lords, the Government said that digital property such as recorded music could be marked as protected by the emblem if it were added to the physical object containing the digital data.

9.45 am

The Parliamentary Under-Secretary of State for Culture, Media and Sport (Tracey Crouch): MP4.

Kevin Brennan: The Minister refers from a sedentary positon to MP4. I do not think we would meet the high bar required for cultural property.

I remain concerned that the Government's previous statements on the importance of consistent interpretation could prohibit such an understanding on digital data being implemented in practice. Will the Minister reiterate and expand on the assurance that the emblem could take a digital form? Could the wording of the schedule be interpreted as allowing the emblem to be included in digital format—in a digital file which is protected—as well as on its casing?

Tracey Crouch: It is a pleasure to take my first Bill through Committee under your chairmanship, Ms Buck. I look forward to receiving wise counsel and guidance if I get anything procedurally incorrect.

I am grateful to the hon. Member for Cardiff West and the Opposition for their support for the Bill on Second Reading and in Committee, here and in the other place. Members should always feel honoured to be on a Bill Committee, but I am sure colleagues share my pride in being on this particular Bill Committee ratifying The Hague convention and both protocols, which will make us the first permanent member of the UN Security Council to do so. That will give us great gravitas and status around the world and ensure that we protect cultural property in the future.

I am grateful to the hon. Gentleman and to Lord Stevenson for the amendments. It is important to recognise Members' concerns that the Bill should enable appropriate protection of all forms of cultural property, including those which have been created using modern digital technology. The tabling of these probing amendments enables us to reassure hon. Members and to reiterate that we do believe that that is the case, and that the amendments are therefore not necessary.

On amendment 2, the definition of cultural property set out in article 1 of the convention and incorporated into clause 2 of the Bill as

"movable or immovable property of great importance to the cultural heritage of every people"

is broad and flexible. It is not limited to those things that are specifically mentioned in article 1 of the convention, which are presented as examples of the sorts of cultural property that are protected by the convention. Other cultural property can also be protected under the convention if it is

"of great importance to the cultural heritage of every people".

We consider that the definition is already sufficiently broad and flexible and can accommodate modern forms of cultural property such as digital material.

As Members will have seen, Professor Roger O'Keefe of University College London states in his written evidence to the Committee:

"There is no ground for concern and no cause for doubt on this point."

We also received support on this point from Michael Meyer, the head of international law at the British Red Cross. In his view:

"The examples set out under Article 1 are extensive, but not exhaustive"

and the definition in the convention is

"able to apply to a very broad range of items, which may well include those of a digital nature, such as rare and/or important film and music."

I reiterate the statement made in the other place that using the definition from the convention does not mean that it is not flexible enough to include modern types of cultural property.

As we stated in the other place, there is also a risk that the amendment would allow the development of an interpretation of the definition in the United Kingdom that is not consistent with its internationally accepted interpretation. That would be undesirable. It would create uncertainty and inconsistency in the application of the convention and the protocols, and it could result in the UK failing to comply with its obligations under them. I must therefore oppose amendment 2.

On amendment 6, the Bill specifies not the format in which the cultural emblem should be displayed, but only the design. The regulations to the convention provide that the emblem may be represented in any appropriate form. The emblem was devised in the '50s, and although at the time there may have been an expectation that it would be fixed to or painted on objects, there is nothing to preclude it being displayed in a digital format—for example, on screen or by projection. For modern, born-digital material, such as films and music, in practice we would expect the emblem to be displayed on the physical object on which the material is stored or on the building in which the physical storage object is kept, rather than being displayed digitally. That would help to ensure that the emblem is readily visible. That is not to say that it cannot also be depicted in digital form. Next month, we will be holding a roundtable on particular aspects of the implementation of the convention, which will provide a further opportunity to discuss implementation measures. This issue will be on the agenda.

The Government are not aware of any other state parties that have raised concerns about the definition or the rules for displaying the emblem. When the second protocol was agreed in 1999, the definition and the rules relating to the emblem were still considered to be appropriate at a time when digital culture was already well developed.

In conclusion, the amendment is unnecessary and I oppose it. I thank the hon. Member for Cardiff West for giving us the opportunity to clarify that we believe that that issue is included within the wider definition of the convention.

Kevin Brennan: I thank the Minister for her response and for giving the Opposition access to her officials before Second Reading. For a Bill of this kind, it is very helpful to be able to have such discussions and to clarify things in advance.

In a sense, the Minister did not address my point about the potential conflict between Baroness Neville-Rolfe's remarks in the House of Lords that clarifying the Bill by amending it to include the words "in digital form" would damage the international interpretation of what is meant by cultural property and that the wording of the convention effectively includes digital cultural property. I am not going to press that point, because the Minister and the Government have made it clear that they believe that the definition should be flexible enough to include digital property. It is useful for her to put that on the record and repeat it to the Committee today.

Later in the Bill we will get on to the very interesting subject—hon. Members from both sides of the Committee might want to contemplate this—of which cultural objects and what cultural property in this country, and indeed in each of our constituencies, are regarded as being of sufficient importance to all the people of the world, not just to us and our constituents, to be worthy of protection under the convention. I am sure everybody will spring to life later to give examples from their constituencies, because every hon. Member has in their constituency a cultural treasure that is important to all the people of the world. I look forward to hearing about the cultural richness of this country, including Queen's Park and north London—your part of the world, Ms Buck, although you are not allowed to talk about it. I accept the Minister's assurances on amendment 6. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

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

Victoria Borwick (Kensington) (Con): It is a pleasure to serve under your chairmanship, Ms Buck. I would like to declare that I am the president of the British Antique Dealers' Association, and I have been advised by the British Art Market Federation, the Antiquities Dealers' Association and LAPADA, all of which have made written representations to this Committee.

I wish to draw the Committee's attention to the art and antique market's concerns about the definition of cultural property in the clause, which draws on the convention. I am grateful to the Minister for her clarification. A number of representative bodies of the art and antiques market, which is the second largest such market in the world, have made written submissions to the Committee. I draw Members' attention to the submissions from the British Art Market Federation, the Antiquities Dealers' Association, Professor Janet Ulph and LAPADA, among others. They all make clear that they are fully supportive of the Bill.

It is particularly important that honest and well-intentioned dealers and auction houses do not risk criminal prosecution when conducting reasonable due diligence. As the Committee will have read in those submissions, the three aspects of the Bill that concern the trade relate to avoiding uncertainty in the art market and ensuring clarity in the practical operation of the law. There is no doubt that uncertainty hampers the successful operation of any market, and it is reassuring that my right hon. Friend the Secretary of State made it clear on the Floor of the House that she does not want the market to be hampered.

The clause 17 offence that we will come to later of dealing in unlawfully exported property depends directly on clarity and understanding of what is meant in the Bill by the term "cultural property". As it stands, the punctuation used in sub-paragraph (a) of article 1 of the convention, which is reproduced in schedule 1 to the Bill, means that cultural property is not limited to property of great importance to the cultural heritage of every people, although the Minister has just clarified that cultural property can be protected if it is of great importance to every people. The market seeks absolute clarification of those points. Other categories of property are covered in the definition, regardless of their cultural significance, including works of art, manuscripts, books and other objects of artistic, historical or archaeological interest.

[Victoria Borwick]

It has been drawn to my attention that the original—and, as article 29 states, equally authoritative—French and Spanish texts of the convention, which I have to hand, are not worded in that way. They use commas, not semi-colons. On account of that, in the French and Spanish versions a work of art must be of great importance to the cultural heritage of every people for the convention to apply to it. I was delighted that the Minister confirmed in the House on 31 October that the Government intend to take the same restricted approach to the definition of cultural property and that the clause 17 offence of dealing in unlawfully exported property will apply only to a very small but very special category of cultural objects—those which are of great importance to the cultural heritage of every people. I thank the Minister for her clarification on that point this morning.

Given what we know about the other versions of the convention and the Government's intention that the Bill should apply only to objects that are of great importance to the cultural heritage of every people, it cannot surely be right for the wording of the law to be at odds with its intention. I have not tabled an amendment on this important point, but the Government might consider a little clarification on it.

Kevin Brennan: The hon. Lady is making an important point. Given the benefit of her expertise, will she give an example of a cultural object located in the UK that she believes would pass the test in the convention, under the wording as she and the Government interpret it, and perhaps one that she thinks might not pass the test but that some might regard as an object of importance?

Victoria Borwick: I cannot think of something instantly, but the important point is whether the restricted view should apply that the object should be

"of great importance to…every people".

We are making sure that we do not by mistake include things that are not covered in the convention—in other words, that we do not, through loose punctuation, fail to make it absolutely clear which objects are covered.

10 am

To remove uncertainty, I want confirmation in the Bill that the convention will be interpreted as per the French and Spanish texts, which are of equal validity—in other words, that the phrase,

"property of great importance to the cultural heritage of every people",

which I hope covers the hon. Gentleman's comment, relates to the categories of objects listed in article 1 of the convention. I appreciate that the Minister has clarified this morning that cultural property can be protected if it is of great importance to every people.

Tracey Crouch: I am grateful to my hon. Friend the Member for Kensington for her contribution. The clause defines cultural property by reference to the definition in article 1 of the convention, as we discussed in the debate on the amendments. This is a broad definition, covering a wide range of movable and immovable property of great importance to the cultural heritage of every people.

The convention provides a non-exhaustive list of examples, simply mentioning monuments, buildings, historical and archaeological sites, books, objects and scientific collections. We are clear that all cultural property must be of the greatest importance to all people to be covered by the definition; the punctuation should not be seen as limiting the definition to only the first items listed.

The definition includes buildings where cultural property is preserved or exhibited, such as museums, major libraries and archives, but is sufficiently broad and flexible, as has been said, to accommodate modern forms of cultural property, such as rare or unique film or recorded music, because the list of objects covered is not exhaustive.

Although the definition was drafted some time ago, it is sufficiently flexible to deal with the developments of the digital age. Changing it would risk the development of a definition in the UK that is inconsistent with the current international interpretation. However, I confirm and reiterate that the definition will cover only a very small and special category of objects.

Question put and agreed to.

Clause 2 accordingly ordered to stand part of the Bill.

Clause 3

OFFENCE OF SERIOUS VIOLATION OF SECOND PROTOCOL

Kevin Brennan: I beg to move amendment 3, in clause 3, page 2, line 16, leave out "or".

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

Amendment 4, in clause 3, page 2, line 17, at end insert

", or

(c) a foreign national serving under the military command of the UK Armed Forces."

Amendment 5, in clause 3, page 2, line 17, at end insert

"or if the act was committed by a private military contractor or an individual employed by a private military contractor, including persons contracted to the UK armed forces."

Kevin Brennan: These are probing amendments in my name and that of my hon. Friend the Member for Tooting. Amendment 3 is a technical drafting amendment that allows amendments 4 and 5 to make sense. We are exploring which military personnel are bound by the second protocol, specifically in relation to foreign nationals embedded in UK armed forces. At the heart of this debate is the question: who is classed as being subject to UK jurisdiction, for the purposes of the convention and the Bill, and who is not?

I said earlier that it is inevitable when ratifying a convention that was written more than six decades ago that some elements will no longer chime with modern reality and practice, and we are limited in how we can amend the Bill because it forms part of an international convention. The hon. Member for Kensington illustrated the complications when referring to whether the difference between a comma and a semicolon could lead to misinterpretation. She said that she had the Spanish

translation available; I am sure that my hon. Friend the Member for Rhondda could cast his eye over that. Although I am tempting him, he is not contributing with his fluent Spanish.

The passage of time provides less of an excuse for uncertainty regarding those parts of the Bill that were written more recently, so gaining clarity is all the more important. On amendment 4, which refers to embedded soldiers, I welcome the fact that the Minister, Baroness Neville-Rolfe, said in the Lords that under the Armed Forces Act 2006,

"regular members of the Armed Forces remain subject to UK service law"—[*Official Report, House of Lords,* 28 June 2016; Vol. 773, c. 1488.]

even when they are embedded within another army. They remain under the UK's jurisdiction, and so would remain bound by the second protocol. It is also important to note that the UK armed forces already behave, and are instructed to behave, as if they were bound by the convention and its protocols, and that the impact assessment for the Bill showed that their conduct will have to change very little when the Bill becomes law.

However, the Government have not quite clarified the reverse, which is how the convention and its protocols apply when a foreign national is embedded in UK armed forces, particularly if that other nation is not a state party to the convention or its second protocol. That concern is particularly pressing as the use of embedded forces has become much more prevalent since the convention was originally passed in 1954. The Armed Forces Deployment (Royal Prerogative) Bill, which is awaiting its Committee stage in the other place, is testament to the growing concern about how, when and where the UK armed forces use embedded forces.

The uncertainty that amendments 4 and 5 aim to clarify points to one of the Bill's vague points: while it is clear about which institutions will be affected, it does not address their internal nuances, or how those institutions interact with each other. That is particularly obvious in clause 5; its interpretation and implementation is complicated by the frequency of use of coalition forces, and the rise in the use of private security firms.

During line-by-line scrutiny of the Bill in the House of Lords, Lord Howarth of Newport recalled that private military contractors had participated in terrible destruction of cultural property at crucial archaeological sites during the Iraq war. However, when asked whether such contractors and the individuals in them would be bound by the Bill, Baroness Neville-Rolfe concluded her remarks by saying:

"I think they are covered."—[*Official Report, House of Lords,* 28 June 2016; Vol. 773, c. 1489.]

It is not enough, for our purposes, for a Minister to say "I think", so I look to the Minister to confirm that they are most certainly covered. Given that we all agree on the severity of the crimes listed in the Bill, it is absolutely right and only fair that we ask for more certainty on who exactly is considered to be under UK jurisdiction—and so criminally liable if they commit such crimes.

I appreciate that the Government have previously referred to clause 29, which states that senior managers of private military contractors are criminally liable for actions committed by their company if they were involved in making those decisions. Our amendments are intended to clarify the remaining ambiguity surrounding the criminal liability of individuals who are under the command of UK armed forces without being members of them, and are not necessarily UK nationals.

In the same debate, Baroness Neville-Rolfe went on to say:

"By making explicit reference to embedded forces and private military contractors in the Bill, we could risk creating doubt and confusion in the interpretation of both the Bill and other legislation."—[*Official Report, House of Lords,* 28 June 2016; Vol. 773, c. 1489.]

In my experience, doubt and confusion are created by a lack of clarity, not an abundance of it, so clarity is what we need from the Minister in responding to our amendments. Will she provide us with that? Will foreign nationals embedded in the UK armed forces, private military contractors and the individuals in those contractors, including those contracted by the UK armed forces, be bound by the second protocol and the provisions of the Bill?

Tracey Crouch: I thank the hon. Gentleman for tabling the amendments; that allows the Government to reassure the Committee on this important issue. It also allows me to pay tribute to the UK armed forces, which, as he said, already apply the convention in their actions and behaviours. We should take a moment to thank them for doing so. In addition, it allows me to pay tribute to the excellent monuments men and women, who have done a great deal to protect cultural heritage in conflict zones. We cannot praise them enough for what they have done.

The amendments seek to extend the UK's jurisdiction over the offences described in article 15(1)(d) and (e) of the second protocol. Under the second protocol, the UK is required to establish jurisdiction over such acts only when they are committed on UK territory or by UK nationals. Extending that to foreign nationals committing these acts abroad would be exceeding our obligations under the convention and protocols.

The amendments would mean that foreign nationals committing such offences abroad would come under our jurisdiction if they were serving under the military command of the UK armed forces, or were private military contractors or their employees. To deal with embedded forces first, when any foreign military personnel are embedded in UK forces, a bespoke status of forces agreement or memorandum of understanding is drawn up that sets out responsibility for the individual involved. That will normally outline that the embedded individual continues to be subject to the jurisdiction of their home state. We would expect that same principle to apply to UK military personnel embedded in overseas militaries.

Therefore, if a foreign soldier were to commit an act set out in article 15(1)(d) or (e) while embedded in a UK unit, we would dismiss them and send them back to their home state to be dealt with for disobeying orders. The individual would face the consequences of their actions on their return home, and there is no loophole for embedded forces; that would apply whether or not a foreign state had ratified the convention or protocols, as the individual would be disobeying an order. Similarly, if a UK soldier embedded in the armed forces of another state broke military rules, we would expect them to be dealt with under the UK's jurisdiction.

Our concern in the Bill must be to focus on protecting cultural property in the UK and to set clear rules for how UK military personnel and UK nationals operate

[Tracey Crouch]

abroad. We should not be extending our jurisdiction to police foreign nationals committing crimes abroad; that is beyond what is required by the convention and protocols. Private military contractors and their staff are already covered and would be criminally liable in the same way as any other legal or natural person. That means that if an employee of a private military contractor who is a UK national or subject to UK service jurisdiction vandalised or looted cultural property, they would be potentially criminally liable under clause 3 on the same basis as any other person.

Clause 29 also ensures that the senior management of private military contractors are personally liable for offences committed by their organisations if they consented to or connived in the offence. That ensures that senior managers cannot escape the consequences of the actions of their organisations if they were personally involved in them. However, in accordance with our obligations under the protocol, that is limited to UK nationals and those subject to UK service jurisdiction for the offences in article 15(1)(d) and (e) of the second protocol.

To extend our jurisdiction to non-UK nationals for all offences committed abroad would be to go beyond what is required to become party to the convention and protocols. It should be remembered that jurisdiction over the acts in article 15(1)(a) to (c) already extends to foreign nationals committing the most grave offences abroad, as required by the convention and protocols. We would be extremely concerned if amendments to the Bill were to lead the UK to extend our jurisdiction beyond what is necessary to become party to the convention and protocols.

I am sure that we all agree that the UK should not attempt to exceed the boundaries set out in this internationally agreed approach, or become a world policeman in going beyond that. I hope that I have clarified the Government's thinking on this matter, and that the hon. Gentleman will feel able to withdraw the amendment.

10.15 am

Kevin Brennan: I thank the Minister for her response. On amendment 4, I think she was saying that the answer is no—that foreign nationals serving with the UK armed forces will not be covered, and that the Government do not wish them to be included, because that would go beyond the requirement in the convention. We could debate at some length whether it would be desirable for the UK to seek to do that, but given that we accept that the purpose of the Bill is to bring the convention, as written, into UK law, I will not seek to extend our debate and press the amendment to a vote.

On amendment 5, the Minister has made it clear that as far as the UK Government are concerned, contractors are covered by the Bill and the schedules to it. She gave a clearer explanation than her colleague in the House of Lords, Baroness Neville-Rolfe, who said:

"so I think they are covered."—[*Official Report, House of Lords,* 28 June 2016; Vol. 773, c. 1489.]

I thank the Minister for being clear on that point.

That raises an interesting question. Prior to this Committee, I asked the Secretary of State for Defence in parliamentary question 52310 how many members of foreign armed forces have been embedded in the UK armed forces in each year since 2010. I thought that information might be of use to colleagues on both sides of the House in understanding how our armed forces operate. I got back an answer from the Minister for the Armed Forces on 14 November at 5 pm saying:

"This information is not held centrally and could be provided only at disproportionate cost."

I say gently that that is a good example of how Governments—of all colours, before the Government Whip, the hon. Member for Beverley and Holderness, does his usual chunter at me for saying this sort of thing—fail to answer parliamentary questions. That annoys me, as it should annoy us all, whatever side of the House we are on. Lloyd George, when driving in north Wales, once stopped to ask directions from a local farmer—in Welsh. He said, "Where am I?" and the local farmer said, "You're in your car." Lloyd George said that was a perfect example of how civil servants draft and Ministers answer parliamentary questions: the answer was short, accurate and told him absolutely nothing he did not know already.

It would be helpful, if we are properly to scrutinise and understand the Bill, if the Minister's colleagues in the Ministry of Defence made an effort to tell us how many members of foreign armed forces have been embedded in the UK armed forces in recent years. I understand the point that she made about how they would be disciplined in the event of them breaching the Bill, but it would be useful to all of us in the House to know the answer to that question. I do not know whether the Defence Committee is interested in pursuing that. I may pursue it further, depending on my other priorities, but I would certainly like to know the answer to that question. Perhaps the Minister could pass on our concerns to her colleagues in the Ministry of Defence. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 3 ordered to stand part of the Bill.

Clause 4

ANCILLARY OFFENCES

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

Kevin Brennan: Although we have not tabled amendments to the clauses in this part of the Bill, it would be useful if the Minister briefly explained this clause and some of the others as we go along.

Tracey Crouch: I am delighted to respond to the hon. Gentleman's request to explain the clause, which contains one of my favourite subsections of all time. I am one of those Members of Parliament who likes to read the legislation that we pass, alongside the explanatory notes. I know that is a terribly quaint thing to do these days. I draw hon. Members' attention to the wonderfully worded subsection (7), which states that

"an offence that is ancillary to an offence under section 3 includes a reference to an offence that is ancillary to such an ancillary offence, and so on."

It is an infinite provision, and I thoroughly enjoyed trying to work it out.

Kevin Brennan: On that point, will the Minister explain subsection (7) to the Committee?

Tracey Crouch: I need not do so, because the explanatory notes do it absolutely brilliantly. The lesson for anybody reading legislation is that they should do so alongside the explanatory notes, because that is what they are there for. May I instead recommend that the hon. Gentleman read paragraph 37 on page 10 of the explanatory notes, which gives an absolutely excellent explanation? When I took a picture of the clause and put it up on my personal Facebook page, a lot of my friends who have nothing to do with politics found it as interesting as I did.

Turning to the clause itself, the second protocol requires parties to extend criminal responsibility to persons other than those who directly commit an act outlined in article 15, paragraph 1, of the protocol. It also obliges parties to assert extraterritorial jurisdiction in specified circumstances. The clause ensures that those obligations are fully implemented. Its purpose is to ensure that the UK has extraterritorial jurisdiction to try all ancillary offences in the same circumstances in which clause 3 establishes jurisdiction to try the substantive defence. It does not itself establish the ancillary offences, which already exist under other legislation and apply automatically to offences under clause 3. It applies only to ancillary offences if there is uncertainty about their extraterritorial application. Where the existing law is clear about extraterritorial application, as it is in relation to aiding and abetting and offences under the Serious Crime Act 2007, no provision is made. To make such express provision unnecessarily would be bad drafting practice and could create doubt about other situations for which no express provision is made.

Subsections (1) to (3) set out provisions about jurisdiction that mirror those for the principal offence set out in clause 3. In relation to any of the acts listed in article 15, paragraph 1, sub-paragraphs (a) to (c) of the second protocol, a person can be prosecuted for an ancillary offence committed abroad, regardless of their nationality. In contrast, in relation to ancillary offences concerned with the other acts set out in the article, only a UK national or a person subject to UK service jurisdiction can be prosecuted for an offence committed abroad.

Subsections (4), (5) and (6) take into account the differences in the criminal law in the different legal systems of the UK with regard to the definition of ancillary offences. The intention is to produce the same effect in each legal system. On Report in the other place, an amendment was made to subsection (6) to ensure that the Bill's provision relating to ancillary offences has the intended effect in Scotland. The amendment was tabled by the Government following consultation with the Crown Office and the Scottish Government. I am grateful to the devolved Administrations for their help and support in drafting the Bill.

Subsection (7) ensures that offences that are ancillary to ancillary offences are also provided for.

I hope that, following that explanation, the Committee is fully appraised of the intention of the clause.

Kevin Brennan: I thank the Minister for a thorough explanation. As I understand it, an example of an offence ancillary to an ancillary offence under subsection (7) might be when someone involved in the theft of an item of cultural property decides to destroy evidence in relation to the theft, and the clause provides for such an offence to be covered.

Tracey Crouch *indicated assent.*

Kevin Brennan: The Minister is nodding, so I take it that that is also her understanding. Although she is right that we should always read the Bill and the explanatory notes, the explanatory notes—I intend no particular criticism here—do not always tell us much more than the clause. They sometimes seem just to paraphrase rather than attempt to elucidate or give a figurative example. However, on the basis of what she has said, we shall not oppose the clause.

Question put and agreed to.

Clause 4 accordingly ordered to stand part of the Bill.

Clause 5

Responsibility of commanders and other superiors

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

Kevin Brennan: As previously, I would be grateful if the Minister outlined the meaning of the clause for the Committee.

Tracey Crouch: The clause provides an additional form of individual criminal responsibility—that of commanders and superiors for the actions of their subordinates. That concept is one of the recognised principles of international law referred to in article 15, paragraph 2, of the second protocol, which parties to the protocol are obliged to implement.

The wording of the clause is based on article 28 of the statute of the International Criminal Court, which is regarded as an authoritative statement of the general principles of international law in relation to criminal liability. It mirrors the UK's implementation of other international law, in particular the International Criminal Court Act 2001.

Subsection (1) provides that liability under the provision is to be treated as aiding and abetting in England, Wales and Northern Ireland, and being art and part in Scotland. That takes into account the different criminal law in Scotland. A distinction is drawn between the standards expected of military commanders in relation to the military forces under their command, and other superiors, such as Government officials. That distinction is made to recognise that the latter may not have the same degree of control over their subordinates.

In the case of a military commander, liability will arise only if he or she knew, or owing to the circumstances should have known, that his or her forces were committing or about to commit an offence. In contrast, a superior who is not a military commander will commit an offence only if they knew or consciously disregarded information clearly indicating that the subordinate was committing or about to commit an offence. Importantly, subsection (7) makes it clear that liability under the clause does not preclude any other criminal liability in relation to the

[Tracey Crouch]

same event, so a commander can still be prosecuted as a principal offender under clause 3 as well as under this clause.

The clause ensures that the UK adheres to the requirements of article 15, paragraph 2, of the second protocol, and complies with the general principles of international law in relation to criminal liability.

Stephen Doughty (Cardiff South and Penarth) (Lab/Co-op): It is a pleasure to serve under your chairmanship, Ms Buck. I apologise for my late arrival in Committee this morning; I was at a Select Committee meeting.

I have some specific questions for the Minister about how the clause will be put into practice. I have had the pleasure of seeing UK armed forces being trained, at very close quarters. I saw infantry, artillery and tank training, and I have always been impressed by the teaching in practice of compliance with international law, including the Geneva conventions. I was in Canada last year at the BATUS training area—British Army Training Unit Suffield—where much of our heavy armour training is done. The Bill will clearly be very much applicable to conduct with respect to artillery, tanks and other vehicles capable of seriously damaging cultural property, so will the Minister say a little about how it will be incorporated into training and what plans the Ministry of Defence has to bring that about?

A point has been made about embedded forces, and situations when UK forces are in command of forces from other countries. The clause states that

"references to a military commander include a reference to a person effectively acting as a military commander".

There have been circumstances where civilians from the Department for International Development and the Foreign Office have held senior command roles—for example, in the provincial reconstruction teams in Afghanistan. Will the Minister say a little about the practical arrangements for ensuring that personnel, whether they be military, foreign military or civilians acting in a military capacity, comply with the terms of the Bill?

10.30 am

Tracey Crouch: I am grateful for the hon. Gentleman's contribution. He will of course understand and appreciate that I am not an expert on all things military, but I can tell him that the Bill applies equally to all the armed forces. No distinction is made for the specific services.

Cultural property protection is included in the annual training of all services of the UK armed forces. Specific cultural protection training is not tailored to the RAF, Army or Navy, but is provided for individuals across all three services when a certain deployment determines it necessary. For example, specific cultural property protection issues are covered on the joint targeting course run at RAF Cranwell and the Royal School of Artillery. Those courses are held for all three services and are attended by personnel who have responsibility for target selection and planning. The graduates of those courses have to demonstrate an awareness of cultural property protection issues in various planning exercises throughout the course.

As the hon. Gentleman pointed out, we should recognise that such training is already heavily embedded in our armed forces and we should be incredibly proud of that. There is a great deal of co-operation between the Department for Culture, Media and Sport and the Ministry of Defence in ensuring the ratification of the convention through the Bill, and work is being done to ensure the continued expansion of that. Members will be aware of the specific unit being set up in the Ministry of Defence. That is well under way and a great deal of progress is being made. Everybody, right from the very top of the Ministry of Defence down to the early recruits undergoing training, is certainly 100% behind making sure that we protect cultural property.

Question put and agreed to.

Clause 5 accordingly ordered to stand part of the Bill.

Clause 6

PENALTIES

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

Kevin Brennan: The clause refers to the penalties that could be handed out to someone guilty of an offence under section 3, or, as discussed earlier, an offence ancillary to such an offence, or indeed an offence ancillary to an offence that is ancillary to the offence under section 3, although that is not specifically mentioned in this clause.

Tracey Crouch: And so on.

Kevin Brennan: And so on, ad infinitum—and perhaps reductio ad absurdum. The penalty envisaged in clause 6 includes

"imprisonment for a term not exceeding 30 years."

That is a lengthy term of imprisonment. We know that we are talking about some potentially serious offences, but it would be helpful to the Committee and to those observing our proceedings if the Minister clarified the severity of offence that would be likely to attract a sentence of that length. Clearly, that would not apply to all offences that might be committed under the Bill, although these are offences that, as we heard earlier, relate to cultural property of importance to all people, so an offence committed under the Bill would be a serious offence against all peoples of the world.

If the Minister clarified the thinking on the term of imprisonment and on the kinds of offence that might attract that length of sentence, I am sure the Committee would be enlightened.

Tracey Crouch: The clause sets the maximum penalty for section 3 offences and the associated ancillary offences. The second protocol obliges parties to make the criminal offences established in their domestic law to meet the obligations of paragraph 1 of article 15 "punishable by appropriate penalties". A person found guilty of an offence under section 3, or a related ancillary offence, is liable on conviction on indictment to a prison term not exceeding 30 years. The maximum penalty introduced by the clause aligns with related provisions in both the International Criminal Court Act 2001 and its Scottish equivalent, and the Geneva Conventions Act 1957.

At first sight, it may seem surprising that offences of that nature, and ancillary offences, attract the same maximum penalty as war crimes covered by the relevant provisions of the 2001 Act, but that flows naturally

from the seriousness with which those offences are considered under international law. It is worth noting and stressing that that is a maximum penalty. In practice, the sentence may be much shorter, or even a fine. The maximum sentence is likely to be reserved for only the most heinous crimes against cultural property. Each sentence must be considered case by case, and the Government believe that it should be left to the courts to determine the appropriate penalty based on the facts of the individual case.

The offence in clause 3 could be committed in a wide range of scenarios, with an equally wide variety of possible ancillary offences. I do not think it would be right for us to attempt to address that variety of scenarios by setting different penalties in the Bill. If an individual was responsible for deliberately destroying one of our national cultural landmarks during an armed conflict, I am sure we would wish to see the severest punishment. Likewise, we would want a similar sentence to be available for an individual who masterminded such destruction, or an army commander who ordered it as part of a campaign in full knowledge that the object in question was protected cultural property. That should also apply to UK nationals taking part in cultural destruction of a similar nature during an armed conflict overseas. Accordingly, the maximum penalty is considered appropriate for ancillary offences, as well as for the principal offence.

The clause reflects the seriousness with which the UK views serious violations of the second protocol. It is consistent with existing UK legislation and allows the UK successfully to meet its obligations under that protocol.

Question put and agreed to.

Clause 6 accordingly ordered to stand part of the Bill.

Clause 7

Consent to prosecutions

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

Stephen Doughty: I will ask a simple question; I am not an expert on these matters when it comes to Scottish law. Why does the clause make no reference to consent for prosecutions with regard to Scotland? It references only the Attorney General in England and Wales and, for Northern Ireland, the consent of the Director of Public Prosecutions for Northern Ireland. Is that particular quirk due to the way the Scottish legal system works or something else?

Tracey Crouch: I am not an expert on Scottish law, but I can answer that question. There is no equivalent provision in relation to Scotland as the position of the Lord Advocate, as master of the instance in relation to all prosecutions in Scotland, means that such a provision is unnecessary.

Question put and agreed to.

Clause 7 accordingly ordered to stand part of the Bill.

Clause 8

The cultural emblem

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

Mr David Burrowes (Enfield, Southgate) (Con): It is a great pleasure and a privilege to take part in the proceedings of the Committee, not least as I am co-chair of the all-party parliamentary group for the protection of cultural heritage. I will not say too much, not least because I do not have much a voice, but I will say that this a particularly uncontentious part of a relatively uncontentious Bill.

I draw particular attention to the emblem of the blue shield, which is, as we know and as has already been mentioned by the hon. Member for Cardiff West, a symbol used to identify cultural sites protected by the convention and the personnel engaged in protecting such property. I also draw attention to the work of the Blue Shield network, which provides support in the promotion of the ratification of the convention and its protocols, as we are doing today. It is also part of the International Committee of the Blue Shield, which is a voluntary NGO, but one that has already been said to be the equivalent of the International Red Cross and Red Crescent Movement, and it needs to be given proper status and support.

The International Committee of the Blue Shield provides an unrivalled body of expertise, which allows the organisation to collect and share information on threats to cultural property worldwide. This is a hugely significant organisation that encourages the safeguarding and restoration of cultural property and raises national and international awareness of cultural heritage. It also provides an important focus for the promotion of not only the ratification but the implementation of the convention, and its work with the Government and with other countries, in terms of the protocols and the convention, is no doubt ongoing. It is worth noting in the submissions to the Committee the support for the Bill from the International Committee of the Red Cross and the offer to support the Government in the promotion of the blue shield emblem, which it has done so admirably with the red cross. I would be interested to hear from the Government on the progress of that in terms of social media and other forms of media that have developed in the 60 years since the introduction of the convention.

Kevin Brennan: The hon. Gentleman's contribution and expertise in this area are welcome in Committee. When reading the Bill, one issue of interest is the threshold for a cultural object to pass muster under the convention and the Bill, and therefore presumably be covered by the cultural emblem. In the UK, what sorts of object or building will be covered, or, of just as much interest, might not be covered? If we are to raise awareness among the general public of what the Bill means, it is important that there is some idea of how and where that line is drawn.

Mr Burrowes: The hon. Gentleman is generous to call me an expert; I do not think I am a great expert at all. My interest in the subject arose not least from a background of concern around trafficking and the links to trade of

[Mr Burrowes]

human beings within property and a concern about the human value, which is aligned with the property value when we get the destruction we have seen by Daesh and other organisations in occupied lands.

I am encouraged by the Minister's response to a question already raised that we will no doubt return to: there will be proper engagement with stakeholders and consideration of experts' views around how we ensure there is proper focus. In one sense, that needs to be wide, as the definition in the convention is, and the purpose of the Bill is to ratify the convention and the definition in article 1, which is properly wide and recognises such categories, while providing sufficient reassurance to the trade and others around the practical implementation of that not just in the Blue Shield committee but beyond, with the Government engaging actively to ensure that proper guidance on implementation is set out. I will return to the clause before I get called out of order by the Chair.

I also want to refer in particular to the UK part of the network, the UK Committee of the Blue Shield, ably chaired by Professor Peter Stone, who is also the 2016 UNESCO chair in cultural property protection and peace. We are well placed in this country to help take the lead on the blue shield programme and provide that important conduit of expertise that draws in the military, Red Cross and UNESCO as observers for that committee. Along with charities and heritage protection organisations across the UK, we are helping to provide a lead in this area.

It is important to recognise that the UK committee has been on the case for some years. Since 2003, Peter Stone has been urging successive Ministers and Committees to do what we are doing today to ratify the convention and both protocols. I draw attention to his submission, in which he makes a pitch for the UK to take a lead internationally, certainly among the permanent members of the Security Council, in ratifying the second protocol and in

"funding a small, permanent office for the Blue Shield",

which, despite its huge significance, is a voluntary, unfunded international non-governmental organisation.

To achieve cultural equivalence with the red cross, the blue shield needs money and resources. Will the Minister respond on how we will provide that further support and partnership work with Peter Stone's Blue Shield committee, and recognise the added momentum given to Blue Shield's work by this Committee's process of ratification, not least of the second protocol? The easy answer she can give is to join us in commending the great work of Blue Shield.

10.45 am

Tracey Crouch: I am grateful to my hon. Friend the Member for Enfield, Southgate for his contribution. He is an expert, and he should not understate the work he has done on the issue over a number of years. He should be congratulated on his commitment and dedication to the protection of cultural property. I am very grateful for the advice he has given me and my Department in recent months.

My hon. Friend's contribution allows me to pay tribute to the UK Committee of the Blue Shield and put on the record my gratitude to Professor Peter Stone for the work he has done in advising on the Bill and beyond. My hon. Friend mentioned Professor Stone's plans for a Blue Shield centre, which I and my Department will continue to work with him on. I agree with my hon. Friend that it will allow us to take an international lead on the issue.

Clause 8 relates to the cultural emblem. The hon. Member for Cardiff West said that the Bill is a piece of legislation with a picture in it. I humbly suggest that if there were more pictures in Bills, more people outside this place might read them.

Chris Bryant: It is not a very beautiful picture.

Tracey Crouch: If it protects beautiful heritage and culture, one might suggest otherwise.

The cultural emblem takes the form of a blue and white shield and allows cultural property protected under the convention to be marked to facilitate its recognition. In introducing the emblem, we will recognise for the first time in the United Kingdom the only symbol in international law for the protection of cultural property during armed conflict. It will act as a means of identification for this country's most important cultural property and safeguard it in the event of an armed conflict.

Question put and agreed to.

Clause 8 accordingly ordered to stand part of the Bill.

Clause 9

OFFENCE OF UNAUTHORISED USE

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

Kevin Brennan: I am not sure whether this will meet with your agreement, Ms Buck, but it seems to me that, as we debate clause 9 stand part, the Minister might go a little further and discuss how the clause relates to clauses 10, 11 and 12, which are about the authorised uses. The offence is created by clause 9. If that is convenient to the Committee, it might be a sensible way of discussing those clauses.

Tracey Crouch *indicated assent.*

The Chair: The Minister is indicating that she is happy to do that.

Tracey Crouch: Clause 9 introduces a new criminal offence of the unauthorised use of the cultural emblem, or any other design capable of being mistaken for it. That offence will meet our obligations under the convention, which sets out rules for the emblem's use. It also requires parties to prosecute or impose sanctions on unauthorised use.

This will be the first time that the UK legally recognises this important symbol. Our policy is to afford the cultural emblem equivalent protection to that afforded the Red Cross and other distinctive emblems under section 6 of the Geneva Conventions Act 1957. As with the Red Cross, the breadth of the offence reflects the need to protect the potency of the emblem by forbidding

its unauthorised use. An offence under this clause will be punishable by a fine. As with prosecutions under clause 3, prosecution under this clause can take place only with the appropriate consent in England, Wales and Northern Ireland. The position of the Lord Advocate makes a consent provision for Scotland unnecessary.

Clause 10 gives the appropriate national authority the power to give general or specific permission for particular uses of the cultural emblem to be authorised. It also enables the national authority to withdraw permission, for example when it is no longer necessary or appropriate. This will ensure protection for the cultural emblem and allow for urgent authorisation of cultural property, which can display the emblem, as may be required in the event of war or armed conflict. Subsection (2) imposes an additional requirement, as required by the convention, that the distinctive emblem may not be placed on any immovable cultural property unless a copy of the authorisation is displayed.

Clause 11 authorises the use of the cultural emblem for moveable cultural property in the circumstances permitted by the convention and regulations. It authorises the use of the cultural emblem when it is used to identify moveable cultural property and the use of three cultural emblems in a triangle to identify cultural property undergoing protected transportation. Finally, it outlines what is meant by cultural property undergoing protected transportation. That meaning is provided for in the convention. For example, should an armed conflict occur in one part of the United Kingdom, the cultural emblem triangle could be displayed on moveable cultural property during its transportation under special protection to a refuge in an area of the United Kingdom not affected by the armed conflict. That will help to ensure that cultural property is not exposed to damage and destruction during its transportation out of a conflict zone. I hope that clarifies the three clauses—10, 11 and 12—and that they will stand part of the Bill.

Question put and agreed to.

Clause 9 accordingly ordered to stand part of the Bill.

Clauses 10 to 12 ordered to stand part of the Bill.

Clause 13

DEFENCES

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

Kevin Brennan: Again, it might be useful if the Minister outlined the circumstances in which use of the emblem would be subject to a reasonable defence against a prosecution.

Tracey Crouch: Clause 13 sets out three defences to the offence of unauthorised use of the cultural emblem. This is to ensure that any person who already legally uses the emblem, or a sign that so nearly resembles the emblem that it could be mistaken for it, is not disadvantaged and criminalised as a result of the new clause 9 offence. Under subsection (2) it will be a defence to show that use of the cultural emblem is for a purpose for which it had previously been lawfully used before clause 9 came into force. Under subsection (3) it will be a defence to show that the emblem forms part of a trademark registered before clause 9 came into force, and that the trademark was being used lawfully in relation to the goods and services for which it was registered.

Under subsections (4) and (5) it will be a defence for a person to show that a design used on goods was: first, applied to the goods by their manufacturer or someone trading in those goods before they came into the possession of the accused; and secondly, that the person applying the design was using it lawfully in relation to the same type of goods before the clause came into force. The defence in those subsections is intended to protect purchasers of goods already bearing the emblem, or a design closely resembling it. Subsection (6) makes it clear that where the defendant can provide evidence that a defence exists, the burden to prove the offence still lies with the prosecution.

Question put and agreed to.

Clause 13 accordingly ordered to stand part of the Bill.

Clause 14 ordered to stand part of the Bill.

Clause 15

"APPROPRIATE NATIONAL AUTHORITY"

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

Kevin Brennan: I think that it would be useful, in this age of devolution, if the Minister outlined the reasoning behind the way in which the appropriate national authorities have been set out in the Bill.

Tracey Crouch: I am very happy to do so. Clause 15 defines the appropriate national authority for each part of the United Kingdom. This explains the term that is used in clauses 10 and 12. For the purposes of part 3, the appropriate national authorities are: for England, the Secretary of State; for Wales, the Welsh Ministers; for Scotland, the Scottish Ministers; and for Northern Ireland, the Department for Communities. I reassure the Committee that these definitions, as set out in the Bill, were agreed with the devolved Administrations.

Question put and agreed to.

Clause 15 accordingly ordered to stand part of the Bill.

Clause 16

"UNLAWFULLY EXPORTED CULTURAL PROPERTY" ETC

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

Tracey Crouch: I thought it would be particularly helpful for the Committee to discuss clause 16, because it sets the scene for the discussion on clause 17, which I know we are due to have because amendments have been tabled. Part 4 of the Bill deals with cultural property that has been unlawfully exported from occupied territory. Clause 16 defines what is meant by "unlawfully exported cultural property" and sets out how it is determined whether territory is occupied.

Unlawfully exported cultural property is defined as cultural property that has been exported from an occupied territory contrary to either the laws of that territory or international law. At the time of the export, the territory

[Tracey Crouch]

concerned must have been occupied by another state. Either the occupying state or the state of which the occupied territory is a part must have been a party to the first or second protocol. That means that the earliest date on which cultural property could have been unlawfully exported for the purposes of the Bill is 7 August 1956, which is when the first protocol came into force. If neither of the states concerned became a party to the first or second protocol until a later date, that will be the date from which cultural property can fall within the definition.

The clause sets out what is meant by "occupied territory". The test for that is based on article 42 of the regulations concerning the laws and customs of war on land, which were agreed at The Hague on 18 October 1907. The article states:

"Territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation applies only to territory where such authority is established and in a position to assert itself."

Whether a territory is occupied now, or was occupied at a particular time, is a matter that must be determined on a case-by-case basis. The clause provides that a certificate issued by the Secretary of State shall be conclusive evidence as to whether, at a particular time, territory was occupied. That is standard procedure for determining such matters that concern international relations and are considered to be matters of state.

Kevin Brennan: The Minister may not have this information available, and may want to write to the Committee with it, but do the Government have a list of territories that they currently consider to be occupied under that definition?

Tracey Crouch: I do not have that information to hand now, but I do not think we have an official list, because this is often a controversial point. May I suggest that if we are still on clause 16 when we return this afternoon, we perhaps clarify or confirm that point then?

Kevin Brennan: I am grateful. I understand her not having the information now. It might be useful to clarify, for example, whether the Government consider Crimea to be an occupied territory.

Tracey Crouch: Again, if we are still debating clause 16 this afternoon—or perhaps even when we debate clause 17—if the hon. Gentleman wants to raise the point then, I may be able to give him more information. However, as he can imagine, the definition of occupied territories is sometimes controversial, and it is often open for discussion.

A certificate may not be issued in all cases. Alternative evidence may be used to prove the status of a particular territory. Before I conclude, I have been reliably informed that, yes, Crimea is considered an occupied territory; that at least covers one of the questions that the hon. Gentleman might have wanted to return to this afternoon, allowing us more time for other matters.

Victoria Borwick: I thank the Minister for that clarification, because we all seek greater clarity about what is in the Bill.

I have previously mentioned the uncertainty inherent in clause 2 and how our art market is keen to avoid uncertainty. Another area of uncertainty is an auctioneer's or dealer's ability to identify the occupied territories to which the law applies, particularly if an item may have been here previously; of course there is a lot of trading going on all the time, which is why the points about certainty and dates need to be clarified.

Clause 16(6) states that the Secretary of State's confirmation that a territory was occupied is conclusive evidence of that status once legal proceedings have begun. If the Secretary of State's word may be provided after the beginning of proceedings, cannot a list of the occupied territories, together with the relevant dates of occupation, be drawn up for all to see? Alternatively, could the criteria that a Secretary of State would apply when determining whether and when a territory is considered to have been occupied be clarified? Examples have already been given, but I could add East Jerusalem, the west bank, northern Iraq, Libya or southern Sudan and I am sure others could add alternatives. For the avoidance of doubt, dealers will need to know at what points since 1954 a particular territory is covered by the legislation.

11 am

Even if those operating in the art market can identify territories and the periods when they were considered to be occupied, there is the added issue of determining whether objects left those territories during the period of occupation or at another time, and whether those objects were here before, during or after that period. We need that clarity. The precise historical date or year when an object left a territory could well be difficult to ascertain. Concerns about clarity in the Bill have already been mentioned and this is yet another factor that contributes to the uncertainty engendered by the clause 17 mens rea provision, which we will come to later.

In 2008, the then Government's response to the territory list question was that a dealer who had carried out proper due diligence checks would be unlikely to be convicted of a criminal offence. We would like that response clarified and brought up to date. The Government added that they were unaware of any other parties to the convention having drawn up such a list. I struggle to understand how a law concerned solely with objects unlawfully exported from occupied territories can be expected to operate effectively when there is no means by which anyone is able to identify those territories. Do the Government expect a dealer or auction house to submit requests for confirmation of a territory's status to a Secretary of State on a case-by-case basis, prior to handling an antique, as part of their due diligence? I ask the Government to prepare a list of the territories covered and the relevant dates. As the application is retrospective to 1954, that information must presumably already be available.

Kevin Brennan: The hon. Lady raises a valid point. I accept that this was discussed when the draft Bill was considered in 2008, but that Bill did not come before the House in a final form. It is very reasonable to explore whether the Government will consider publishing a list of the territories that they consider occupied during the relevant period since 1954. It would be extremely useful.

Clearly, it is not always going to be easy to ascertain when an object left a particular territory, although we have already clarified that we are talking about a very small number of very important movable objects that might have been removed from a territory, and that in itself should set off alarm bells with any dealer. If it was an object of such cultural importance that it would be covered by the legislation, people would naturally take extra precautions to ensure that the object had not been removed illegally from a territory during a period of armed conflict and occupation. However, it is perfectly valid to ask why the Government are unable or unwilling to produce a definitive list of territories that have been under occupation during the relevant period. Perhaps the Minister could enlighten the Committee further on the Government's thinking.

Mr Burrowes: I want to raise an issue brought up on Second Reading and in the other place, about the Bill's applicability to non-state actors, particularly in relation to Daesh, which has prompted a huge wave of concern about cultural property destruction and added an extra dimension to the process that we are in of ratifying the convention and protocols. I am particularly grateful to the Secretary of State for clarifying the categories in the Bill that are applicable and for clarifying where the UK can prosecute.

The Hague convention already extends to non-state actors, and the offences in article 15 of the second protocol may be committed by non-state actors in non-international armed conflicts. The question is how that will be prosecuted. As Syria is not party to the second protocol, there is no possibility of prosecuting the most serious offences in article 15. However, there is scope to prosecute UK nationals involved in Daesh under clause 3 of the Bill.

Is there evidence of UK nationals being involved in such damage or in stealing cultural property in Syria? If there is, we will be able to prosecute them for those heinous crimes after the enactment of the Bill. Many of us, including the UNESCO chair, consider such acts to be on the same level as a war crime, and they need to be dealt with appropriately and punitively.

Tracey Crouch: I am grateful to colleagues for raising a number of important issues. I will respond as best I can.

First, I remind the Committee that this law is not solely concerned with dealing in cultural property; it is about protecting cultural property at home and abroad. We need to keep reminding ourselves of what we are trying to achieve with this Bill. That said, some important issues have been raised.

Colleagues will appreciate that extremely sensitive foreign relations issues are in play when drawing up a list. It is important to reiterate the point made by my hon. Friend the Member for Kensington that the Government are not aware that any of the other 127 state parties to the convention have produced a list of territories that they consider to be or to have been occupied since the convention came into force in 1956. In practice, very few territories are likely to be deemed to be or to have been occupied within the meaning of the Bill. The amount of cultural property from such territories that dealers are likely to come across is expected to be extremely small. That said, I realise that there are concerns.

Legal advice will be available to those who have concerns. If in doubt, dealers can seek appropriate legal advice from a solicitor or barrister who is familiar with public international law. The Bill does not impose any requirements on those who deal in cultural property beyond the normal due diligence that they should carry out in accordance with industry standards, such as the code of practice for the control of international trading in works of art. In the event of legal proceedings, the burden of proof will be on the prosecution to show that the person knew, or had reason to suspect, that the cultural property had been unlawfully exported from an occupied territory.

We will discuss the wording later, but I remind the Committee that the Government will not be publishing a list of occupied territories. It will be determined on a case-by-case basis. Anyone who has a question or any doubt can seek appropriate legal advice. Like the other 127 state parties to the convention, we have no intention of publishing a list.

Victoria Borwick: I am concerned on behalf of traders that there will inevitably be a great deal of cost. As you and the Secretary of State have been kind enough to say that you do not wish to place additional burdens, I am concerned that you are appearing—

Kevin Brennan: She.

The Chair: I remind the hon. Lady about addressing the Chair.

Victoria Borwick: I apologise, Ms Buck. High legal costs might be incurred, but I do not understand that to be the Minister's intention.

Tracey Crouch: I repeat that I do not think that the clause imposes any more requirements on those who deal in cultural property beyond the normal due diligence that they undertake now in accordance with industry standards, so I am not convinced that there will be additional costs. We need to remind ourselves that the offence is not retrospective; it applies only to cultural property unlawfully exported from occupied territories after the date that the convention and protocol came into force for those countries that are party to it, and cultural property needs to be imported into the UK after the Bill comes into force to be an offence.

To clarify exactly what sort of cultural property we are talking about and the dating of that property, I will briefly repeat messages back to my hon. Friend the Member for Enfield, Southgate about Syria. It is important to take this opportunity to clarify how the Bill applies to the situation in Syria. The Bill's application to the situation in Syria is limited for two reasons: first, while Syria is party to the convention and the first protocol, it has not ratified the second protocol; secondly, the UK does not recognise Daesh as a state.

With regard to the first point, the current conflict in Syria is defined as a non-international armed conflict—a civil war, in other words—and the offences listed in article 15 of the second protocol may be committed

[Tracey Crouch]

during civil wars. However, the application of clause 3 is complicated as it varies depending on whether the state experiencing civil war is a party to the convention and/or the second protocol. The Bill's application to Syria is limited to the offence set out in article 15(1)(e) of the second protocol, which is

"theft, pillage or misappropriation of, or acts of vandalism directed against cultural property protected under the Convention."

Because Syria is party to the convention, its cultural property is protected against that offence. The Bill's application is limited in some respect because Syria is not yet party to the second protocol, which means that the UK cannot prosecute for any of the other four offences set out in article 15 of the second protocol.

Kevin Brennan: I saw the Secretary of State's letter, together with an explanatory note, that she provided following Second Reading. It made it clear that the Bill could, in effect, apply in civil wars, although that is not the phrase that she used; I think the Minister has confirmed that with what she just said. I am just trying to understand exactly what the Minister meant in relation to the first and second protocols. Is it that Daesh could not be covered by the Bill because it is not a state party or a recognised state, or is it because the second protocol to the convention has not been ratified by Syria?

Tracey Crouch: It is probably both, actually. First, Daesh is not a recognised state, and secondly, not all parts of article 15 apply because Syria has only signed up to the convention. Article 15(1)(e) applies because Syria has ratified the convention, but articles 15(1)(a), (b), (c) and (d) do not apply because Syria has not signed up to the second protocol.

Kevin Brennan: To be clear, does that mean that the Bill could apply to only one side in a civil war—namely, to a recognised Government who were signatories to the convention—while the other side, despite committing identical actions, was not covered because it was not a recognised state under the convention?

Tracey Crouch: We ae going beyond the specific purpose of this legislation. I can tell the hon. Gentleman that the Bill will apply if there is evidence that a UK national has joined Daesh and damaged or stolen cultural property while in Syria. The UK could seek to prosecute that individual under clause 3 on their return to the UK. As I stated, article 15(1)(e) applies to

"theft, pillage or misappropriation of, or acts of vandalism directed against cultural property protected under the Convention."

Article 15(1)(e) is broad enough to take into account everything protected under the convention, which Syria has signed, but article 15(1)(a), (b), (c) and (d) all refer to aspects that are in the second protocol, to which Syria is not a signatory. I hope that clarifies the point. I appreciate that this is incredibly complicated, but we are limited to talking about some issues relating to UK nationals in Syria.

On the question raised by my hon. Friend the Member for Enfield, Southgate, we are not aware of any UK nationals who have been involved in cultural destruction in Syria. On the second point in relation to Syria, clause 17 creates the criminal offence of dealing with cultural property that has been unlawfully exported from occupied territory. Territory belonging to one country can only be occupied by another state. The UK does not recognise terrorist groups such as Daesh as states, so Syria cannot be classed as an occupied territory, and the dealing offence is not engaged. There is no loophole in our approach to dealing in Syrian cultural property, as sanctions already exist for the sorts of objects that have been illegally removed from Syria. I can confirm that the second protocol would apply to both sides in a civil war if the state had ratified the second protocol, which Syria has not.

11.15 am

Kevin Brennan: That is very interesting. I am still slightly struggling to understand how the second protocol could apply to both sides in a civil war if one of the sides was not a recognised state, Government or signatory to the protocol, but I will let that lie for now; it might be something that we cogitate on, and there might be a way of discussing that when we come to later amendments and new clauses.

I understand what the Minister was saying about clause 16: that the Government will not produce a list because no one else has produced one. That is not necessarily a good argument for a country that is seeking to be a leader in this field. The Minister quite rightly boasted that we will become the first permanent member of the Security Council of the United Nations to ratify both protocols, although we will be the last to bring in the convention overall, so that is not entirely something to boast about—and that goes for Governments of all kinds. Saying that we should not produce a list because no one else has produced seems to be not an argument, but a simple statement of our position and that of other countries.

The Minister hinted that the reason why the Government were reluctant to produce such a list was because it is sensitive—she used that terminology—to talk about whether a country has been occupied since 7 August 1956, which is the date that she mentioned. We are not producing a list because no one else has, and because it might be sensitive to do so, but she said, without feeling too sensitive about doing so—I welcome that very much—that the UK Government considered Crimea to be occupied. That is what I do not understand. If it is possible to say clearly that Crimea is considered an occupied territory, why is it not possible to say whether the UK Government consider other territories to have been occupied since 1956? That makes no sense whatever, unless we are engaged in some kind of history seminar, which we are not; we are talking about the UK Government's position on whether territories have been occupied since 1956. The Government are happy to say that Crimea is occupied, but not whether they consider other countries or territories to have been occupied in that period.

Victoria Borwick: I think the point is that if a Security Council resolution regards a territory as being occupied, surely that is on the record.

Kevin Brennan: It may well be on the record, but the hon. Lady herself made the point that clause 16(6) says that territory is considered occupied if, once proceedings have begun, a certificate is issued by the Secretary of State, whatever the UN has said. The Bill says:

"a certificate by the Secretary of State is conclusive evidence as to whether, at a particular time, territory was occupied by a party to the First or Second Protocol or by any other state."

Can the Minister add further clarity to that? We have not really had a full explanation as to why the Government are reluctant to produce that list. There may be reasons, but I am not sure that we have teased them out yet.

Mr Jonathan Djanogly (Huntingdon) (Con): This is an interesting discussion, but I wonder whether the reason goes more towards the effectiveness of the convention. If states have not been producing lists, could it be that some countries are bringing prosecutions that other countries would not, because they view what should go on the list differently? If so—this is perhaps one for the Minister—perhaps this should be looked at internationally, so that an agreed list is formed.

Kevin Brennan: The hon. Gentleman is an eminent lawyer and understands these matters much better than I do. I am sure that he is correct to say that that is part of the problem, but I imagine that agreeing on a list internationally will be much more difficult than the UK Government drawing up their own list of territories that they consider to be occupied. After all, we are bringing these provisions into UK law, so it would be during proceedings in the UK when this would be a matter of importance. I do not think that there is any great logic in why the Government have said that they are not prepared to produce a list. We will not vote against the clause, but if the Minister has anything further to add, I am sure it will be helpful.

Tracey Crouch: The only thing that I would like to add is that the hon. Member for Cardiff West is a very experienced and somewhat naughty man for leading me down a garden path; I will now no doubt get a smacked bottom from the Foreign Secretary for declaring, on the record, that comment about Crimea. It is important to stress that this is an incredibly complex area, involving sensitive issues relating to foreign affairs. No other state that is part of the convention has produced a list. I appreciate that the hon. Gentleman does not think that a reliable or worthy response to the issue. We want to make sure that we introduce the Bill and ratify The Hague convention properly, so that we protect cultural property in the United Kingdom and abroad.

We firmly believe that the Bill does not place any further burdens or restrictions on the art market. There is nothing in the Bill that those in the art market do not already do, in terms of due diligence. Where they have concerns, we would expect them to seek appropriate legal advice, as they currently do. There is a whole wealth of people out there who are able to provide that.

Victoria Borwick: I want to take the Minister up on the due diligence point, if I may. Inevitably, there are different levels of due diligence, and different categories. There is no accepted level of due diligence. This goes back to the point made about getting absolute clarity in the Bill, because nobody wants there to be confusion later. We all have the right spirit here; we are just making sure that things are absolutely clear. There are inevitably different levels of due diligence for different categories of objects, with the risk of forfeiture and potentially a prison term.

Tracey Crouch: I hope that those in our art market, with all their expertise and with the market's worldwide reputation for being one of the best, have the highest standards of due diligence, and that when it comes to these specific cultural objects of great importance to all people, as defined by the convention, they take particular care with due diligence, as set out by their own industry codes and standards of ethics. They are self-regulated, and they provide a gold standard of best practice for the rest of the world, and I hope that they will continue to do so.

I reiterate that we do not think it is necessary to produce a list; we do not think that it would be helpful in a wider sense. A certificate from the Secretary of State would only be used during a dispute on an issue. We believe that this is the right way forward, and I hope that the clause will stand part of the Bill.

Question put and agreed to.

Clause 16 accordingly ordered to stand part of the Bill.

11.25 am

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

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

CULTURAL PROPERTY (ARMED CONFLICTS) BILL [*LORDS*]

Second Sitting

Tuesday 15 November 2016

(Afternoon)

CONTENTS

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Saturday 19 November 2016

The Committee consisted of the following Members:

Chairs: Ms Karen Buck, † Mr Andrew Turner

† Allin-Khan, Dr Rosena *(Tooting)* (Lab)
† Borwick, Victoria *(Kensington)* (Con)
† Brennan, Kevin *(Cardiff West)* (Lab)
† Bryant, Chris *(Rhondda)* (Lab)
† Burrowes, Mr David *(Enfield, Southgate)* (Con)
† Crouch, Tracey *(Parliamentary Under-Secretary of State for Culture, Media and Sport)*
† Davies, Mims *(Eastleigh)* (Con)
† Djanogly, Mr Jonathan *(Huntingdon)* (Con)
Doughty, Stephen *(Cardiff South and Penarth)* (Lab/Co-op)
† Nicolson, John *(East Dunbartonshire)* (SNP)
† Offord, Dr Matthew *(Hendon)* (Con)
† O'Hara, Brendan *(Argyll and Bute)* (SNP)
Smeeth, Ruth *(Stoke-on-Trent North)* (Lab)
† Smith, Jeff *(Manchester, Withington)* (Lab)
† Stuart, Graham *(Beverley and Holderness)* (Con)
† Sturdy, Julian *(York Outer)* (Con)
† Thomas, Derek *(St Ives)* (Con)
† Warburton, David *(Somerton and Frome)* (Con)

Katy Stout, *Committee Clerk*

† attended the Committee

Public Bill Committee

Tuesday 15 November 2016

(Afternoon)

[Mr Andrew Turner *in the Chair*]

Cultural Property (Armed Conflicts) Bill [*Lords*]

Clause 17

Offence of dealing in unlawfully exported cultural property

2 pm

Kevin Brennan (Cardiff West) (Lab): I beg to move amendment 7, in clause 17, page 8, line 12, leave out

"or having reason to suspect".

The Chair: With this it will be convenient to discuss amendment 1, in clause 17, page 8, line 12, leave out "having reason to suspect" and insert "believing".

Kevin Brennan: It is a great pleasure to serve under your chairmanship, Mr Turner. You missed an exciting sitting this morning, when the Committee Room was fizzing with debate on all sides—I am sure that it will be the same this afternoon. It is appropriate that you should be in the Chair, because I know that, as well as representing the Isle of Wight and its great cultural treasures, as you do so assiduously, you are originally from Coventry. The subject of the Bill was initially born of the experiences of world war two, when the cultural treasures of cities across Europe, such as Coventry and Dresden, were destroyed terribly by bombing. I am sure that the Bill will be close to your heart, and it is therefore appropriate that you should be chairing proceedings this afternoon.

Along with amendment 7, which was tabled by my hon. Friend the Member for Tooting and me, we are discussing amendment 1, which was tabled by the hon. Member for Kensington, who I am sure will want to speak to it in due course. We are all trying to tease out from the Government exactly what they are trying to achieve with this part of the Bill and what the practical effect of clause 17 will be on people who are dealing in cultural items when they have to operate under the Bill's provisions.

Amendment 7 is another probing amendment, because we want further clarity on the Government's intention. It proposes removing the phrase

"or having reason to suspect"

from the clause, which is on the offence of dealing in unlawfully exported cultural property. Some concern has been expressed about that particular phrase because of the so-called mens rea—I understand that is what lawyers call it—meaning the intention of someone accused of committing a criminal act of some sort. Would having that phrase in the clause affect honest people who are simply trying to do their job? Will the clause achieve what the Government undoubtedly intend it to achieve, which is to unambiguously target those with criminal intent?

Labour Members are supportive of the Bill, but as it stands the clause creates concerns that there would be a risk that a dealer or auction house might face a criminal prosecution when conducting what they would describe as honest due diligence.

Mr David Burrowes (Enfield, Southgate) (Con): As I am a lawyer, anyone who mentions mens rea will make my ears prick up and get me excited after lunch. The shadow Minister mentioned the need to consider the practical effect, which is the important issue. Will he give an example of the practical effect that goes to the heart of both his amendment and that tabled by my hon. Friend the Member for Kensington and that would not be dealt with already, not least under the sanctions orders that cover Iraq and Syria, which are already having practical implications?

Kevin Brennan: I am very interested to hear what gets the hon. Gentleman excited after lunch, or indeed at any time of the day. To answer his point, I am sure he is anticipating what the Minister might say in response, but I shall rehearse the issues a little as I go through my remarks. It is important that we get these points on the record and air the concerns of those outside the Committee so that the Minister has an opportunity to respond. As I said, this is a probing amendment. At the end of our debate we will withdraw it, because we have sympathy with the point that the hon. Member for Enfield, Southgate makes. However, I want to ensure that the concerns expressed to us in representations are on the record and have been rehearsed.

Although a conviction might ultimately be avoided, no one wants to take a chance on the possibility of people being prosecuted, with all the reputational damage and cost that could be involved. Concerns have been expressed that the result could be to turn legitimate sales away from the UK, impacting upon the future success of the art market, which is a large industry in this country. It depends, crucially, on persuading sellers throughout the world to use the UK's services. The British Art Market Federation states that its members

"are committed to conducting due diligence on artworks before they are sold. This may involve written evidence of provenance, consultation where necessary with external bodies, including databases of stolen objects and inquiries of the vendor."

It goes on to argue:

"It is rare, however, that an artwork, particularly an older one, has an unbroken chain of provenance going back to the time it was created. It is also rare that there is comprehensive documentary evidence to support provenance, particularly the further back in time it goes."

Often that evidence has been lost or perhaps never existed in the first place, as it may have been considered unnecessary at the time.

The retention of documents or records has assumed greater importance in recent years, as more and more claims have been made for the restitution of works of art that were looted during the second world war. Until relatively recently, owners rarely retained copies of export licences. As I understand it, the practice was that they were surrendered to customs authorities at the time

of export. Even the authorities themselves did not retain such records beyond a limited time. I am told that objects that were legitimately exported many years ago, even from the UK, routinely lack such documentary evidence that might prove the provenance.

The argument has been put to the Committee that the absence or paucity of documentary evidence does not necessarily indicate that an object is of illicit origin. Due diligence, in practice, can therefore usually come down to trying to make judgments on the legality of an object and therefore whether or not it can be legally sold. As I am sure the hon. Member for Kensington will remind us, the BAMF is not the only body with a behavioural code. The Antiquities Dealers' Association also has a code of practice that is meant to ensure that dealers buy and sell in good faith. Against that backdrop, it argues that clause 17, as drafted, could present its members with some difficulties.

It was pointed out on Second Reading that other offences dealing with crimes of dishonesty—for example, offences under the Dealing in Cultural Objects (Offences) Act 2003—opt for the phrase "knowing or believing". Some argue that that phrase would be superior to the one used in the Bill, as there is a difference between having knowledge and acting in spite of it, and not having sought out that knowledge in the first place. Current principles indicate that under current law the former would be a criminal offence and the latter, although it would be frowned upon, probably would not meet the bar of being a criminal offence.

The BAMF argues that changing the phrasing of mens rea in the Bill to include the phrase "having reason to suspect" muddles the legal principle and could create ambiguity, and therefore the opposite outcome to the one we all want. It suggests that those who have acted criminally could be emboldened to exploit the muddled language to avoid conviction, while legitimate operators would be put off buying and selling by the potential of a criminal conviction. The issue has been raised many times during the passage of the Bill, so this is a probing amendment to understand fully why the Government have not responded and changed the wording.

From memory, the Secretary of State said on Second Reading—I will check the record when I sit down—that she would go away and consult the Minister and others to see whether the Government should take on board the concerns expressed on the Floor of the House and in the other place and then offer an amendment. I would be grateful if the Minister, when she responds, could indicate whether the Secretary of State has fulfilled that commitment and what the outcome of those discussions was.

Victoria Borwick (Kensington) (Con): It is a pleasure to serve under your chairmanship, Mr Turner. I declare an interest as president of the British Antique Dealers' Association. I have also been advised by the British Art Market Federation, the Antiquities Dealers' Association and LAPADA, all of which have made written representation to the Committee.

Amendment 1, which stands in my name, relates to the most important point made in the submissions from the art and antiques trade, including from the British Art Market Federation, the Antiquities Dealers' Association and LAPADA, and from Professor Janet Ulph. I have spoken before of the need for certainty in law—a point that other colleagues have made—so that well intentioned and honest dealers and auction houses are clear as to what is permitted. That is even more important when there is the possibility of a criminal conviction. The concern is over the level of knowledge of wrongdoing required before a dealer or auctioneer can be judged to have committed a criminal offence—what I understand the lawyers call mens rea—and whether that has been expressed to an appropriate level in the Bill.

Clearly no one objects to the word "knowing" in the relevant subsection. If a dealer knows that cultural property was unlawfully exported from an occupied territory, they are guilty of an offence. The problem lies with the additional criterion for committing an offence when someone has "reason to suspect" that an item was unlawfully exported. Despite carrying out appropriate provenance checks on an item of cultural property, a dealer or auctioneer might, just prior to exhibiting it at an antiques fair or auction, receive an unsubstantiated allegation that it was illegally removed from an occupied territory, or a request for evidence that it was legally exported. The allegation might be totally groundless, but the seller, despite genuinely believing that the item had not been illegally exported, would fear that the allegation could be deemed "a reason to suspect", and that could lead them to withdraw the item from sale. The time-dependent opportunity to sell it would be lost, and the very act of withdrawal could well damage the artwork's future saleability.

My right hon. and learned Friend the Member for Harborough (Sir Edward Gamier), a former Solicitor General, made that point succinctly in an article in *The Times* on 3 November—it has been appended to the submission from the Antiquities Dealers' Association. He wrote:

> "The mere making of an unfounded allegation that an item was unlawfully exported from an occupied territory after 1954 may place in the mind of the potential dealer or auctioneer a reason to suspect that it has been unlawfully exported; and although it may later turn out to be untainted, he will not go near it."

2.15 pm

I also draw Members' attention to the submission from the British Art Market Federation, which gives current examples of the issue, particularly at paragraphs 14 and 15. It states:

> "An example may serve to illustrate the uncertainties created by this Bill. An old master picture that has changed hands on the legitimate open market in Europe in the past few years is sent to London for sale by auction. Due diligence is carried out and its known provenance is investigated, as is its sale history, and checks are made that it has not been stolen. The picture is then included in an auction catalogue which is published several days before the sale. An allegation is then made that it was removed from an occupied eastern European country in the 1960s. Time is necessarily short to investigate whether this is true or not. Attempts to resolve the matter beyond doubt before the auction do not succeed and even though it may well prove groundless the allegation itself represents a reason for suspicion under the terms of the Bill, as currently drafted.
>
> Not wishing to run any risk of prosecution, the auction house has no alternative but to withdraw the picture from the auction, to the disadvantage of its owner, who at best will have to wait for another auction and, at worst, will face financial loss, as marketing it for a second time may adversely affect its value.
>
> The rarer and more valuable a picture is, the greater risk that its successful sale will be prejudiced by a withdrawal from an auction. In time, the allegation may prove groundless but the damage will have been done.

How is the auction house or dealer to respond if an assertion is made on social media or a blog that an object may be in breach of this new law? The allegation may subsequently be proved to have no foundation, but no auction house is likely to run the risk of possible criminal prosecution, and if, as in this example, there is no time to investigate its veracity, there will be no choice but to remove it from the sale."

I recall the Secretary of State saying on the Floor of the House on 31 October:

"It is important that we are clear that the Bill will not hamper the way in which the art market operates."—[*Official Report,* 31 October 2016; Vol. 616, c. 700.]

The closest existing legislation to the current Bill is the Dealing in Cultural Objects (Offences) Act 2003, which is concerned with illegally removed archaeological material and objects illegally taken from monuments or historical structures. However, unlike the current Bill, in which the types of cultural property covered are extensive and could even include cultural property in people's family collections, the 2003 Act does not cover works of purely artistic interest. In that Act, a person commits an offence if they deal in such cultural objects "knowing or believing" them to be tainted. For good measure, that offence also requires the dealer to have acted "dishonestly". I understand that the Theft Act 1968 also requires the mental element of dishonesty.

As the BAMF has stated, both those existing statutes mean that a dealer with honest intent and conducting reasonable due diligence is highly unlikely to run the risk of prosecution, unless it is shown that they wilfully acted dishonestly. Although I understand that the Government have cited article 21 of the second protocol of the convention as justification for a lower level of mens rea, I draw my hon. Friend the Minister's attention to article 15 of the protocol, which indicates that an offence has occurred if a person intentionally commits an act of theft or misappropriation against cultural property protected under the convention. Surely that suggests that an element of dishonest criminal intent is required by the convention.

For the Bill to introduce a lower threshold of mens rea would amount to gold-plating, which appears to run counter to Baroness Neville-Rolfe's assurances in the other place that the Government intend

"to do only what is necessary to meet our obligations under the convention and its protocols."—[*Official Report, House of Lords,* 6 June 2016; Vol. 773, c. 586.]

I also understand that the Government have cited the Syria and Iraq sanctions orders as examples where "having reason to suspect" is the required level of mens rea. I am not a lawyer, but I have been told that this level of mens rea is unusual as a basis for establishing criminal intent. The Syria and Iraq orders relate to clearly identified geographical locations and, by their very nature, are likely to be short-term. As Orders in Council, they were not subject to consultation and parliamentary scrutiny. They have little in common with the Bill.

For all those reasons, the words "having reason to suspect" are inappropriate. Terms such as "believing" or even "suspecting" carry greater certainty and clarity. I emphasise that this is a point of law; it does not weaken or water down the Bill. We all understand that the objective is to squarely target those with criminal intent. My hon. Friend the Member for Enfield, Southgate said that sufficient reassurance should be given to the trade in the guidance on the Bill. I do not wish to divide the Committee, so I will not press my amendment. However, I would be grateful if the Minister took those points of law into account.

Mr Jonathan Djanogly (Huntingdon) (Con): Although I have no interest in any bodies that sell art, I appreciate the importance of art sales to this country. I would therefore like to say a few words. I have read the Second Reading debate, along with subsequent briefings from various parties. This has clearly become a contentious issue for a number of right hon. and hon. Members, and indeed for a significant section of the art market. My hon. Friend the Member for Kensington and the hon. Member for Cardiff West have set out those concerns very effectively, and I do not intend to rerun them. I note the Government's position that this offence and the change in the criminal intent required will not in practice make a difference to the operation of the art market in the UK. I am sure that the Minister will elaborate on that point.

I appreciate the practical reality of the change in legal approach. Whatever the Minister says today, nothing will be able to stop a prosecuting lawyer advising that this is new law and that it is therefore open to be tested in the courts. Furthermore, because of the nature of the changes, there are those in the auction market and wider art market who would have concerns that the existing, accepted levels of due diligence will be threatened by the legislation, and uncertainty is always the enemy of business. The art sellers' fear is that, as a result, Britain could lose its international pre-eminence in the art sales arena—a scenario that none of us would want to see.

I have a suggestion. When I was a shadow Minister, I scrutinised the previous Labour Government's Bribery Act 2010, which mostly had cross-party consensus. The Act also addressed corruption. As with this Bill, we had to persuade large sections of the business community that its practical application would not disrupt their operations. The route devised to address those concerns was for the relevant Department to publish guidance. There was significant and wide consultation on that guidance, which addressed the more day-to-day, process-type decisions and due diligence considerations that could not realistically have been included in the legislation.

For example, if the famous picture to which my hon. Friend the Member for Kensington referred had been removed from a Soviet-occupied country in the 1970s—a country that is no longer occupied, of course—would it come within the Bill's scope? Or if the same picture had been shown in a widely distributed sale catalogue for a certain period of time, would it be acceptable for an allegation of dodgy provenance to be made on social media half an hour before the sale, so that the auctioneer would stop the sale, possibly affecting the picture's value and a possible future sale, even if the allegation was subsequently disproved? If so, under what conditions would that be acceptable? Those concerns also apply to clause 2 and what constitutes property that is important to all peoples.

By using guidance that is properly consulted on, acceptable practice norms could be established and generally supported with the buy-in of our art selling and auctioneer communities. That could address many of the practical concerns raised on this clause. I would be grateful to hear the Minister's views on what I hope she will take as a positive suggestion.

Mr Burrowes: It is a pleasure to take part in the debate on clause 17, which drew a lot of attention from both Government and Opposition Members on Second Reading, as well as in the other place and among the all-party group on the protection of cultural heritage. I welcome the involvement and contributions of the Antiquities Dealers' Association, the British Art Market Federation and others, which have drawn their expertise to the Committee's attention in their submissions. I very much respect their concerns, amplified by my hon. Friend the Member for Kensington, about mens rea, which, as I said earlier, gets me interested.

Were one to have a blank canvas—I suppose this is an appropriate forum in which to discuss canvases—there would be an even greater weight to the argument. As a criminal lawyer, when I look across the family of dishonesty-type offences, I will plainly be looking at the state of mind. In the normal course of dishonesty-type cases, one would look to ensure that there is a subjective test that is consistent not only in terms of enabling a prosecution, but with an eye to how the judge would distinguish between or collate the subjective and objective elements in the summing up to the jury. I appreciate that everyone wants to ensure that prosecutions under the Bill are successful.

Having said all that, although I accept that there is genuine concern about the potential effect on the market, I say, respectfully, that it has been somewhat overstated. Given that we do not have a blank canvas, the idea that the implementation of the Bill will cause such repercussions on the market has been overstated. Elements of the canvas are relevant and show things working, albeit in a slightly different form. The Syria sanctions order and the UN's Iraq sanctions order are relevant and give some texture to enable us to recognise that a precedent has been followed in relation to this particular element of the subjective and objective tests.

One can also look further afield. We can have our own views, but to give a sense of balance, if one looks at the recent written submissions to the Committee, some significant views have been brought to our attention. Mr Michael Meyer is head of international law at the British Red Cross, a respected body of international import when one is dealing with issues of international humanitarian law. In his written evidence, he makes the point that the British Red Cross is a neutral body that is keen to maintain its neutrality—the commonality of that view was shown in both this House and the other place.

In paragraph 5 of his submission, he outlines some concerns that have also been raised in this debate. He then says:

"However, it appears that, in practice, the clause should place no greater burden on dealers than already exists to conduct appropriate due diligence. In other words, the threshold of 'reason to suspect' is not so low as to have an adverse impact on the legitimate market, while at the same time acting as a necessary and suitable deterrent for those who may be less scrupulous. The wording is somewhat similar to that used in the existing Iraq and Syria sanctions orders. There is also very similar wording found in section 17 of New Zealand's Cultural Property (Protection in Armed Conflict) Act 2012."

Interestingly, the latter Act also dealt with the ratification of The Hague convention.

The written evidence from Peter Stone, the UNESCO chair in cultural property protection and peace, to whom I have referred previously, asks the Committee not to amend the Bill. He draws attention to clause 17 and prays in aid the note submitted by Professor Roger O'Keefe of University College London law school, who was involved in scrutinising the draft Bill before the Culture, Media and Sport Committee. He, too, very much supports the current wording and suggests that appropriate due diligence and legal advice can deal with concerns.

2.30 pm

The Council for British Archaeology has already recommended to the Committee that the Bill's drafting is adequate, as has the UK National Committee of the Blue Shield. I say that to show that there is a balance of opinion. One way of properly dealing with the suggestion that the amendments will not be pressed is by recognising that this issue is important. I recognise and value the pre-eminence of the market here, not least in London. We need to ensure that there is proper confidence, assurance and guidance, and appropriate clarity and transparency, to ensure that any chill factor or fear of a knock on the door, seizure of any artefacts and so on, will not be there. We need real clarity, so that there will not be the cost of having to get expensive lawyers on the case—I know about those. Perhaps the Minister can give some assurance on that, and recognise that there is a balance of opinion that wants to move forward and keep the drafting as it is, given that we do not have that blank canvas in place.

The Parliamentary Under-Secretary of State for Culture, Media and Sport (Tracey Crouch): As always, it is a pleasure to serve under your chairmanship, Mr Turner. Welcome to the afternoon session. As the hon. Member for Cardiff West pointed out, the morning's session was full of consensus and we moved quite swiftly through the Bill. It is a pleasure to continue this morning's work.

Before I get into the detail of clause 17, allow me—for the second time—to answer directly the hon. Gentleman's question, this time on consultation, which he raised about the Secretary of State and I holding further meetings. I can confirm that the Secretary of State and I have both had further meetings with stakeholders, as have officials. I am grateful for the time that others have afforded us to have further discussion on this clause.

Kevin Brennan: The Minister also said on Second Reading—it is in column 700 of *Hansard*—that she would meet concerned parliamentarians. Was she able to do so, as part of that process?

Tracey Crouch: I am pleased to confirm that I have had meetings with concerned parliamentarians since Second Reading, and I am sure that I will continue to do so before Report, if necessary.

The debate this afternoon has been interesting. I am grateful to colleagues for raising these issues, because it allows me as Minister to try to reassure them and other stakeholders who are concerned about clause 17.

Clause 17 creates the offence of dealing in cultural property that has been unlawfully exported from occupied territory. An offence is committed if a person deals in unlawfully exported cultural property when they do so knowing or having reason to suspect that it has been unlawfully exported. The amendments tabled to clause 17 seek to modify or remove the "reason to suspect" element. It is therefore important to explain our approach to the mental element of the dealing offence.

[Tracey Crouch]

First, we did not develop this approach in a vacuum. The wording was developed following discussions with the police, who felt that this threshold was appropriate. Crucially, I understand that the national policing lead for cultural heritage crime remains content with our approach. Secondly, the mental element of the offence created by clause 17 is comparable to similar offences concerning cultural property implemented by the Iraq and Syria sanctions orders, which use "reason to suppose" and "reasonable grounds to suspect". The offences created by those sanctions orders are the most appropriate comparators, as they deal with cultural objects which have come from situations of conflict. Thirdly, we know that the Bill sets a lower threshold for criminal intention—or mens rea—than other existing legislation, including the Dealing in Cultural Objects (Offences) Act 2003. However, the Government consider this to be appropriate, given that it is designed to protect a very special and limited class of cultural property that is of great importance to all people, as defined by article 1 of the convention.

As part of my discussions with concerned stakeholders in the House, I have taken representation from those with close connections to the art market. When they have been discussing issues around the difference between the mens rea in the 2003 Act and in this Bill, there was a suggestion that perhaps we should review the 2003 Act when the opportunity arises. If there is continued concern about the differences between the mens rea in this Bill and that in the 2003 Act, we will certainly look to increase the mens rea in the 2003 Act, rather than watering down the mens rea in the Bill.

To be clear, we arrived at our approach for three main reasons: first, following consultation with the police; secondly, due to the close analogy with the Syria and Iraq sanctions; and thirdly, because we are looking to protect such a small and special class of objects. We are pleased to note from the written evidence the support we have for that approach, including positive statements from academics, the British Museum and the Council for British Archaeology. I draw Members' attention to the views set out in the British Museum's written contribution:

"We feel it is particularly important that there is no watering down of responsibilities or requirements in the Bill. Specifically we feel that in regard to the Clause 17...it is imperative that the wording should remain 'knowing or having reason to suspect that it has been unlawfully exported'".

I find the museum's views particularly compelling as its officials regularly offer their expert advice to the art market as part of the due diligence process.

My hon. Friend the Member for Enfield, Southgate stole my quotation from the British Red Cross, but it is worth repeating that it said that

"it appears that, in practice, the clause should place no greater burden on dealers than already exists to conduct appropriate due diligence. In other words, the threshold of 'reason to suspect' is not so low as to have an adverse impact on the legitimate market, while at the same time acting as a necessary and suitable deterrent for those who may be less scrupulous."

I want to move on to consider the impact of our approach and explain how it will work in the real world. Reason to suspect is primarily an objective test, in that the prosecution need not show that the defendant personally suspected that cultural property was unlawfully exported—only that a reasonable person would have suspected that it was. However, the prosecution must be able to point to something that would or should have caused a reasonable person to suspect. It therefore has to be shown that the defendant was personally in possession of the knowledge that would cause a reasonable person to suspect.

A dealer who took possession of an object merely for the purpose of carrying out due diligence would not be committing an offence, as that would not be classed as dealing. They would commit an offence only if, having been through the due diligence process, they went on to deal with the object after discovering or having had reason to suspect that it was unlawfully exported. The Bill will not require art dealers to change how they operate. The art market is a self-regulated industry and the trade associations already have clear due diligence guidance and checklists in place, which they expect dealers to follow before putting an object forward for sale.

My hon. Friend the Member for Kensington and others raised concerns in the consultation in the run-up to the Bill that a phone call received or accusations published in a blog post shortly ahead of a sale could stop it from proceeding. However, those are already issues for the market, and they will not be solved by watering down our Bill. If new, convincing evidence is presented about the provenance of an object shortly before an auction, we would already expect dealers to pause and consider whether they need to undertake further due diligence. If, however, the claim is a completely false accusation with no evidence to back it up, it may be perfectly legitimate for a dealer to ignore it. Such accusations are unlikely to be considered a reason to suspect that an object has been unlawfully exported. We have listened to the concerns of the art market, but it has not provided any compelling evidence to support the idea that the Bill would create insurmountable problems for the market, or increase the amount of due diligence that it needs to undertake.

The hon. Member for Cardiff West has suggested removing "reason to suspect" altogether, which would mean that an offence would be committed only if it could be proved beyond reasonable doubt that a defendant knew that they were dealing in unlawfully exported cultural objects. That sets the bar far higher than for either handling stolen goods under the Theft Act 1968 or dealing in tainted cultural objects under the 2003 Act. I am concerned that requiring proof of actual knowledge on the part of the dealer, as opposed to reason to suspect, could actually discourage less scrupulous dealers from carrying out due diligence, and enable them to turn a blind eye to things that would cause a legitimate dealer to ask more questions.

I appreciate that the Opposition's amendment is probing, but I was a little surprised by it, given that on Second Reading the hon. Member for Sheffield, Heeley (Louise Haigh) criticised the threshold of the 2003 Act for being too high and seemed content with the level of mens rea proposed in the Bill. She hoped that on that point

"the Minister will stick to her guns"——[*Official Report*, 31 October 2016; Vol. 616, c. 736.]

The amendment would make it much harder to prosecute dealers who deal unlawfully in cultural property. That seems to me to be an extraordinary change in position; but fortunately the amendment is merely probing.

My hon. Friend the Member for Kensington has proposed amending "reason to suspect" to "believing". Her amendment would raise the threshold for criminal

liability so that proof was required of the dealer's belief that the object was unlawfully exported. That would be seen in a number of quarters as a watering down of the Bill. The offence created by clause 17 will not have an adverse impact on legitimate dealers who have continued to operate since the Iraq and Syria sanctions came into force, but it will cause unscrupulous ones to think twice. Dealers should always be concerned to establish that any cultural object that they are asked to deal with has good and lawful provenance. The argument that this new offence will stifle the art market seems to imply that dealers are happy to risk dealing in unlawfully exported objects as long as they cannot be prosecuted. Dealers should not be taking such risks in any event; where there are question marks over provenance, they should simply not deal in those cultural objects. I would like to stress once more that the Bill should not require changes to the due diligence processes that the art market already follows.

I refer to the wise counsel of my hon. Friend the Member for Huntingdon and his experience of the issue with regard to the Bribery Act 2010. I confirm that the Government are committed to updating the guidance available to all stakeholders in this Bill. We stand ready to work co-operatively with the art market to ensure that all dealers understand their roles and responsibilities. That could if necessary include consultation before the guidance is issued, if that is helpful. I hope that reassures hon. Members and that the hon. Member for Cardiff West feels able to withdraw the amendment.

Kevin Brennan: I thank the Minister for her response. I confirm that amendment 7 is a probing amendment. She quite rightly picked up on the summing up that my hon. Friend the Member for Sheffield, Heeley made on Second Reading. This is an important issue and the debate has been useful, and a probing amendment is a useful vehicle for a debate. The Minister just mentioned the hon. Member for Huntingdon, and it is useful to have on the record her commitment on the guidance.

Several extended metaphors have been used during our debate. The hon. Member for Kensington talked about gold-plating. I do not think anything that is gold-plated is covered in the Bill; it might not be of sufficient cultural importance. *[Interruption.]* I have at last provoked a reaction from my hon. Friend the Member for Rhondda, who insisted that he would take no part in today's proceedings. He did comment from a sedentary position that it was a rather extended metaphor about the blank canvas. Of course, we want to make sure that nobody gets framed.

One of the many interesting things that the Minister said was that the Government are considering increasing, or strengthening, or decreasing the mens rea, whichever way round it is. I do not know the correct phrase; I am not a lawyer.

Tracey Crouch: I said that we would be happy to consider doing that, if the art market and stakeholders were interested in making sure that the Bill and the 2003 Act were more aligned.

Kevin Brennan: I will not get into a discussion on the difference between being happy to consider something and considering something, much though I would enjoy that. I will rephrase: the Minister confirmed that she would be happy to consider changing the threshold in relation to the 2003 Act.

The Government's position is quite interesting. There has been only one successful prosecution and conviction under the 2003 Act, in May this year; somebody was convicted after having gone around historical churches across the country and stolen Bibles, statues, friezes and even two 15th century oak panels in Devon. They pleaded guilty to 37 offences of theft under the 2003 Act and received a three-year sentence. However, the Government were keen to say on Second Reading—this is how I understand their position—that that in no way reflects the Act having too high a threshold for prosecution, and that it might in fact be a result of the Act acting as a deterrent. I do not believe that. I think that if people are being prosecuted, it is under the Theft Act 1968 or other Acts relating to these sorts of offences.

2.45 pm

The Minister is right to consider looking at the 2003 Act again in conjunction with the market, because if there is a bumpy playing field, it may well create perverse incentives when it comes to which laws are used to prosecute people who carry out these offences. It has been helpful to discuss the issue. This was a probing amendment, and I beg to ask leave to withdraw it.

Amendment, by leave, withdrawn.

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

The Chair: With this it will be convenient to discuss new clause 3—*Cultural property: duty to provide information—*

'(1) Auctioneers and traders within the United Kingdom shall have a duty to provide buyers and potential buyers of items of cultural property (including antiques, cultural artefacts and artworks) with information to enable buyers and potential buyers to decide whether the item has been unlawfully exported within the meaning of section 17 of this Act.

(2) The Secretary of State may make regulations specifying the nature of the information to be provided under subsection (1).

(3) Regulations under this section—

(a) shall be made by statutory instrument, and

(b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.'

Kevin Brennan: It is me again, I'm afraid, Mr Turner. Hopefully we will be able to get through our proceedings fairly expeditiously this afternoon. I will make some brief remarks on the clause before I turn to new clause 3.

To return to what we were just discussing, the Bill's focus on preventing the illegal exportation of cultural property from occupied territories is certainly vital, and we very much welcome that. Daesh, which sometimes calls itself ISIS, has set up a so-called ministry of antiquities. If ever there was a perverse use of that terminology or an example of Orwellian newspeak on stilts, that is it, because that body exists simply to turn cultural property into income streams for that terrorist organisation by exporting and selling stolen precious items abroad. We have discussed the concerns regarding the phrase "reason to suspect" in clause 17(1), so I do not intend to rehearse those points.

New clause 3, which stands in my name and that of my hon. Friend the Member for Tooting, aims to ensure that the art market produces and keeps records necessary

[Kevin Brennan]

to determine whether an item has been illegally exported. Once again, it is a probing amendment, but we want to hear the Government's response to our suggestion. We have heard that there is not always a good paper trail in the arts market for objects of the kind that we are discussing, so the new clause is an attempt to look at the problem of ineffective accountability from a different angle. It is no use punishing legitimate operators for a lack of knowledge when there is little reliable paperwork. That could divert resources away from stopping criminals carrying out the activities that the Bill intends to deter people from doing. If we ensure that reliable paperwork is produced and kept, perhaps we can hold the market to account more effectively.

I mentioned on Second Reading that cultural property is important in at least two ways. The first is through its monetary value, and the second is through its importance culturally and to the morale of a particular country—or, indeed, the world. We have heard much about the importance of heritage to morale, in terms of cultural, national and personal identity. We have also heard how groups such as Daesh mobilise cultural property for money by illegally exporting artefacts and selling them on the international market. UNESCO found that looting is happening on an industrial scale in the middle east, and that is what we are trying to discuss and seek a way of tackling with the new clause.

I have outlined the challenges that the art market faces in trying to assert provenance. Paperwork stretches back only so far, and that which existed before the 1990s was not always kept by owners or authorities. That has resulted in what some have seen as a culture of non-disclosure in the art market. With our earlier amendment 7, I was keen to show that we do not in any way oppose the art market. Rather, we want to support those who work to make it exemplary, by providing a legal backstop to their codes of practice and due diligence. As I have mentioned, this is a very valuable industry, worth many billions of pounds under some estimates, and London's art market is the second largest in the world. We want to support those who work to ensure that its reputation remains high, and that it therefore continues to hold a pre-eminent role in the world.

Of course, an object's entire paper trail cannot be retroactively reconstructed, but we can put in place robust measures to ensure that records are reliable from this point. We should aim for the transparency that we demand in other industries because, as in every industry, there are activities and actions of individuals within it that have to be deterred and prevented. A lot of investigative work was done by both Channel 4's "Dispatches" and *The Guardian* into some of those activities. I understand that the Metropolitan police have stated that the market has improved recently, largely due to the due diligence practices that we have discussed. Building on that, it is not unreasonable to expect, as a minimum, that the identity of an item's owner and buyer should be made known, as referred to in subsection (1) of the new clause.

Subsection (2) would have the Secretary of State bring forward regulations regarding specific requirements for transparency. I think that a similar amendment was proposed in the House of Lords, to which the Government objected because it would have put too much detail in the Bill. That is always an objection that Governments, often reasonably, but at other times unreasonably, bring forward. In this version, we have allowed the Secretary of State the opportunity to bring forward those regulations on what would be specifically required for transparency. That is so that there can be appropriate consultation with the market, and an opportunity for others to make representations on the exact detail of what that transparency would consist of. It is not possible to trace the entire provenance of every item, but if the Secretary of State were to ask, or require, that an effort be made to identify owners since 1970—the date of the UNESCO convention—that would go a long way towards helping to improve the market.

I have outlined that there are self-regulatory codes of practice in place in the art market. I am happy to praise the industry for putting those in place and for the improvements in recent years. However, the Government have acknowledged that that is partly due to the effect the 2003 Act had in incentivising due diligence, so legislation can have an impact on improving due diligence. With this new clause, we are suggesting that we should not be complacent. The Bill is an opportunity to incentivise further transparency and deter further fraudulent behaviour. Does the Minister agree with that? We are approaching the same issue of criminality from a different angle, and our aim is to establish effective enforcement and deterrents. I look forward to hearing the Minister's response on new clause 3.

Victoria Borwick: I wish to comment on new clause 3 on behalf of the art and antiques trade, because I believe that it is entirely inappropriate. I believe that there is considerable misunderstanding about the information available for millions of works of art, antiques and antiquities owned by citizens and institutions in this country. The submissions from the trade make it clear that the vast majority of cultural objects, whether held privately, in museums, or being bought or sold on a daily basis, are not supported by historical or documentary evidence of previous ownership, or the dates and locations of their previous whereabouts—what the art market calls provenance.

That is inevitable when you consider that works of art have been entering and leaving this country for hundreds of years. Documentary evidence may never have existed, may have been lost with the passage of time, or may never have been considered necessary. Until very recently, owners of objects rarely retained copies of export licences, and the originals would have been surrendered to the authorities. Although it would now be considered good practice to retain such information, it is not possible retrospectively to create a paper trail for the majority of objects where none exists.

The absence of such documentary evidence by no means necessarily indicates that an object is of illicit origin. On a daily basis those in the trade have to make honest judgments for the majority of objects for which no documentary evidence exists. Taking that into account, when a dealer is in possession of information demonstrating that an object was legally exported, then all is well and good. If they have information to suggest that it was illegally exported, they would be breaking the law if they sold it.

As I have mentioned, the vast majority of cultural works of art on sale in this country are, for historical reasons, not accompanied by such information. Although

specialists will often be able to identify the date of manufacture and country of origin from the style, condition and craftsmanship exhibited by an item, in the case of an item likely to have been made abroad, the date it left the country of origin and the date it arrived in Britain will often simply not be known.

My final comment about new clause 3 concerns client confidentiality. The Minister in the other place, Baroness Neville-Rolfe, expressed concerns that passports containing details of previous owners would infringe article 8 of the European convention on human rights. The retention of the names and addresses of previous owners would interfere with the right to respect for private and family life.

Kevin Brennan: Does the hon. Lady acknowledge that the detail proposed in the amendment that was tabled in the Lords is not included in this new clause, and that any such detail would be outlined in regulation after discussion with industry?

Victoria Borwick: Although I accept that, it is also an important briefing point today as to why the art and antiquities associations feel so strongly about this. The Government's opinion is that such a level of interference could not be justified as necessary for the aim of protecting cultural objects. I maintain that the same considerations would apply to the proposals contained in the new clause, and I therefore ask my colleagues to reject it.

Tracey Crouch: I actually agree that it is important that dealers in cultural property provide appropriate information on the provenance of the items they sell, but I am unable to support new clause 3, for the following reasons. First, it would introduce a statutory requirement for the art market to provide information about provenance for the first time. As I have said before, I believe that it is appropriate to allow the art and antiquities trade to regulate itself. The established trade associations possess codes of ethics that they expect their members to abide by, and we expect them to enforce those codes strictly.

Furthermore, we believe that the existing legal framework, along with the new offence we are creating, provides a sufficient incentive for legitimate dealers to ensure that they do their due diligence and pass on relevant information concerning an object's provenance. The Government are not in the business of imposing disproportionate regulatory burdens on well functioning markets. Indeed, we have a manifesto commitment to cut red tape further. We believe that the current self-regulatory approach to the art market works well and that there is no need to add an additional statutory burden.

Secondly, new clause 3 appears to be an attempt—I am not sure whether this was the Opposition's intention—to shift responsibility for making decisions about whether a cultural object has lawful provenance to the buyer. It seems strange to put the focus on the buyer in this way. It could result in buyers being far more cautious about purchases, which would genuinely risk slowing down the art market. Our expectation is that dealers should carry out due diligence, seeking advice as appropriate and taking a view on an object's provenance before offering it for sale. If there is a question mark over provenance, it simply should not be for sale.

Thirdly, we cannot understand the Opposition's motivation in tabling both new clause 3 and amendment 7, which I appreciate has now been withdrawn. Raising the threshold of the mens rea to such a high level and putting the onus on buyers to make decisions about whether or not an object has lawful provenance would significantly water down clause 17, while at the same time putting additional burdens on both buyer and seller. I must therefore strongly resist new clause 3.

3 pm

Kevin Brennan: I thank the Minister for her response. She will understand that, in tabling probing amendments, we sometimes have to probe from one direction and sometimes from another in order to find out whether the Bill is sound.

Chris Bryant (Rhondda) (Lab): What's wrong with One Direction?

Kevin Brennan: I am certainly not going to be the one to probe.

Chris Bryant: Don't.

Kevin Brennan: I will not go any further.

It is not entirely illogical if, as the Minister has said, auctioneers and traders should have a duty to determine provenance. They should have a duty to tell the person to whom they are selling the item what its provenance is, and that is what is envisaged in new clause 3; it would require nothing more than passing on information. I take the point that those matters could be covered in industry codes of practice, but the problem with such codes is that it is usually only the good guys who sign up to them, whatever field we are talking about. The purpose of regulation is to cover everybody, not just members of industry bodies who pay their subscriptions and obey codes of practice that they have signed up to. However, the new clause was a probing amendment and I will therefore not seek to press it.

Question put and agreed to.

Clause 17 accordingly ordered to stand part of the Bill.

Clauses 18 to 27 ordered to stand part of the Bill.

Clause 28

IMMUNITY FROM SEIZURE OR FORFEITURE

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

Kevin Brennan: We now come to part 5, which is on property removed for safekeeping. It would be helpful if the Minister outlined the Government's approach.

Tracey Crouch: Clause 28 provides immunity from seizure and forfeiture for cultural property that is protected under article 12 of the convention—that is, property being transported to the United Kingdom for safekeeping, or en route through the UK to another destination for that purpose. The protection rightly extends to any vehicle in which such cultural property is being transported. Immunity from seizure and forfeiture is also provided

[Tracey Crouch]

for cultural property for which the UK has agreed to act as a depository under article 18 of the regulations. In that case, the property is protected while it is in the control of the Secretary of State or any other person or institution to whom the Secretary of State has entrusted it for safekeeping. However, if the property leaves the custody of that person or institution—for example, because it is stolen—it is no longer protected and may be seized by the police in order to return it.

The clause provides wide immunity from seizure and forfeiture for the cultural property to which it applies. The clause fulfils an important role in implementing our obligations under the convention and its regulations: it ensures that property entrusted to the UK for protection during a war is guaranteed to be returned. Although existing legislation already provides protection for some cultural property, most notably for state-owned property, it is not sufficiently comprehensive to meet our obligations.

Question put and agreed to.

Clause 28 accordingly ordered to stand part of the Bill.

Clauses 29 to 33 ordered to stand part of the Bill.

Schedules 1 to 4 agreed to.

New Clause 1

ENFORCEMENT: COSTS

'(1) The Secretary of State shall lay before Parliament each year a report setting out the costs incurred by the following bodies in fulfilling the requirements of this Act—

(a) the cultural property protection unit within the Ministry of Defence,

(b) Border Force,

(c) the Arts and Antiquities Unit of the Metropolitan Police,

(d) UK police authorities, and

(e) any other publicly funded body carrying out functions for the purposes of cultural protection under this Act.

(2) The first report under subsection (1) shall be laid within 12 months of this Act being passed.

(3) Reports laid under this section shall include an account of how bodies specified under subsection (1) communicate and cooperate with each other in protecting cultural property in compliance with this Act.'.—*(Kevin Brennan.)*

Brought up, and read the First time.

Kevin Brennan: I beg to move, That the clause be read a Second time.

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

New clause 4—*Safeguarding cultural property*—

'At the end of the period of one year following the passing of this Act, the Secretary of State shall lay a report before each House of Parliament on which cultural properties situated within the UK have been listed as protected by this Act, and how the Government has safeguarded them against the foreseeable effect of an armed conflict, in accordance with Article 3 of the Convention.'

New clause 5—*Cultural Protection Fund*—

'At the end of the period of one year following the passing of this Act, and every two years thereafter, the Secretary of State shall lay a report before both Houses of Parliament on the work of the Cultural Protection Fund in supporting the implementation of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 1954 and the Protocols to that Convention of 1954 and 1999.'

Kevin Brennan: New clauses 1, 4 and 5 stand in my name and that of my hon. Friend the Member for Tooting. New clause 1 is designed to facilitate discussion on how much the cultural protection outlined in the Bill will cost the publicly funded bodies involved in its implementation, how the Government propose those costs should be met and how those bodies will be joined up in that effort. For the sake of clarity, I will go through each of the bodies specified in the new clause in turn.

Will the Minister indicate how much funding the cultural property unit within the Ministry of Defence will receive, what its size and resourcing will be and how each of those factors are projected to look in future? I am aware that the Ministry of Defence, like all Government Departments, is operating on a tight budget. I am also interested in the funding that will be available for training. We understand that the MOD will be looking for members of the armed forces who are knowledgeable about archaeology and other historical subjects, as was discussed on Second Reading. I pointed out then—I was backed up by the hon. Member for East Worthing and Shoreham (Tim Loughton)—that, with regard to joined-up Government, talking about having more members of our armed forces who are experts in those fields while simultaneously cutting so-called soft subjects in our schools, such as archaeology, art history and classical civilisation at A-level, seems to me to send out an extremely mixed message.

Nevertheless, will the Minister indicate what funding will be made available to try to compensate for the knowledge gap that will create in future, and to ensure that membership of the so-called monuments squad—I will call them that rather than monuments men—will not be limited to those fortunate enough to have been offered those now-rare subjects in school or as an enrichment to their school activities? The impact assessment seems to suggest zero cost to the Ministry of Defence. We are always interested to know how something can be delivered at zero cost, so perhaps the Minister could clarify that.

Tracey Crouch: Tory Government.

Kevin Brennan: The Minister says "Tory Government" from a sedentary position. I hope that she is not saying that they are not paying the people in the monuments squad for their work. We in the Opposition certainly believe in the rate for the job when somebody is working. I am sure that she will clarify that in her response.

The second body mentioned in our new clause is the Border Force, which we all know has been subject to large budget cuts—more than £300 million in the run-up to 2015 by the coalition Government—and simultaneously came under the increasing pressure of public expectation in relation to preventing illegal immigration. As we see with every public service, expectations are high, but it is difficult for those expectations always to be met if funding is continuously cut. That said, I understand from the Government's assurances in the Lords that any new costs incurred by the Border Force in enforcing the Bill will not be significant, and that its new responsibilities will not differ greatly from its current day-to-day business.

The Government have stated that the Border Force already carries out the functions required by the Bill in relation to the 2003 Iraq and Syria sanctions. Will the Minister assure us that that is indeed the case? Furthermore, while the work derived from the Bill may not differ significantly from the current everyday business, is there likely to be an increase in workload in relation to the Bill? If so, what provisions are the Government making?

It has been stated that, in regard to a code of practice, resources on cultural goods are available on the Border Force intranet site, and I understand that the Border Force will be expected to seize goods when instructed to do so, rather than be expected to discover the goods' illegally-exported status itself. As I mentioned, many duties under the Bill are already performed by the Border Force. Does the Minister think that the passage of the Bill will require further robust training in the handling of cultural goods?

Baroness Neville-Rolfe stated:

"Enforcement practices relating to combating smuggling are often the same regardless of the type of goods."—[*Official Report, House of Lords,* 28 June 2016; Vol. 773, c. 1529.]

While that may be true, there are also unique sensitivities when dealing with often antiquated and fragile items of cultural property, which, as all parties have agreed, are of immeasurable value. This question is particularly relevant in the light of comments made by the former director of the unit within the Metropolitan police, Dick Ellis, who said:

"These pieces are moving through customs, they're moving through our ports all the time. And yet not a single item is seized in this country… these sorts of objects when they're looted in Syria, when they're looted in Iraq, are helping to fund terrorism, why on earth aren't we doing more to stop them coming on to the market?"

That is not just a question for the Border Force, because, as the new clause specifies, institutions need to communicate and co-operate with each other to protect cultural property. The Government have clarified the fact that the Border Force would not be expected to identify illegal goods, so the matter of how those separate institutions, with their separate but related functions, will be joined up is therefore crucial.

Does the Minister feel that a dedicated unit within the Border Force, with a close communication link to the equivalent unit within the Metropolitan police, is necessary properly to enforce the Bill and, crucially, to provide a robust and credible deterrent with respect to those who would attempt to bring illegally exported cultural property into the UK?

I turn now to the arts and antiquities unit of the Metropolitan police, which is composed—

Victoria Borwick: As a point of record, because it keeps coming up as an error, it is the art and antiques unit. I believe that point has been made before. It is not art and antiquities; it is the art and antiques unit.

Kevin Brennan: I stand corrected.

Victoria Borwick: I have visited it.

Kevin Brennan: I am pleased to have that correction, because my notes say "antiquities" so I shall correct myself as I go along. I turn to the arts and antiques unit of the Metropolitan police, which I understand is composed of three people. As the hon. Lady has visited, perhaps she can tell me whether I am right in that.

Victoria Borwick *indicated assent.*

Kevin Brennan: The hon. Lady is nodding, so at least I got that right.

For now, suffice it to say that regulating this industry—which, particularly in relation to the auction market, is sometimes lacking in information regarding who owns what, as we have heard already—poses a rather large challenge for this team of three people.

Indeed, Dick Ellis, the aforementioned founder of the unit, has acknowledged that the team is not big enough—again, the hon. Lady is nodding—to solve the problems in the industry. Furthermore, it seems that, apart from an evidence room, this team does not have any special resources or equipment.

Does the Minister foresee this unit's workload, and of course the subsequent cost, increasing in any way following the passage of the Bill, given the lack of special resources for the long-term storage of cultural property during legal proceedings? Will the Metropolitan police unit receive more resources or will items be kept elsewhere—*[Interruption.]*

3.18 pm

Sitting suspended for a Division in the House.

3.32 pm

On resuming—

Kevin Brennan: We were discussing new clauses 1, 4 and 5. Before the Division bell rang, I was saying that the Metropolitan police does not have many special resources for the long-term storage of cultural property during legal proceedings and asking the Minister whether any more resources will be provided to the Metropolitan police unit, or whether it is intended that, should items need to be stored, they will be stored somewhere else in a specialist environment, such as the British Museum.

That brings me to museums, galleries and archives, some of which receive public funding. Baroness Neville-Rolfe stated that while she was slightly open-minded on the topic, she thought it generally inappropriate for establishments to display artefacts deposited there for safekeeping. Does the Minister feel that that rules out the possibility of museums, galleries, archives and the like covering the costs of safekeeping, if they want to put items on display, by charging for entry to see them? Again, I am not advocating that, but I wondered if that was a point that the Government had in mind. How should these sorts of institution be funded if they have to perform that task?

Furthermore, the question of joined-up governance returns. How will information pass between the agencies involved in enforcing the Bill? That is especially relevant in relation to the private military contractors and embedded soldiers mentioned previously. Institutions are not as homogeneous as one might think. In essence, the new clause asks how the Government plan to facilitate giving already fairly thinly stretched institutions more to do without any additional resources.

[Kevin Brennan]

New clause 4 aims to probe the Government on the methods and criteria used to determine which items of cultural property are chosen for protection under the Bill. We have heard in previous debates how the value of cultural property is bound up in both money and morale. Its destruction is therefore used as a weapon of war; it is an attack on people's pride and identity, and a method of funding further warfare.

There has been cross-party agreement that the importance of cultural property and heritage is a holistic matter. That understanding is crucial to the success of the Bill, but it also poses a challenge when designing criteria. We already have systems of classification for our heritage worldwide, such as designated world heritage sites, and in the UK, such as grade I listed buildings. Can the Minister explain how these criteria in various fields will be joined up, how objects in fields that do not necessarily have an internal ranking system will be incorporated, and which heritage bodies will be consulted in the process?

We said earlier that these cultural objects have to be of great importance and significance, but how one judges that is perhaps ultimately a matter of taste. For example, there are some—I am not necessarily among them—who think that Buckingham Palace is a particularly bad example of botched architecture, and that the way that it was converted to give it its current façade was the 19th-century equivalent of using concrete cladding on a house. However, one would expect a building of such eminence—it also contains significant artworks—to be a cultural object of significant importance, and to be covered by the provisions of the Bill. I mentioned grade I listed buildings. How far down the grades of buildings are the Government willing to offer protection under this legislation? In other words, can they give us some idea of how limited the protection is likely to be under the Bill?

Laying before Parliament a report that outlined a list of properties protected by the Bill would allow for crucial debate and discussion. As I mentioned at the outset, perhaps MPs could bid for the inclusion of an item of cultural property in their constituency that is of great importance to not just them and their constituents, but all peoples of the world. I would say that Llandaff cathedral in my constituency, which was bombed and badly damaged in the second world war, and which has an extremely beautiful and important modern statue by Epstein, is a piece of cultural property that should be of importance to all people. It is difficult to know where the threshold will be in the Bill, so I am interested to know how the Government will liaise with experts from various fields to ensure that adequate measures are taken. Preparing this report will ensure that the public and their elected representatives feel content that their precious heritage is covered. Can the Minister explain how the qualifying artefacts will be determined and what say, if any, the public would have in that process?

New clause 5, which is in my name and that of my hon. Friend the Member for Tooting, seeks to ensure the transparency and accountability of the cultural protection fund. We want to probe how the Government plan to provide for this fund, how it will be resourced and how its different parts will be joined up. We are happy that the Government have committed to giving the fund £30 million over four years, and have set out a timetable for bids and consultation on the fund. Do they have a view on the level of their commitment to the fund following the initial four years? Though the £30 million is welcome as a start, the fund's aims are ambitious. Are there plans to enhance that level of funding?

The fund will

"support projects involved in cultural heritage protection; training and capacity building; and advocacy and education, primarily focused in the Middle East and north Africa."—[*Official Report, House of Lords,* 6 June 2016; Vol. 773, c. 584.]

The proposed report would allow Parliament to monitor whether more funding was required to fulfil those ambitions, as I suspect it might well be.

We certainly welcome the co-operation between the Department for Culture, Media and Sport and the British Council, and agree with the consultation's conclusion that the British Council's network and management experience excellently complement the expertise of the heritage industry, and that this collaboration is important to the fund's success. Can the Minister tell us more about that, and especially about training and resource sharing between those institutions? I understand that the Government have indicated that they are involved with the British Council in developing a long-term strategy. With regard to the long term, the report proposed in the new clause could facilitate debate about the future resource needs of the fund; what countries and technologies should be focused on; and striking a productive balance between providing emergency support for cultural property in areas of armed conflict and supporting the safeguarding of items in peacetime.

There are, of course, many parties that those running the fund will need to liaise with in order to accomplish this, including non-governmental organisations, the military, police, Border Force, museums, archives and galleries—all those bodies that I mentioned previously. I reiterate the proposal made by Lord Collins of Highbury, who argued that the fund's work, especially on supporting economic and social opportunities through cultural heritage, should be carried out in collaboration with the Department for International Development. Will the Minister indicate whether that will be the case, and outline how the cultural protection fund will relate to the voluntary fund established under the second protocol and run by UNESCO? Again, that is a matter of joined-up government and ensuring good value for money.

As I understand it, the Government have pledged to make sure that the cultural protection fund will be included in their yearly report on this Bill if it is of direct relevance, and that its spending will be scrutinised biannually by the OECD. That commitment is appreciated, but this fund deserves scrutiny in itself, not conditionally depending on its relevance to the Bill. This new clause would provide a mechanism by which the fund's resourcing and operating could be scrutinised by Parliament, and its impact could thereby be maximised. I look forward to the Minister's response on new clauses 1, 4 and 5.

Mr Burrowes: I want to comment on two aspects of the new clauses. First, I commend Detective Sergeant Claire Hutcheon, who has led the Metropolitan police's art and antiques unit so admirably, and who is retiring in January. She has done admirable work and gained from experience over many years. Although the unit is small in number, it certainly has the quality. She has

spread her expertise around forces across the country, pulled in support and expertise, and shared good practice so that forces do what they can on illegal trade. She has also built up a good partnership with the trade, and there is good understanding and confidence there that needs to be continued. There is some concern that the new office holder may have to start again at zero. There needs to be proper good practice, which might perhaps benefit from the guidance that we might hear about in relation to this Bill. It would be good to hear from the Minister that there is continued support for that unit and for the resources; it has not been up to full strength for some time—I think it is pretty much up to a full strength of about three—but it certainly punches above its weight.

I also want to draw attention to the excellent cultural protection fund, which is in its early stages and has £30 million. I know that the Minister is competitive, and recognises that if we are in competition with France on the ratification of the protocols, we need to get there first, but there is also an issue of money, because François Hollande has announced $100 million as part of the global endeavour to protect cultural heritage. I ask the Minister whether there is support for the global endeavours. The second protocol provides for a voluntary fund for cultural heritage; I understand that that is distinct from our cultural protection fund. Nevertheless, there is an indication, and I hope an intention, that there will be a contribution to UNESCO. It takes its hits and criticisms but, particularly in this regard, we must recognise UNESCO's pre-eminence and the support for it. I hope that there will be a mechanism that allows for support, particularly from ill-gotten gains, through the recycling of money into the fund. When these crimes are prosecuted, the proceeds could go into a global pot.

3.45 pm

I know that the Minister gets around; she goes to global sporting events to fly the British flag. There is a conference in Abu Dhabi on 2 and 3 December looking at the cultural threats in the region, and it would be useful to ensure that we were well represented by a Minister. She will be able to go there and not feel embarrassed that we have not ratified the second protocol of The Hague convention, because we have introduced the Bill and taken our rightful place in a lead role.

Going back to France and our competitive nature, it is worth noting that France has announced that the Louvre is being put forward as a shelter for world treasures recovered from war zones—the shadow Minister spoke about where those homes could be. There has been talk, not least within the all-party parliamentary group for the protection of cultural heritage, about whether London, given its pre-eminence in this regard, could also be a good place to provide a respectful and appropriate home for lost treasures. It will be interesting to see how the Government could support that mechanism. There may be a digital way of doing it, too. We could work with organisations such as the Wellcome Trust, which is looking at providing such an approach.

Tracey Crouch: Before I turn to the specific aspects of the new clauses, it might be helpful if I addressed a number of wider issues raised by the hon. Member for Cardiff West. He asked a specific question about the Ministry of Defence; I am sure that he and members of the Committee will respect that the matter is obviously one for the Ministry of Defence, but I will do my best to answer as much as I possibly can on the specifics of the unit to which he referred.

The joint military cultural property protection working group was established in early 2014 to develop the concept of a unit of cultural property protection specialists, in accordance with our obligations under article 7.2 of the convention. The MOD is currently tasking Army command with looking at plans for the creation of the cultural protection unit. Some preliminary work has already been completed, and it is expected that the unit will be able to form up 12 to 18 months after formal approval.

The convention for the protection of cultural property places a number of commitments on the MOD, most of which we already comply with. Article 7.2, however, obliges states to plan or establish specialist cultural property units to secure respect for cultural property and to co-operate with the civilian authorities responsible for safeguarding it. There is flexibility on the size and composition of such units, and other nations' solutions vary from six to 360 people.

The MOD has tasked the Army with examining the best means of providing this capability, and the Army's initial thoughts suggest a relatively small unit, at least in peacetime, of 10 to 20 personnel from across all three services. They will be predominantly or even exclusively reservists, with command at lieutenant-colonel level, although expertise will be more important than rank. Although planning is at an early stage, the Army is expected to respond to the Ministry of Defence in the next few months on how such a unit could be established. My hon. Friend the Member for Enfield, Southgate, recently asked the Secretary of State for Defence at Question Time to update the House on that matter, and I am sure that interested Members will continue to press the Ministry of Defence.

The three new clauses proposed by the hon. Member for Cardiff West deal with important matters in which I know members of the Committee have a keen interest. Alas, I cannot support their inclusion in the Bill. New clause 1 deals with the cost of implementing and enforcing the provisions in the Bill. We have already clearly set out our forecast of the costs in the impact assessment. Where there are ongoing costs, for example for the Border Force, the police and the armed forces, it is likely to be extremely difficult to disaggregate the costs associated specifically with the Bill from those incurred in other related cultural protection work.

For law enforcement agencies, it would be extremely difficult—if not impossible—to separate the cost of enforcement related to cultural property from ordinary enforcement costs. Even if it is possible to do so, the costs involved are likely to be disproportionate to the costs that the new clause requires us to identify and report. It is for the Border Force, the Metropolitan police and other police authorities to decide how best to allocate and use their resources, in the light of the priorities and the legislation that they are required to implement and enforce.

Kevin Brennan: When the Minister referred to the impact assessment, I took a glance at it and noted that, under the section outlining the Metropolitan police arts and antiquities unit—

Victoria Borwick: Antiques!

Kevin Brennan: It says "antiquities" in the Government's own impact assessment, I am afraid.

Victoria Borwick *rose—*

Kevin Brennan: The hon. Lady cannot intervene on me because I am intervening on the Minister. The number of personnel to be trained from that unit is four. We heard earlier that there were only three people in that unit, so I hope that is a helpful sign that the Government anticipate that the unit will expand.

Tracey Crouch: May I put an audible "tut" on the record at our mistake in the impact assessment? I know that people have concerns about the size of the Metropolitan police art and antiques unit, but the nature of its work—for example, it works collaboratively, including with international partners—means that its size is not a real reflection of its impact. A significant proportion of its work is from international law enforcement agency requests for assistance. I hope that responds in part to the hon. Gentleman's question about the size of the unit.

With regard to the Border Force and the expertise required in identifying cultural property unlawfully exported from occupied territories, we do not foresee the Border Force playing a major role in discovering such objects unless specific intelligence has been received that objects from an occupied territory may be coming into the country. We think that it will be a rare event for a Border Force officer to be faced with something that they can clearly identify as having been illegally exported.

Kevin Brennan: I have a point relating to prosecution that the Committee will be interested in: I understand from the impact assessment that it is envisaged that there will be only one prosecution every 30 years under the Bill. Will the Minister confirm that my interpretation is correct?

Tracey Crouch: I am sure that if it says that in the impact assessment, that is indeed the correct interpretation, but I am happy to provide further information on that on Report if that helps.

I will go back to the points on policing that the hon. Gentleman raised with regard to new clause 1. He will, of course, be aware that we have created elected police and crime commissioners to give strategic direction and to hold police forces to account for operational policing decisions, including how resources are directed between different units and functions. In London, the Mayor of London has that responsibility. We do not think it is necessary or desirable for the Government to cut across that democratic approach to accountability in policing by requiring the Secretary of State to take a specific interest in the funding of individual police units or functions. Moreover, it does not seem to me to be particularly helpful to isolate the implementation and enforcement of the Bill from the excellent wider work being done by so many bodies to protect cultural property.

That also applies to the provision in subsection (3) of the new clause, relating to communication and co-operation between public bodies. As with the costs, I do not think it is helpful to treat that separately from the regular contacts between public bodies on wider cultural protection work. Public bodies are required to report on their work costs and spending, and hon. Members are always extremely assiduous in holding them to account for their use of public money and the way in which they implement and enforce legislation. I am sure that the Bill will be no exception. A separate statutory obligation on the Government to report to Parliament on the costs associated with the Bill therefore seem unnecessary, which is why we oppose new clause 1.

New clause 4 deals with matters of an administrative nature that are not specifically covered by the Bill. We are already considering the administrative measures that will be needed to implement the convention and its protocols once the Bill is passed into law. We will reflect on issues raised during the passage of the Bill as part of that process. The hon. Gentleman mentioned specific items. We do not think it is appropriate to confirm whether a specific cultural object will be afforded protection.

We want to ensure that the views of stakeholders are heard. Next month we are holding a round table discussion with key stakeholders to discuss the categories of cultural property that will be afforded general protection under the convention, and what additional safeguarding measures might be required. The hon. Gentleman might be interested to know that our provisional thinking is that general protection status would extend to buildings, historical gardens or parks of grade I or category A status; cultural world heritage sites; and nationally important collections in museums, galleries and universities, as well as in the national record offices and our five legal deposit libraries. However, we are still determining our categories, and discussions with key stakeholders are ongoing.

Victoria Borwick: Will the Minister consider inviting members of the trade and those who deal in cultural objects to participate in the consultation, to ensure that we have effective legislation?

Tracey Crouch: I will certainly take that away, discuss it with officials and report back to my hon. Friend.

In practice, a range of safeguarding measures will already be in place for most cultural property under general protection in the UK. Existing listing, designation and accreditation schemes generally require certain measures to be in place to protect cultural property from, for example, fire, flood and other emergencies and natural disasters. Article 5 of the second protocol expands on the meaning of "safeguarding cultural property" by giving some examples of the kind of preparatory measures that should be taken in peacetime. Those include the preparation of inventories, the planning of emergency measures for protection against fire or structural collapse, the preparation for the removal of movable cultural property or the provision for adequate in situ protection of such property, and the designation of competent authorities responsible for the safeguarding of cultural property. The first three measures all represent common-sense precautions and are likely to be covered by existing contingency planning for an emergency or natural disaster.

Once we have decided which cultural property will receive general protection, we will be in a position to decide which are the most appropriate competent authorities for safeguarding that cultural property in the event of

armed conflict. Our current thinking is that the most appropriate body to undertake the peacetime safeguarding measures is the existing owner, guardian or trustees of a cultural property.

It is also important to note that article 26 of the convention requires state parties to report at least every four years to the director general of UNESCO on their implementation of the convention. In practice, UNESCO asks state parties to provide information on the measures they have undertaken in relation to relevant peacetime safeguarding provisions as part of the periodic reporting, and those reports are published on the UNESCO website. The UK Government will therefore already be reporting on the safeguarding of cultural property as a matter of good practice, in line with the reporting obligation in article 26. A separate statutory obligation to report to Parliament on matters that are administrative and not part of the Bill appears to be unnecessary.

On new clause 5, I know that many hon. Members are interested in the cultural protection fund and wish to be kept informed about it. However, the cultural protection fund is not part of the Bill, and the new clause therefore introduces a new subject that is beyond the scope of the Bill. It is also unnecessary. The British Council, which is responsible for administering the cultural protection fund, will publish an annual report on the work of the fund. That report will be publicly available. If the fund supports projects with direct relevance to the Bill and to the convention and its protocols, we will work with the British Council to ensure that the annual report includes appropriate mention of them. Our priority is to work with the British Council on the first round of bids, but we cannot make future funding commitments at this stage. I hope the hon. Member for Cardiff West is reassured that information about the cultural protection fund will be made available.

With regard to a point made by my hon. Friend the Member for Enfield, Southgate, parties to the second protocol are not obliged to contribute to the fund for the protection of cultural property in the event of armed conflict, but once the UK has ratified the convention and its protocols, we will begin to consider our role as an active state party. It would not be appropriate—certainly not on the face of the Bill—for the Government to commit to any funding prior to becoming a party to the convention or its protocols. However, I assure him, not just as a consequence of my own competitiveness but because it is morally right to do so, that we will continue to play, or wish to continue to play, a leading role in the the world on this issue. Those are the reasons why I oppose new clauses 1, 3 and 5, but I hope the hon. Member for Cardiff West is reassured by my comments.

4 pm

Kevin Brennan: It is new clauses 1, 4 and 5. The Minister did have to shuffle through a number of papers so it is understandable that the numbers became confused. We are discussing new clauses 1, 4 and 5.

I thank the Minister for a very thorough response to the new clauses. I take issue with one thing she said—that our new clause 5 is beyond the scope of the Bill. Had it been beyond the scope of the Bill, Mr Turner, you would have ruled it out of order and the Committee would not have been able to discuss it. Because it was completely in order and within scope when we tabled it, we have been able to debate it at considerable length and had the benefit of the Minister's very thorough and helpful response to new clause 4, notwithstanding her view that it was beyond scope. She did give a very thorough response and I am grateful to her for that. It has been very useful to get all of that on the record and it gives clarity on a number of points.

The impact assessment does indeed make interesting reading, not least the point about the Government's assumption that a prosecution under the Bill will take place only once in every 30 years. The Minister did say that she might take the opportunity to respond on and confirm that point on Report. If such an opportunity does not arise, I am sure that a letter to members of the Committee to clarify the point would suffice. On that basis, I will not press the new clauses and I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 2

REPORT ON TOPICS FOR UPDATED PROTOCOL

'Within 12 months of the passing of this Act, the Secretary of State shall publish a report setting out the UK's priorities for topics to be included in an updated protocol to the 1954 Hague Convention.'.—*(Kevin Brennan.)*

Brought up, and read the First time.

Kevin Brennan (Cardiff West) (Lab): I beg to move, That the clause be read a Second time.

Having made remarkable progress during the day, we have reached our final debate on the Bill and amendments to it. New clause 2, which stands in my name and that of my hon. Friend the Member for Tooting, calls on the Government to set out what its priorities will be in the event that a third protocol to the convention becomes the subject of international discussion. Inevitably, this Bill does look back as we are ratifying The Hague convention of 1954, but as the first two protocols show there certainly is an appetite to ensure that the convention remains up to date, relevant and effective.

One could make many suggestions regarding what a third protocol could specify. During our discussions, two specific questions have been raised repeatedly and would benefit from being marked as UK priorities in the report proposed in the new clause. They are, first, the application of the convention to cultural property in digital form, and secondly, the applicability of the convention to conflicts such as the one in Syria. These are both areas where the age of the convention has started to show and which could be updated in a third protocol.

On Second Reading, I raised a question that many across the House have also asked about how the ratification of the convention would apply to conflicts such as those in Syria and Iraq. The Minister kindly circulated a note—actually, I think it was the Secretary of State rather than the Minister—using Syria as a case study and outlining how the convention and its protocols relate to conflicts not of an international character. I appreciate that, as it helped to clarify a few issues. I welcome the assurance that a UK national involved in the destruction of cultural property in a country that has signed the convention would be criminally liable. That is very important, not least in the light of recent

[Kevin Brennan]

developments. To be absolutely clear—I think we rehearsed this somewhat earlier on—I believe the Secretary of State's note means the convention does apply during a civil war. The Minister also said earlier that it would apply to both parties in a civil war, even when one of them is not a recognised state. Clarity on that is important.

Ideally, we would need a ministerial note or clarification to explain whether or not and to what extent the convention applies to a certain type of conflict. A third protocol would be an opportunity to aim for a more standardised safeguarding strategy for cultural property worldwide where it is involved in any kind of armed conflict. I think this idea has some cross-party support. The hon. Member for Enfield, Southgate asked in *Hansard in* column 698—I am trying to remember whether it was on Second Reading or whether it was a question—

Mr Burrowes: I cannot remember the column, but it was on Second Reading.

Kevin Brennan: It was. The hon. Gentleman asked:

"are the Government supportive of looking at future conventions to try to make sure that Daesh comes within the provisions, although the Iraqi and Syrian sanction orders cover the gap?"—[*Official Report*, 31 October 2016; Vol. 616, c. 698.]

That is a very good question. A third protocol could offer an opportunity to streamline the law. Instead of plugging the gaps with new legislation, there could be a consistent and indubitable catch-all that would assure the necessary protections for the property most valuable to nations and their identities.

The destruction of cultural property in the middle east has been mentioned many times as one of the motivations for the passage of this Bill, yet the Bill does not apply to so many of those situations. In the light of the work carried out involving the cultural protection fund in that same region, it seems that protecting artefacts in Syria and its surroundings is a priority for us all. The Government acknowledge that too. A report would not only provide a platform to express that, but it could kick-start action to bolster protections and provisions where they are currently most needed.

I and my hon. Friends have highlighted the matter of digital content falling within the definition of cultural property. The Government indicated there should be a certain level of consistency with regard to an internationally accepted interpretation of what cultural property means. They said at the same time that amending the Bill to specifically include digital content could jeopardise that consistency. It seems to me that formalising an internationally accepted interpretation of cultural property that includes things such as digital content would be a crucial component of a third protocol, bringing the legislation firmly into the digital age.

The more consistency there is in both the wording and the interpretation of our international laws, the greater the chance of holding those who violate them to account. Our support of current and developing technologies should be unambiguous and undeniable. Given the importance of our national and regional film archives and that of the precious cultural property currently being created, I hope the Government agree that the protection of digital property should be championed by the UK on the international stage.

We cannot as a country unilaterally decide on the priorities and the announcement of any third protocol to the 1954 convention, but a report on the topics the UK would like to focus on allows for a productive and constructive dialogue on key issues, potentially putting such a protocol on the agenda of the international community. It would also provide the UK with an opportunity to demonstrate its desire both for international co-operation and to show leadership in this area, which I think we should be doing.

Internationally, the UK is in a position in which we are choosing to leave the European Union rather than, as some of us would have hoped, to be a leading player. With the sorts of turmoil we see going on in the world, including on the other side of the Atlantic, this would indicate that the UK can and will continue to work productively and co-operatively with other nations. We may be late in ratifying the convention, after 62 years, but we can show that this is not due to a lack of commitment to its ideals and ambitions.

Does the Minister agree that the two topics we have just discussed, and perhaps others, would be among UK priorities for a third protocol? What other topics might she consider? Do the Government have any plans to work towards developing a third protocol?

Tracey Crouch: I thank the hon. Member for Cardiff West for raising the issue of updating the protocols to the convention to reflect the need to protect cultural property from destruction by, for example, terrorist groups such as Daesh. We covered Syria and digital cultural property in some detail earlier, and I am sure that we will return to those issues, so I do not intend to go over those arguments again. We are, however, absolutely united in our condemnation of the terrible damage to cultural heritage that Daesh has wrought at sites such as Palmyra and the destruction and looting of cultural heritage as a tactic of war and terror more generally.

That said, the new clause seems to assume that an updated protocol is inevitable. We are not aware that UNESCO is considering that. It is not included in the organisation's medium-term strategy, which sets outs its priorities until 2021. We are also unaware of calls from other state parties for the protocols to be reconsidered at this time. Indeed, I understand that the process to reopen discussion on protocols or propose a new one is not as easy as the Opposition might believe. I am told that it would take a minimum of eight years to agree a new text or protocol.

Kevin Brennan: Is that not all the more reason to get on with it?

Tracey Crouch: If the hon. Gentleman will hold his horses for a second, given the delay in the UK's ratification, publishing a list of our future demands within a year of Royal Assent may not be the wisest way to win support for that. Once the UK has ratified the convention and current protocols, we will be closely involved in the related UNESCO discussions, and that will be the best way to influence any future work.

4.12 pm

Sitting suspended for Divisions in the House.

4.38 pm

On resuming—

Tracey Crouch: Before the Divisions, we were talking about a third protocol, in the light of the Opposition's new clause 2. We do not feel that it would be appropriate to include that new clause in the Bill. Rather than focusing on how an additional protocol might better address the specific issue, our priority must be ratifying the convention and acceding to its two protocols. That will be a significant milestone for the UK that has not been achieved by other permanent members of the UN Security Council. It will send the strongest message about the UK's commitment to protecting the world's cultural property and signal our condemnation of the recent abhorrent cultural destruction. Although I recognise the good intention behind the new clause, I hope that the hon. Member for Cardiff West will appreciate that it is beyond the scope of the Bill and therefore withdraw it.

Kevin Brennan: It is not beyond the scope of the Bill, as I have pointed out already, but I will not labour the point—although that is my wont. We have discussed the third protocol, which is not the title of the latest book by my hon. Friend the Member for Rhondda, although it would be a very good title for a parliamentary thriller, if that is what he has been composing during our deliberations—that might explain his uncharacteristic reticence.

It is difficult to say on the one hand that we should pat ourselves on the back for being the first in the Security Council to ratify both protocols, and on the other hand that we should not pat ourselves on the back by suggesting a third protocol, because it has taken us 62 years to ratify the convention. There might be a slight circularity to that argument.

The purpose of new clause 2 is to encourage the Government to take the lead in this area, which we should do internationally, and to think about how we can update our international agreements on the protection of cultural property in armed conflicts to ensure that they move with the times and cover the new types of cultural property being developed as a result of the digital revolution and the new types of threat, warfare and armed conflict we face with the rise of entities such as Daesh. Having said that, in the interests of us completing our proceedings, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

Tracey Crouch: On a point of order, Mr Turner. I am grateful to you for allowing me this opportunity to thank everyone for participating in the Committee. This is the first piece of legislation that I have taken through the House, and I believe that it is your first chairing of a Committee in this House, so it is a first for both of us. Hopefully we have managed to muddle our way through it correctly and in order.

I want to pay tribute to all those who have helped to make the Committee happen. I am grateful that my first piece of legislation is, by and large, full of consensus. Although there are issues that I am sure many will raise on Report and seek further clarification on, it is a tribute to what we are discussing that we have managed to get through the Bill in the way we have. I would like to thank you, Mr Turner, and Ms Buck for chairing the Committee, as well as the Clerks, the *Hansard* reporters and the Doorkeepers.

I would like to thank my excellent Bill team of officials from the Department for Culture, Media and Sport and other Departments, including the Ministry of Defence and the Foreign Office, all of whom not only have been brilliant advisers to myself as Minister, but have been open and accessible to other Members, including Opposition Members, for discussion.

I would like to thank those who have submitted written evidence and participated in the development of the Bill over a number of years. The hon. Member for Cardiff West pointed out in his opening remarks that the Bill has been a long time coming, since the second protocol in 1999. We should pay tribute to those in the previous Labour Government who started this process. I am pleased that it was this Government—under the former Secretary of State, my right hon. Friend the Member for Maldon (Mr Whittingdale), and my right hon. Friend the Member for Wantage (Mr Vaizey)—who managed to introduce the Bill in Government time during this Session.

Finally, I would like to thank all members of the Committee. I thank the Opposition for their amendments, which allowed us to have a full debate on many aspects of the Bill. Despite gentle probing from many directions, the record will show that we have managed to discuss a great many issues that people both inside and outside this place really do care about.

Kevin Brennan: Further to that point of order, Mr Turner. May I echo everything the Minister has said? She is quite right that it is important to probe Government legislation from every direction, and that is what we have sought to do in the course of our proceedings. Thank you, Mr Turner, for chairing our proceedings and keeping us in order—including on new clause 5, which of course was in order all along. I also thank Ms Buck for chairing our proceedings so ably this morning; perhaps you could pass that on, Mr Turner, on our behalf.

I would like to thank all members of the Committee. I know that for a number of Members it was their first time serving on a Bill Committee. It is not always this consensual when we discuss legislation. Nevertheless, this has been a useful example of the importance of Committee stage in teasing out and putting on the record the Government's intentions and so on. I would also like to thank the Whips for keeping us in order and enabling us to get through proceedings in an expeditious fashion.

I also thank the Clerks, the *Hansard* reporters, all those from the sector who have made submissions, the civil servants, the Doorkeepers, the police and everyone else, including my researcher, Haf Davies, who has been very helpful in preparing for today. It may have taken us 62 years, but we are engaged in an extremely important process. We can all take some pride in the fact that finally, after Report and once the Bill gets Royal Assent, we will have ratified The Hague convention, albeit 62 years after it was originally brought about.

Bill to be reported, without amendment.

4.46 pm

Committee rose.

Written evidence reported to the House

CPB 01 Professor David Gill, Director of Heritage Futures and Professor of Archaeological Heritage, University of Suffolk

CPB 02 Mr Michael Meyer OBE, Head of International Law, British Red Cross

CPB 02A Mr Michael Meyer OBE, Head of International Law, British Red Cross: Annex A: Protecting the emblems leaflet

CPB 03 Mark Dunkley FSA MCIfA

CPB 04 Professor Roger O'Keefe

CPB 05 UK National Committee of the Blue Shield

CPB 06 BAMF

CPB 07 Council for British Archaeology

CPB 08 Professor Janet Ulph

CPB 09 Antiquities Dealers' Association

CPB 10 Association of Art and Antiques Dealers

CPB 12 Peter Stone, UNESCO Chair in Cultural Property Protection and Peace, Newcastle University

CPB 13 Fiona Macalister, Independent Preventive Conservator

CPB 14 Historic England

CPB 15 Stephenson Harwood LLP

CPB 16 Dr Sophie Vigneron, Kent Law School, University of Kent

CPB 17 The Heritage Alliance

CPB 18 Dr Emma Cunliffe