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HOUSE OF COMMONS
OFFICIAL REPORT

PARLIAMENTARY DEBATES

(HANSARD)

Monday 6 June 2016

House of Commons

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The House met at half-past Two o'clock

PRAYERS

[Mr Speaker *in the Chair*]

Oral Answers to Questions

COMMUNITIES AND LOCAL GOVERNMENT

The Secretary of State was asked—

Specialist Domestic Violence Refuges

1. **Sarah Champion** (Rotherham) (Lab): What assessment his Department has made of the potential effect of local commissioning criteria on the availability of specialist domestic violence refuges. [905263]

The Secretary of State for Communities and Local Government (Greg Clark): Domestic abuse is a devastating crime, and we are determined to ensure that support is available to every victim. We have secured £40 million in the spending review for this purpose, and we will shortly publish a national statement of expectations, drawn up with local government and domestic violence charities, which will set out what every area should offer to ensure victim safety.

Sarah Champion: The Secretary of State knows how devastating domestic violence is and how the services provide a literal lifeline. However, specialist services, particularly LGBT and black and minority ethnic services, face a huge funding crisis and many are going to the wall. In the national statement of expectations, will he commit to supporting and ring-fencing money for those specialist services?

Greg Clark: Yes, it is important that we have specialist services. That is part of the discussions we are having with the charities through the drawing up of the national statement. We have secured more funding than has been available—three times as much funding—and that will be important. I think there is a wider point here, too, because there are connections between the public space and the domestic space. It is incumbent on all of us to maintain a public sphere in which women are safe from abuse, bullying and harassment, and that example should start from public life.

Jon Trickett (Hemsworth) (Lab): I welcome what the Secretary of State has just said about the statement and about the additional money, but a recent Women's Aid report stated:

"One major challenge facing specialist refuge provision is the awarding of tenders to large generic providers".

The report also includes the shocking fact that one in six specialist refuges has closed since 2010, and it states that on one particular day, 103 children and 155 women across the country were turned away because a place was not available. What part does the Secretary of State feel the Government's cuts may have played in this loss of services, and will he agree immediately to review the present procurement practices to ensure that the best possible quality of specialist refuges is available in every single community?

Greg Clark: The hon. Gentleman is absolutely right that there needs to be total confidence. Any person who suffers from domestic violence should be confident that they can have a place of safety. That is behind the statement of expectations that is being drawn up, and he will be pleased that that is continuing. He should know that the number of bed spaces in refuges has increased in the last two years, according to UK Refuges Online, but we need to make sure that that confidence is there. I am sure he will agree that true success is when women do not have to move from their homes because they have been the victims of violence by their partners. True success is when women can be confident in staying there, and when the perpetrators of such abuse have to leave.

Starter Homes

2. **Richard Graham** (Gloucester) (Con): What steps his Department is taking to ensure the building of starter homes. [905264]

The Secretary of State for Communities and Local Government (Greg Clark): The Government are implementing our manifesto commitment to extend to young people the opportunity to own a home of their own. Working with councils, housing associations and builders, the starter homes programme will bring that opportunity to 200,000 young people across the country.

Richard Graham: The Secretary of State will know that there are some situations in which it is not viable to have shared equity on properties—perhaps on infill or brownfield sites. In such situations, the local housing association may still be keen to build, but to rent. Will my right hon. Friend commit to meet to discuss a specific situation and consider support funding?

Greg Clark: I am always delighted to meet my hon. Friend. It sounds as though there is the prospect of another trip to Gloucester, which is always very enjoyable. We want to see more housing of all tenures, and our funding provides housing for rent as well as to purchase, but starter homes provide a big opportunity to people who have been losing out on meeting their aspiration to own a home of their own. That is true on brownfield sites as well as on any other site. I hope that in his city of Gloucester, there will be starter homes on those brownfield sites.

Dr Rupa Huq (Ealing Central and Acton) (Lab): How can these homes be called starter homes when someone would have to be on £90,000-plus to have a shot at even a one-bedroom version in my constituency? They are not starter anything; they are ending the hopes of a generation for whom affordable housing to buy and social housing to rent have all but vanished.

Greg Clark: I do not agree with the hon. Lady. She will know that the average price that a first-time buyer pays outside London is £181,000, which, with the discount of 20%, is £149,000, and under the very successful Help to Buy scheme, that would require a deposit of £7,500. That is making home ownership possible for the rising generation of young people.

Sir Oliver Heald (North East Hertfordshire) (Con): My right hon. Friend will be aware that, in villages in places such as North East Hertfordshire, it is very expensive for young people to own a home. Will this scheme or any other scheme the Government are promoting at the moment help young people in villages in areas such as North East Hertfordshire to make a start with getting a home of their own?

Greg Clark: It will, indeed. We have embarked on the biggest programme of house building since the 1970s. Unfortunately, when they were in office, the previous Government accumulated a housing deficit and debt of similar proportions to the financial deficit and debt. This Government are correcting that: we are building homes for young people across the country so that they can do what previous generations did, which is to count on having a home of their own.

Mr Barry Sheerman (Huddersfield) (Lab/Co-op): That is slightly misleading, because only 7% of local authorities think the new starter homes initiative is any good and 60% think it will be useless in their area. Is that not a fact? Look at this all-male, middle-aged group on the Government Front Bench who are saying to young people in our country, "There's no hope of a home—not in their lifetime."

Mr Speaker: I am sure the hon. Gentleman intended to insert the word "inadvertently" before the word "misleading".

Mr Sheerman *indicated assent.*

Greg Clark: There is nothing misleading, inadvertently or otherwise, about our commitment to giving many hundreds of thousands of young people the chance to have a home of their own. I would have thought that, for the next generation in his constituency, the hon. Gentleman would be promoting the availability of starter homes, giving people who have not been able to buy a home the possibility of doing so. He should get behind that scheme.

Ben Howlett (Bath) (Con): Many brownfield sites in my constituency had planning applications granted before the introduction of the Housing and Planning Act 2016. What advice does the Secretary of State give developers who are now looking to change those planning applications to ensure that they can integrate starter homes into the plans?

Greg Clark: It is always possible for developers to have discussions with local authorities if they want to—they are not bound by such applications—but I hope they will press ahead with making available the homes that are needed in my hon. Friend's constituency as well as in other parts of the country.

Dr Roberta Blackman-Woods (City of Durham) (Lab): The Secretary of State must be getting used to headlines in the housing and planning press that say, "Starter homes will crowd out genuinely affordable homes", or "Traditional affordable rented homes are being swapped for discounted Starter Homes". Will he therefore tell us how many genuinely affordable homes for rent or equity share will not be built as a result of the starter homes initiative, and what specific measures is he taking to prevent that from happening?

Greg Clark: We are building more homes than have been supported by Governments since the 1970s—400,000 starter homes. The hon. Lady should be delighted to know that £8 billion of funding has gone in to providing them. With every decision we make, whether on starter homes or in giving the right the buy, we are putting ourselves on the side of the ordinary working people of this country who want a home of their own. In their opposition to such measures, Labour Members are showing how much further they are drifting from understanding—still less, representing—the ordinary working people of this country.

Affordable Housing

3. **Ruth Cadbury** (Brentford and Isleworth) (Lab): Whether the Government plan to revise their definition of affordable housing. [905265]

The Minister for Housing and Planning (Brandon Lewis): The Government have a strong track record on delivering affordable housing. We want to go further and to expand the definition of affordable housing so that we can deliver starter homes for young people who want to buy their own home.

Ruth Cadbury: How will the Government policy to subsidise starter homes address the affordable housing crisis for low and middle-income earners—cleaners, social workers, teachers, middle managers, nurses—given that it is estimated that, in London, one needs a household income of £97,000 and a deposit of £20,000 to afford an average starter home?

Brandon Lewis: I draw the hon. Lady's attention to the comments of my right hon. Friend the Secretary of State a few moments ago. In this country, first-time buyers pay £181,000 on average for a new home, so, with a 20% discount and a 5% deposit, her figures do not quite add up. Given that 86% of our population want the chance to own their own home and that first-time buyers are the generation worst hit by Labour's recession in terms of housing, I am proud that we have doubled the number of first-time buyers. We want to deliver 1 million during this Parliament, and the starter homes initiative is just part of the solution.

Mr James Gray (North Wiltshire) (Con): As the Minister says, 86% of the population want to own their own home. Surely the term "affordable home" should now be expanded to include low-cost home ownership, including schemes such as the excellent Wiltshire Rural Housing Association, which has a variety of shared equity schemes. Surely those homes should also be affordable, as well as homes for rent.

Brandon Lewis: My hon. Friend makes a very good point, highlighting exactly the point I was making. As 86% of the population want to own their own home, most people have always found it slightly bizarre and illogical that when we talk about affordable homes we talk only about homes to rent. People want to own their own home, so it is absolutely right that affordable homes should also include homes that are affordable to buy.

Andrew Gwynne (Denton and Reddish) (Lab): The Government's housing plans sit alongside their policy of neighbourhood planning. The Minister will recall that in the Adjournment debate he answered earlier in the year he recommended that the people of Haughton Green went away and produced a neighbourhood plan. They have started that process, so what assurances can he give them that the Two Trees site will not be brought forward for development by Tameside Council before they have had the opportunity to say how they want the site to be sustainably developed?

Brandon Lewis: I am sure the hon. Gentleman will appreciate that I cannot comment on any particular planning application owing to the quasi-judicial role. As I said in that debate, neighbourhood planning is at the heart of our planning model. It delivers more homes than are delivered in areas that do not have a neighbourhood plan and allows the local community to work out where homes should be and what type of homes best suit them. It is fantastic that more than 200 plans are now in process and approved, and more than 2,000 are coming through. I look forward to seeing the conclusion of the plan in his constituency.

Michael Fabricant (Lichfield) (Con): I think you know, Mr Speaker, that I believe that claims that there will be pestilence and war if we leave the European Union might be inadvertently misleading. The latest claim, that house prices will fall if we leave the EU, is, if true, possibly a good thing for creating affordable housing. Does my hon. Friend agree?

Brandon Lewis: I agree with my hon. Friend on many things, but on this I have to say that the problem is that people who own their own home would end up in negative equity, people who are looking to buy would struggle because supply would fall through lack of investor confidence, and, given that as mortgage rates go up the cost of buying also goes up, affordability could get worse.

Tayside Region City Deal

4. **Ms Tasmina Ahmed-Sheikh** (Ochil and South Perthshire) (SNP): What progress has been made on discussions on a Tayside region city deal. [905266]

The Parliamentary Under-Secretary of State for Communities and Local Government (James Wharton): Discussions on a Tayside city deal are going well. The Under-Secretary of State for Scotland met Dundee City Council on 16 May to further those discussions. More work is being done but we welcome what has been done so far.

Ms Ahmed-Sheikh: A Tayside region city deal will be great for people across Tayside and for my constituents in South Perthshire. Will he set out the timescale agreed for finalising the deal, and, more importantly, whether the UK Government expect that they will be the majority funder of the project or, as is the case in Aberdeen, they expect the Scottish Government to underwrite the majority of the investment?

James Wharton: I do not wish to pre-empt the conclusion of the discussions that are underway. As I said, the Under-Secretary of State for Scotland met Dundee City Council on 16 May. He is meeting the leaders of Scottish cities again on 8 June. I hope the deal can be concluded quickly, with agreement, as it will benefit not only all those who live there, but the UK economy as whole.

Supported Housing

5. **Mr David Hanson** (Delyn) (Lab): What assessment he has made of the potential effect of planned reductions in social rents and housing benefit support on supported housing. [905267]

The Minister for Housing and Planning (Brandon Lewis): The Government have always been clear that the most vulnerable will be protected and supported through our welfare reforms. Following our review of supported housing, which is due to report shortly, we will continue to work with the sector to ensure that appropriate protections are in place.

Mr Hanson: That is all very well, but why then do St Mungo's, Centrepoint, the Salvation Army and the National Housing Federation, to name just a few organisations, all think that the Government's proposals will hit supported housing hard and will reduce the number of places available? Should the Minister not listen to the people who are providing the service rather than to his own political dogma?

Brandon Lewis: I gently say to the right hon. Gentleman that Howard Sinclair, the chief executive of St Mungo's Broadway, has said:

"This is a sensible and reasoned decision by the government".

The chief executive of YMCA England has said that the Government

"has taken appropriate action to protect supported housing."

We have decided to delay things for a year while we work with the sector to make sure we have a good and well-protected sector in future.

Mr David Burrowes (Enfield, Southgate) (Con): I welcome the Government's review of supported housing and their commitment to preventing homelessness, both financially in the autumn statement and Budget, and in a likely statutory duty to prevent homelessness. Does that progress not fly in the face of putting a local housing allowance cap on supported housing, which in effect would pull the rug from under very vulnerable tenants who the Government are supporting at the moment?

Brandon Lewis: My hon. Friend rightly points out that the spending review put in £400 million of funding to deliver 8,000 new specialist affordable homes. As I

said, the delay of a year is to work with the sector, and the review that we have commissioned jointly with the Department for Work and Pensions will be published shortly. We have made it clear from the beginning that we will ensure that the most vulnerable people are protected and supported through all the reforms.

Mr Clive Betts (Sheffield South East) (Lab): If the Government continue with their rent and benefit changes it is likely that most supported housing will close, so it is welcome that they have instituted the review. In that review, will the Minister consider an issue that has been raised with the Communities and Local Government Committee as part of its inquiry into homelessness, which is whether, when people who are out of work and homeless go into supported housing, costs are covered through housing benefit? Under current arrangements, people who are in work can find themselves worse off than those who are out of work, so in the review will the Minister consider whether that problem can be rectified, along with the other issues?

Brandon Lewis: The review will consider all issues that affect the sector, and we are working with the sector on that—yes, absolutely, we will take that point on board.

Alison Thewliss (Glasgow Central) (SNP): Recently published research by Scottish Women's Aid in partnership with survivors of domestic abuse in Fife reveals that women and children are often forced to make themselves homeless to be eligible for domestic abuse support. The recently proposed cap on local housing allowance will also have a devastating impact on the future provision of specialist refuge accommodation in Scotland, which is largely in the ownership of local authorities and housing associations. What steps are being taken to protect the provision of support for survivors of domestic abuse under those circumstances?

Brandon Lewis: As the hon. Lady will know—it was outlined a few moments ago by the Secretary of State—we have put extra funding into women's refuges, and we have introduced a delay of a year while we work with the sector and the review is completed. That review will be published shortly, and all those issues will be taken into account when ensuring that we continue to protect the most vulnerable in our society.

Alison Thewliss: Perhaps the Minister will give us a wee bit more assurance on that. The delay for a year is welcome, but many domestic abuse charities are worried about what will happen at the end of that. They need a bit of certainty and to be able to plan in the years ahead for those vital services on which women and children depend. Can he give us any more certainty about when the review will be published?

Brandon Lewis: First, we have outlined a further £400 million to go into providing 8,000 more homes, which shows our commitment to that sector. We have always been clear that we want to ensure that the most vulnerable are protected, and that the right provision is in place, and that is what the review is about. It will be published shortly, and we will respond to it. That is why the sector has widely welcomed the year's delay, and as I said earlier, we are working with the sector to protect those most vulnerable people.

Violence against Women and Girls

6. **David T. C. Davies** (Monmouth) (Con): What steps his Department is taking to help tackle violence against women and girls. [905268]

The Parliamentary Under-Secretary of State for Communities and Local Government (Mr Marcus Jones): Our manifesto commitment is to create a secure future for women's refuges, and in the new strategy to tackle violence against women and girls, we set out our ambition for prevention, not crisis response, to be the norm. We are determined to ensure that victims get the help they need when they need it, and we will fund local areas to make the changes needed.

David T. C. Davies: Some interpretations of sharia law advocate and condone violence against women, and women's rights groups such as One Law for All are concerned at the spread of sharia courts in the UK. What support are the Minister and his Department giving to women's groups such as One Law for All, which want to protect women against religiously sanctioned violence?

Mr Jones: I assure my hon. Friend that the Government are strongly committed to women's rights. The independent review of sharia courts announced by the Home Secretary will enable us to understand the extent to which sharia law is being applied in a way that is incompatible with UK law, and we will then be in a position to identify whether further actions are required to promote women's safety.

Edinburgh and South East Scotland City Regional Deal

7. **Deidre Brock** (Edinburgh North and Leith) (SNP): What progress has been made on the Edinburgh and south-east Scotland city regional deal. [905269]

The Parliamentary Under-Secretary of State for Communities and Local Government (James Wharton): Discussions continue positively on a city deal for Edinburgh and south-east Scotland. Officials have had a number of meetings and progress is being made, and Members across the House hope that an agreement can be reached so that something can be delivered that will benefit the hon. Lady's constituents and our economy as a whole.

Deidre Brock: I have heard that one local authority involved in the Edinburgh city region deal, West Lothian Council, has distanced itself from the development of the deal and now appears to be intending to step away altogether. How will the Minister encourage it back into the ring on that deal?

James Wharton: The processes are by agreement, but we hope that all local authorities look to see the positives in what can be delivered, and the difference that can be made to the local economy, when city deals are agreed. My noble Friend the Under-Secretary at the Scotland Office will meet the leaders of Scottish cities on 8 June.

I will draw his attention to the hon. Lady's comments in the hope that he can bear them in mind and perhaps overcome some of the obstacles.

Peter Kyle (Hove) (Lab) *rose—*

Mr Speaker: Order. Edinburgh and south-east Scotland are a very long way from Hove. Notwithstanding the hon. Gentleman's considerable ingenuity, I find it hard to see how he can relate this to Hove. He should be patient and have another go on another question. Keep waiting, man, and keep in good spirits. We will get you in somehow.

Social Care Costs

8. **Diana Johnson** (Kingston upon Hull North) (Lab): What assessment he has made of the effect on local authority budgets of social care costs. [905270]

The Secretary of State for Communities and Local Government (Greg Clark): The spending review provided up to £3.5 billion of funding to help to meet the demographic pressures on social care—more than the £2.9 billion that local government and the directors of adult social services estimated was needed in their submission to the spending review.

Diana Johnson: Social care in Hull is facing a perfect storm, and GPs tell me that it is starting to impact on hospitals. We have had the deepest cuts in local government since 2010, and the national living wage is adding to costs. Will the Secretary of State accept the clear evidence of a growing funding gap that outstrips the social care levy, and that it is worst in areas of greatest and rising demand?

Greg Clark: The hon. Lady never misses a chance to be miserable about Hull, a great city that it is on the rise. Hull has benefited to the tune of nearly £7 million a year from the local government settlement—it is one of the biggest gainers in the country. The last time she made that point, the leader of her council wanted not to take what she said at face value, and said:

"I do wish people would stop talking the city down. There is so much going on here…and a lot to look forward to."

20. [905282] **Daniel Kawczynski** (Shrewsbury and Atcham) (Con): I am grateful for the Secretary of State's visit to Shrewsbury the other week. He will have heard from the council of the big pressures it is under as a result of increasing costs in adult social care services. We have more senior citizens in Shropshire than the national average and the number is growing at a faster rate than the national average. What lessons has he learned from his visit to Shrewsbury, and what further assistance will he give my council to deal with that very important issue?

Greg Clark: I enjoyed my visit to Shrewsbury, as I enjoyed my visit to Hull. One thing that was welcomed in both places was a review of the underlying needs assessment, which has not been changed for many years, to ensure that the underlying pressures are properly reflected in the new settlement that, as a result of the Government's reforms, comes in when 100% of the business rate is retained by local government.

Norman Lamb (North Norfolk) (LD): Clinical commissioning groups in my county of Norfolk have told the county council that they are withdrawing the money from the better care fund that was available for the protection of social care last year, leaving at least a £7.5 million gap. What is the Secretary of State doing in his discussions with the Secretary of State for Health to ensure that social care is protected? The risk of elderly, frail people and disabled people losing out more is very real.

Greg Clark: The right hon. Gentleman knows from his experience in the Department of Health how important it is to ensure that the social care system and the healthcare system are joined up. Part of the integration of the health and social care is ensuring that people, whether they are NHS patients or cared for by the local authority, have the best care available delivered in the most efficient way.

Mr Philip Hollobone (Kettering) (Con): Unitary councils have been established in that manner—with the health service embedded within them. What evidence is there that combining health and social care means that those services will be delivered more effectively and more efficiently?

Greg Clark: We know that where relationships are most embedded and advanced between local authorities in the NHS, people can be confident that they will have the best level of care without falling between the cracks of the two systems. Local government can do that working with the NHS, which is why that has been a prominent feature in some devolution deals.

Pay to Stay

9. **Angela Rayner** (Ashton-under-Lyne) (Lab): Whether his Department has made an estimate of how many families will move home as a result of the Pay to Stay provisions of the Housing and Planning Act 2016 over the course of this Parliament. [905271]

19. **Daniel Zeichner** (Cambridge) (Lab): Whether his Department has made an estimate of how many families will move home as a result of the Pay to Stay provisions of the Housing and Planning Act 2016 over the course of this Parliament. [905281]

The Parliamentary Under-Secretary of State for Communities and Local Government (Mr Marcus Jones): The Government believe that tenants on higher incomes should contribute towards a fairer level of rent. More than 90% of tenants will be unaffected by our plans. Many above the threshold will be protected from big rent rises through our tapering approach. This is not about forcing households from their homes.

Angela Rayner: Given the gap between social and market rents, many of my constituents—teachers, nurses, junior doctors, electricians, bricklayers, call centre staff and shop workers—will pay thousands of pounds extra a year. Will the Minister take this opportunity to confirm that the Government have abandoned any claims to being the workers' party?

Mr Jones: Despite the hon. Lady's tone, I am sure she agrees that social housing should be prioritised for those most in need. I reassure her and her constituents that the assumption that in the first year thousands of pounds extra could be paid in rent is definitely not the case. We have a taper: for every £1 households earn over the income threshold, they will pay only an extra 15p in rent.

Daniel Zeichner: In the past week my local newspaper, *Cambridge News*, has run a series of articles about the impact of the housing crisis in a high-cost city such as Cambridge. The council warns that the Pay to Stay proposals will affect a significant number of families on modest incomes and in some cases cost them an extra £3,000 a year. What advice can the Minister give to those people? Where should they move to? Should they quit their jobs or do fewer hours?

Mr Jones: As I outlined a few moments ago, the hon. Gentleman and the council seem to be basing their figures on a false premise. Once the policy comes into effect, the average cost of housing for people affected will be about 15% of their income, bearing in mind that they are higher earners. In the private rented sector, people are having to pay 50% of their income.

Ms Karen Buck (Westminster North) (Lab): My constituents are always keen to hear news about improving work incentives and making work pay. What will the Minister say to my constituents who have written to me about the Pay to Stay proposals, saying that their introduction will mean a choice between cutting hours, turning down a pay rise or refusing promotion, because it is not economically worth their while to earn extra income?

Mr Jones: The taper is designed to ensure that it always pays to work. I reassure the hon. Lady and her constituents that many things—child benefit, tax credits, personal independence payments—are not taken into account under this policy.

Departmental Civil Servants: Coventry

10. **Mr Jim Cunningham** (Coventry South) (Lab): If he will take steps to increase the number of civil servants of his Department based in Coventry. [905272]

The Parliamentary Under-Secretary of State for Communities and Local Government (James Wharton): There are currently no plans for the Department to open new government offices in Coventry, but we welcome the significant economic growth the city has enjoyed and we welcome the £89.4 million investment that the Warwickshire and Coventry growth deal is delivering for the local economy. We want Coventry—in particular, its private sector—to continue to grow. The contribution of businesses in Coventry is quite incredible. I welcome the hon. Gentleman's question in focusing attention on the good work that has been done.

Mr Cunningham: I thank the Minister for that answer, but surely he agrees that in having elected mayors for the regions it should follow that the civil service are dispersed to areas like Coventry? Friargate would be a good site.

James Wharton: I welcome the hon. Gentleman's enthusiasm, but at present there is no intention to relocate existing offices of this Department to Coventry. In April 2010, 3,382 people were claiming jobseeker's allowance in Coventry. We welcome the fact that, thanks to the Government's long-term economic plan, that number has fallen to 1,284. We want that trend to continue. The hon. Gentleman is quite right: as we devolve power to local areas, giving more responsibility to local economies and the people in them, we would like rebalancing to take place.

Enterprise Zones

11. **Graham Evans** (Weaver Vale) (Con): What assessment his Department has made of the effect of enterprise zones on rates of employment. [905273]

The Parliamentary Under-Secretary of State for Communities and Local Government (James Wharton): Enterprise zones have made a significant contribution to growing our economy. Those announced in 2012 have contributed to more than 620 businesses and to nearly 24,000 jobs. Nearly £2.5 billion has been invested in those enterprise zones to support our economy and create employment for our constituents.

Graham Evans: Daresbury enterprise zone in Weaver Vale employs thousands of people, including 500 scientists working on cutting edge technologies such as big data. With nine enterprise zones in north-west England, does my hon. Friend agree that this highlights the Government's commitment to closing the north-south divide and rebalancing the economy by building a fantastic northern powerhouse?

James Wharton: My hon. Friend is absolutely right. We saw in the autumn statement a doubling of enterprise zones in the north of England and investment in the northern powerhouse. He has been a passionate advocate for this enterprise zone in particular and has impressed on me its importance and contribution to our economy. I hope that I might visit it soon with him to see at first hand what he is delivering for his constituents, working with this Government, as we stick to our long-term economic plan.

24. [905286] **Mark Menzies** (Fylde) (Con): Unemployment in my constituency has nudged upwards in the last year. What steps is the Minister taking to ensure that the enterprise zone at Warton provides valuable opportunities to people in Fylde?

James Wharton: I welcome my hon. Friend's question; he is a passionate advocate for his constituency and the enterprise zones that lie within it. I have visited Samlesbury but not yet Warton—perhaps my namesake enterprise zone is due a visit shortly, and I would be delighted if he were to welcome my joining him in attending it. We will offer what support is needed to ensure that enterprise zones are successful, create jobs and drive forward our economy. I am always happy to talk to him about the particular needs in his constituency.

Mr Speaker: I am sure its residents will feel excitement and anticipation in equal measure.

Mr Steve Reed (Croydon North) (Lab): Will the Minister give a commitment that no enterprise zone or council will lose funding as a result of the localisation of business rates?

James Wharton: I am surprised at the hon. Gentleman's question. He knows as well as I do that local government has been asking for many years for the localisation of business rates, which will give real incentives to drive local growth. He also understands that enterprise zones already sit differently within the business rates regime from local authorities, which we will have to take into account as we develop the system.

Local Enterprise Partnerships: Growth Deals

13. **Mr Alan Mak** (Havant) (Con): What assessment his Department has made of the level of support for local enterprise partnerships from growth deals . [905275]

The Secretary of State for Communities and Local Government (Greg Clark): During the last Parliament, we devolved £7.7 billion of central Government funds in local growth deals, and in March, I invited applications for a further £1.8 billion of funds to further support local growth.

Mr Mak: Solent local enterprise partnership supports the regeneration of Dunsbury Hill Farm business park, which is creating more than 3,000 new jobs in my constituency. Will the Secretary of State continue to support LEPs, through the growth deals, to continue job creation in Havant and across Britain?

Greg Clark: I will indeed. My hon. Friend has been a big champion of the Dunsbury Hill Farm link road, which was funded by the LEP. I understand that the business park has its first tenants signed up and is creating 3,500 jobs, which is a further boost to the very successful time already being enjoyed on the Solent and in Havant in particular.

Right to Buy: Low-cost Housing

14. **Hannah Bardell** (Livingston) (SNP): What assessment he has made of the effect of the right-to-buy scheme on the availability of low-cost housing for people on low incomes. [905276]

16. **Margaret Ferrier** (Rutherglen and Hamilton West) (SNP): What assessment he has made of the effect of the right-to-buy scheme on the availability of low-cost housing for people on low incomes. [905278]

The Minister for Housing and Planning (Brandon Lewis): Within England, a new affordable home has been provided for every additional right-to-buy sale since 2012 under a reinvigorated scheme. Under the groundbreaking voluntary agreement, housing associations will also deliver an additional home nationally for every home sold.

Hannah Bardell: The right to buy has had a disastrous effect on the availability of affordable housing. The SNP Scottish Government have had the courage to abolish it and have built more than 6,000 new council houses in Scotland. Has the Minister carried out an assessment of the effect on the supply of housing UK-wide that abolishing the policy would have?

Brandon Lewis: Abolishing the policy would actually reduce supply. We are extending it to 1.3 million more people, and, as I outlined, because a new home is being built for every home sold, it will, by definition, increase the supply of affordable homes.

Margaret Ferrier: The Institute for Fiscal Studies has highlighted the fact that the Scottish Government spends 85% more per head on social housing than England and Wales. Unlike the UK Government, the SNP Government are hitting their targets for affordable homes. Does the Minister acknowledge the abject failure of the UK Government's policies to increase the affordable housing supply?

Brandon Lewis: I am proud that the Conservative-led Government in the last Parliament was the first to finish a Parliament with more affordable homes than they started with. We lost 420,000 under the Labour Government, who sold 170 homes for every one they built. That is why the one-for-one provision increases housing supply. We went ahead of our target in the last Parliament and we now have the largest building programme since the 1970s. That is something for us to be very proud of.

Coastal Communities

15. **Cat Smith** (Lancaster and Fleetwood) (Lab): What steps his Department is taking to help increase growth, prosperity and the number of jobs in coastal communities. [905277]

The Minister for Communities and Resilience (Mr Mark Francois): We have invested more than £120 million across the UK through the coastal communities fund, which is helping to create or safeguard more than 18,000 jobs, provide more than 12,000 training places and attract more than £200 million of match funding. We have also announced a £90 million four-year extension to the fund.

Cat Smith: The Minister will be aware that tourism plays an important role in our coastal communities, so how damaging does he think the potential fracking wells on the Fylde coast would be to our tourism industry in the Blackpool area?

Mr Francois: I should hope that fracking would not have an impact on tourism as such, although I understand the sensitivities involved in that issue. We are doing a lot to support tourism in the hon. Lady's constituency through the coastal communities fund. Wyre Borough Council was given a £1.55 million grant in 2014 to create new attractions along Fleetwood seafront to attract more visitors throughout the year. Lancashire County Council got just under £250,000 in 2015 to unlock the heritage potential of Lancaster's historic St George's quay. I believe the fund is doing well around the country, particularly in the hon. Lady's constituency.

Martin Vickers (Cleethorpes) (Con): I welcome what the Minister has said about support for coastal communities, but he will be aware that they have been particularly badly affected by membership of the European Union

and the impact of the common fisheries policy. This has resulted in much derelict and redundant dockland. What additional support can the Government offer to regenerate our now redundant dockland?

Mr Francois: Returning briefly to the coastal communities fund, I should point out that it has been highly successful and has helped to generate a tremendous return. For every £1 invested by the fund we get about £8 back. We regard that as highly successful, which is why we have extended the fund over another period of four years, with a budget of £90 million. In England, bidding for round four is now open. I believe the coastal communities fund would do very well for the coastal communities of our country, whether or not we are in the European Union.

Liz McInnes (Heywood and Middleton) (Lab): Coastal tourism is valued at more than £8 billion and is a key contributor to the UK economy. A recent report from the National Coastal Tourism Academy identified significant opportunities for further growth and highlighted the need for strong partnerships between the public and private sectors. What is the Minister doing to foster these strong partnerships?

Mr Francois: I thank the hon. Lady for pointing out the National Coastal Tourism Academy report. From memory, we helped to fund the creation of that body, so it looks as though we are getting good value for money there, too. She talked about the importance of partnerships; we entirely agree. We have set up 118 coastal communities teams around the country to bring together in partnership local authorities, voluntary groups, charities and residents to design an economic plan for the revival of their areas. We will be celebrating the success around what we now like to call the Great British coast with a Great British coastal conference in Brighton on 30 June. Perhaps the hon. Lady would like to come down in a spirit of partnership and celebrate it with us.

Neighbourhood Plans

17. **Mr Ranil Jayawardena** (North East Hampshire) (Con): What plans his Department has to enhance and extend neighbourhood plans. [905279]

The Secretary of State for Communities and Local Government (Greg Clark): We have already seen a revolution in neighbourhood planning, with 193 neighbourhood plans approved at referendum and nearly 2,000 groups across the country involved, covering nearly 10 million people. We announced in the Queen's Speech that we will introduce a new package of measures further to strengthen neighbourhood planning in the forthcoming neighbourhood planning and infrastructure Bill.

Mr Jayawardena: My constituents are strong supporters of neighbourhood planning as a way of influencing the planning system in their local areas. Will my right hon. Friend meet me to discuss the forthcoming Bill and how it can give more weight to neighbourhood plans, local views and, indeed, permitted development where neighbours agree?

Greg Clark: I would be delighted to meet my hon. Friend. Neighbourhood plans are one of the most important successes of the Localism Act 2011 and they are catching fire across the country as more and more communities want to be able to shape the character of their communities. It is notable that when they go to referendum, the average yes vote is 89%. I think either side of the referendum campaign would regard that as emphatic.

Greg Mulholland (Leeds North West) (LD): Some councils, including Leeds City Council, are prioritising "easy" areas with neighbourhood plans and ignoring and not properly assisting those where it is difficult and there are huge pressures, such as Aireborough. Will the Secretary of State look at the guidance issued to councils, particularly as developers can carry on developing even though neighbourhood plans are being produced?

Greg Clark: I hope the hon. Gentleman will involve himself in the scrutiny of the new Bill, which is designed to help precisely those neighbourhoods where support from the local authority has not always been forthcoming and enthusiastic, so that they can insist on that and proceed apace.

Brownfield Land/Green Belt

18. **Pauline Latham** (Mid Derbyshire) (Con): What steps his Department is taking to (a) ensure the use of brownfield land and (b) protect the green belt. [905280]

The Minister for Housing and Planning (Brandon Lewis): We are committed to retaining strong protection of the green belt, and its boundaries can be changed only in exceptional circumstances. Brownfield land has an important role in delivering new housing, and we have taken steps to maximise the number of dwellings built on suitable brownfield land.

Pauline Latham: I thank the Minister for that answer. The approach to ensuring that brownfield land is built on and that the green belt is protected is absolutely the right one. What plans have the Government made available to support the remediation of brownfield sites?

Brandon Lewis: My hon. Friend has pushed passionately in her own constituency to ensure that the maximum use for brownfield land is found. Through the Housing and Planning Act 2016, planning permission in principle for brownfield registers is coming through, and there is a £1.2 billion fund for starter homes, which is obviously applicable to the brownfield sites. We have also made more money available in the spending review, which will be put in the public domain later this year, to make sure that we get planning permission for 90% of all the brownfield land by the end of this Parliament.

Robert Flello (Stoke-on-Trent South) (Lab): Stone-on-Trent has swathes of brownfield land, yet vulturesque developers are trying pounce on green sites off Meadow Lane in Trentham and down in Lightwood. If the developers get turned down at the planning stage, they get right of appeal after right of appeal, but if my communities lose, that is it—they are dead in the water. They want to know why they cannot have the right of appeal to stop developers building on green sites when there are so many brownfield sites available.

Brandon Lewis: The best protection for these areas comes from having not just a local plan but neighbourhood planning in place. We have made it clear that a neighbourhood plan should be respected and has weight in law. The appeals system is part of natural justice when it comes to how the planning system deals with the landowners' use of their own land, as we outlined in the last stages of the Housing and Planning Act. I would encourage the hon. Gentleman's local residents to get a neighbourhood plan in place. That will give them the best protection to make sure that they have development they think is appropriate in their area, and put pressure on the local authority to make the best possible use of its brownfield land.

22. [905284] **Wendy Morton** (Aldridge-Brownhills) (Con): It is vital to take steps to unlock the potential for brownfield housing developments while continuing to protect the precious green belt, which is integral in areas such as Aldridge and Streetly in my constituency. Will the Minister assure me that where brownfield sites are clustered together, as parts of a combined authority or in plans such as those for the black country garden city, each local authority will retain control and responsibility for planning decisions under its control?

Brandon Lewis: My hon. Friend makes a good point. The planning authority is the local authority, which has planning and decision-making power over its own land. I stress that for all such areas a neighbourhood plan has weight in law, and thanks to the Housing and Planning Act 2016, local authorities will make brownfield registers available to identify and make it clear for developers where the brownfield land that can be developed is located. They can then look to getting the funding together to develop it.

Planning and Development: Local Views

25. **Nic Dakin** (Scunthorpe) (Lab): What guidance his Department has issued to local authorities on giving due consideration to the views of local people on maintaining green, open spaces when developing their own land holdings. [905287]

The Parliamentary Under-Secretary of State for Communities and Local Government (Mr Marcus Jones): Local planning authorities are required to determine all planning applications, including those on their own land, in line with their local plan, unless material considerations indicate otherwise, having regard to the views of local people. Planning policy provides strong protection for open space.

Nic Dakin: I thank the Minister for his answer. Local people are supportive of North Lincolnshire Council's desire to develop the former Brumby resource centre site, but are anxious for the green open space that has been there for generations to remain so. Does the Minister agree that North Lincolnshire Council needs to think very carefully before building houses on a green open space?

Mr Jones: I am sure that the hon. Gentleman will understand that I cannot comment on what sounds likely to be a live planning application. However, I can tell him that the national planning policy framework recognises that access to high-quality spaces is an important contributor towards the health and the wellbeing of communities, and that it is quite clear that existing open spaces should not be built on unless replaced by something similar.

Topical Questions

T1. [905223] **Paul Flynn** (Newport West) (Lab): If he will make a statement on his departmental responsibilities.

The Secretary of State for Communities and Local Government (Greg Clark): Since our last questions, the Housing and Planning Act 2016 has received its Royal Assent. I would like to thank parliamentary and departmental colleagues for their incredibly hard work on a landmark piece of legislation. With two further Bills set for the new Session, there can be no doubting the centrality of housing and devolution to this Government's agenda.

Since our last questions, a respected leader of local government, Darren Cooper, the leader of Sandwell Council and deputy chair of the proposed west midlands combined authority, died at a young age. He was a champion of devolution for the black country and the west midlands, and I would like to pay tribute to him and his work.

More happily, last month marked the 10th anniversary of the creation of the Department for Communities and Local Government. It was my privilege to pay tribute to officials for their dedicated service. I do regret not inviting former Ministers in the Department to the celebrations. The right hon. Member for Wentworth and Dearne (John Healey) would have been greatly encouraged by the progress made by the Department over the last six years, especially after the calamities of its first four.

Paul Flynn: The number of civil service jobs has been cut in most parts of the country, but the proportion of such jobs in London has increased by 16% since 2010. Why condemn people to live in overcrowded London, with its grossly polluted air and sky-high house prices, when they could live in the broad green acres of Wales where the air is sweet and the house prices are genuinely affordable?

Greg Clark: That enticing invitation to come to live and work in Wales will have been heard across the country, and I think the same applies to our great cities, towns and counties right across the country. Part of our devolution agenda is to take away the powers and resources that have been locked up in this city and to make them available across the country so that they can be locally led and bring about the revival that the hon. Gentleman refers to.

T2. [905224] **Mr Nigel Evans** (Ribble Valley) (Con): Sabden, one of my beautiful villages, has a population of about 1,500. It has just had its bus service withdrawn by the operator. That service was part-subsidised by Lancashire County Council, but the council now refuses to subsidise even a skeleton service, which means that the elderly and the young have been set adrift: they cannot get into work or go to the doctor. Will the Secretary of State consider top-slicing the necessary

money from the county council and giving it to the districts so that local people can get the service they deserve?

Greg Clark: Clearly, that is a great disappointment for my hon. Friend's many constituents who rely on those services. In the local government financial settlement, we have been able to make available a flat cash settlement over four years to councils across the country, giving them the certainty of four-year funding. That is intended to allow them to plan ahead for precisely the sort of services that he describes.

John Healey (Wentworth and Dearne) (Lab): I welcome the Secretary of State's tribute to Darren Cooper. For many of us, he was not just a good local Labour council leader but a good colleague and a friend.

May I take the Secretary of State back to the answer he gave the House in reply to Question 2, when he talked about the Government's housebuilding programme? The latest official figures show that the number of new homes is down by 9% and that, six years on, it is still a third below the peak achieved under Labour. This is the housebuilding recovery that never was. Does he not agree that when housing policy fails so badly, it gives an opening to those who want to fuel resentment and division? Will he therefore today disown the comments of his Cabinet colleague the Leader of the House who blames the fall in home ownership on EU migration? Will he point out to the Leader of the House that it is possible to have a healthily growing population alongside higher home ownership, just as Britain did during the baby-boom years under Macmillan and Wilson?

Greg Clark: I lay the blame for the shortage of housing on what happened during the tenure of the party opposite and the right hon. Member for Wentworth and Dearne, who was the relevant Minister at that time. Ignominiously, he will go down in history as the Housing Minister who built the fewest homes in the peacetime history of this country, with only 85,000 being built in 2009. He is the man under whom we saw a fall in home ownership of a quarter of a million. The most significant thing is that when he was commenting on that, he said:

"I'm not sure that's such a bad thing."

Under this Government, the proportion of building is rising again; we have 250,000 planning permissions and more than 170,000 additions to the housing stock. We have doubled the rate of growth of housing compared with the rate that he presided over, so he might talk about lessons from the past, but we will be looking closely at his record to see what actions to avoid.

John Healey: May I suggest that the Secretary of State go back to the Department and call in his Government statisticians to put him right on these figures? The Labour record speaks for itself: 1 million more homeowners, 2 million new homes built, and the largest investment in social housing in a generation. That is a record that the present Housing Minister would give his right arm for; it might even get him a Cabinet promotion. May I, however, bring the Secretary of State back to the question of the European Union? Does he accept that the European Union is helpful to housebuilding in Britain? Does he agree that the European Investment Bank's commitment of £1 billion to build almost 20,000 new affordable homes is now needed more than ever, not least because this Government's housing investment over this Parliament will be only half what it was under Labour?

Greg Clark: The right hon. Gentleman should go back and check his record—as a former Minister, I am sure he has access to the files. Under the previous Labour Government, including during his time as Housing Minister, 420,000 homes were lost from this country's affordable housing stock.

An important source of investment in housing, including in social and affordable housing, comes from the European Investment Bank, which has invested £2 billion in our housing stock over the years. It is important that we continue to have access not only to that investment but to investment from private sector bodies, all of which benefit from the confidence and stability that we have had through our arrangement, including the wholehearted commitment of a Government determined to increase house building.

T4. [905226] **David T. C. Davies** (Monmouth) (Con): The Minister will be aware that the average council tax increase in England has been 3.1%, whereas it has been 3.6% in Wales. Does that not clearly demonstrate that Conservative policies are delivering better services at a better price than anything that Labour can achieve?

The Parliamentary Under-Secretary of State for Communities and Local Government (Mr Marcus Jones): I completely agree with my hon. Friend. One only needs to look at the parallel between the Labour Administration in Wales and when the Labour party was in Government: council tax doubled over 13 years. Since 2010, council tax has been reduced in real terms by 9%.

T3. [905225] **Kelvin Hopkins** (Luton North) (Lab): When I bought my first home in Luton in 1969, house prices were three times average earnings. The same house in Luton would now cost at least 12 times average earnings. Unsurprisingly, home ownership as a tenure has been falling. Is it not utterly cynical of the Government to pretend that everyone can become homeowners when what millions of families need, and what many say they want, is a decent council house?

The Minister for Housing and Planning (Brandon Lewis): The hon. Gentleman will therefore be pleased to know not only that in just five years we have built roughly double the number of council-run social homes that Labour built in 13 years, but that we are focused on ensuring that people can have the chance to own their own home. Home ownership fell from 2003 and right the way through the Labour Government's time. We have stalled that decline and are determined to see home ownership increase, which is why we are delivering starter homes for 200,000 people. We want to see a million more first-time buyers over the course of this Parliament.

T5. [905228] **Mr Alan Mak** (Havant) (Con): South Hayling Island's coastal community team was awarded a £10,000 grant last year to help the local economy by improving local signage. Will the Minister congratulate Rosemary Satchwell and the whole team on their hard work in promoting local businesses?

The Minister for Communities and Resilience (Mr Mark Francois): I am very happy to congratulate Rosemary Satchwell and the South Hayling Island coastal community team. Its economic plan highlighted the importance of signage in boosting business and tourism on South Hayling Island. I hope that Rosemary Satchwell will attend our "Great British Coast" conference in Brighton on 30 June to tell us more about it.

T8. [905231] **Mr Graham Allen** (Nottingham North) (Lab): Will the Secretary of State inform the House of the latest position on the devolution deal in Nottinghamshire and Derbyshire?

Greg Clark: As the hon. Gentleman knows, the discussions in the north midlands are well advanced. While a top-down process, dictated from Whitehall, might be tidier than the current negotiated process, in which proposals are made from the bottom up, I think he would accept that that would be to miss the point.

T6. [905229] **John Glen** (Salisbury) (Con): During a glorious bank holiday weekend in Salisbury, the city council hosted an international market as part of the Love Your Local Market campaign. Does he Minister agree that thriving high streets and local markets are good not only for the local economy but for a city's sense of community?

Mr Marcus Jones: I absolutely agree with my hon. Friend on that, and I am delighted to hear about the continental market in Salisbury and his support for Love Your Local Market fortnight, when more than 3,000 events took place across the country. This concept is now in its fifth year; it is the biggest celebration of markets and it is estimated that 1,500 businesses have started up during LYLM fortnight, with many still trading six months later.

Peter Kyle (Hove) (Lab): City, regional and growth funds have the potential to transform areas across the country, from Edinburgh North and Leith all the way down to Hove. The Secretary of State had a meeting with Brighton's council recently. Many areas in the south-east showed enthusiasm for these funds in the early days, but this has not translated into deals being struck. I know he had a constructive meeting in Brighton and Hove recently, so will he update the House on his thinking and on how he is going to get the balance right between urban areas and the hinterlands and the countryside, to make sure that cities do not lose the power they need?

Greg Clark: As I said to the hon. Member for Nottingham North (Mr Allen), it is very important that these proposals come from the bottom up, and that requires local agreement. Discussions are taking place locally in the south of England, as they are in Nottinghamshire and Derbyshire, as to what is the right geography of a proposed deal. It is very important that these things are determined locally, rather than by my getting a pen and drawing lines on a map. I hope the hon. Member for Hove (Peter Kyle) will use his good influence to bring people together, so that we can advance what should be a very important and attractive deal.

T7. [905230] **Stephen Metcalfe** (South Basildon and East Thurrock) (Con): Empty homes are a blight on our local communities, with some becoming derelict and dangerous, meaning that not only are local people deprived of somewhere to live, but entire areas can appear run down or unkempt. What is the Minister's assessment of the number of empty homes and what is his Department doing to improve the situation?

Brandon Lewis: My hon. Friend makes a good point, and he has made the case to me before outside the Chamber about ensuring that we make the best use of the housing stock we have. I am pleased that under our Government we have seen a drop to the lowest level on record—a third down on the peak—and that in Thurrock the number of empty homes has dropped from 319 homes to 214. But we need to keep going, which is why our changes on the powers over council tax and the new homes bonus give a real incentive to local authorities to make sure we get these empty homes back into use. We should keep pushing.

John Cryer (Leyton and Wanstead) (Lab): Further to Question 6, will the Minister give a pledge now that if the Home Secretary reports that sharia courts and other institutions have been over-reaching themselves, he will fund the appropriate women's organisations at a level that means that they can protect women who are vulnerable?

Mr Marcus Jones: I can confirm to the hon. Gentleman, as my right hon. Friend the Secretary of State has done, that a £40 million fund is being put towards women's refuges across this Parliament. That is an unprecedented amount of funding, and I can assure the hon. Gentleman that we will be carefully considering bids from across the country, from organisations and charities representing all types of groups, such as the one he mentions.

T9. [905232] **Andrew Bingham** (High Peak) (Con): Thanks to the Conservatives in government, community groups now have the right to protect facilities and other much loved buildings or land by listing them as assets of community value. How many of these assets have been listed in such a way and, more importantly, what support is available to local communities to take up this exciting opportunity?

Mr Jones: More than 3,000 assets of community value have been listed to date, including 256 sports facilities. On the support we are offering, we fund the My Community website and network, which provides information, case studies and resources for people interested in taking up community rights and getting involved in their local neighbourhood. I congratulate my hon. Friend, as I understand he has organised another massive fundraising day, which this time is a golf day rather than a cricket day. I wish him every success, because over a number of years he has raised tens of thousands of pounds for charity.

Mr Barry Sheerman (Huddersfield) (Lab/Co-op): Does the Secretary of State agree that children's services and child protection are a crucial part of local government, for which he is responsible? Has he talked to his colleagues in the Department for Education about this? Has he seen the evidence showing that as the departmental influence on education and schools continues, the ability to get children with special educational needs into good schools becomes more and more difficult?

Greg Clark: Yes, I have regular conversations with the Secretary of State. As with other areas of local government responsibility, sometimes its responsibilities cross the lines of departmental boundaries. We make sure, very particularly, that we join that up and reflect in the responsibilities and the funding of local government the full range of its commitments and needs.

Mrs Anne Main (St Albans) (Con): Office for National Statistics figures state that 3.3 million extra people will come to our country in the next 15 years. How on earth are we to make sure that there is enough land and that output will be increased enough to support the number of buildings required for that number of immigrants?

Brandon Lewis: One of the biggest pressures on our housing stock is the fact that not enough has been built in the past three decades, primarily due to the failures under the last Labour Government. It is good news that we are all living longer and living in our own home longer, but ultimately it is local authorities' key job to make sure that they assess the land needs in their local area to provide the housing their local residents need in their local plans.

Several hon. Members *rose—*

Mr Speaker: Order. We must move on.

Removal of Foreign National Offenders and EU Prisoners

3.35 pm

Sir William Cash (Stone) (Con) *(Urgent Question)*: To ask the Home Secretary to explain how she will address her continued failure to remove 13,000 foreign national offenders remaining in UK prisons and communities, and specifically the removal of EU prisoners, who make up as much as 42% of all foreign national offenders in prison, back to their EU countries of origin.

Mr Speaker: That was a bit cheeky of the hon. Gentleman. He will have an opportunity to dilate in due course, but in the first instance, he should stick to the terms of the question—and the puckish grin on his face shows that he knows he has gone a bit beyond the boundary.

Mr Barry Sheerman (Huddersfield) (Lab/Co-op): Lock him up. *[Laughter.]*

Mr Speaker: He certainly should not be locked up!

The Secretary of State for the Home Department (Mrs Theresa May): Since 2010, the Government have removed over 30,000 foreign national offenders, including 5,692 in 2015-16—the highest number since records began. The number of removals to other EU countries has more than tripled, from 1,019 in 2010-11 to 3,451 in 2015-16. We aim to deport all foreign national offenders at the earliest opportunity; however, legal or re-documentation barriers can frustrate immediate deportation. Increased rates of detection can also lead to the population of foreign national offenders increasing despite a record number of removals.

Over 6,500 of the FNOs in the UK are still serving a custodial sentence. The Ministry of Justice has been working to remove EU prisoners under the EU prisoner transfer framework decision, which is a compulsory means of prisoner transfer that allows us to send foreign criminals back to their home country to serve their sentence. The record number of FNO deportations we have achieved has been due to changes made by the Government. We have reset the balance between article 8 of the European convention on human rights and the public interest in deportation cases. We have also introduced a "deport first, appeal later" power, which means foreign national offenders may appeal against deportation only from their home country, unless they will face a real risk of serious irreversible harm there. More than 3,500 foreign national offenders have been removed since that came into force in July 2014, and many more are going through the system.

The police now routinely carry out checks for overseas criminal convictions on foreign nationals who are arrested, and refer them for deportation. In 2015, the UK made over 100,000 requests for EU criminal record checks—an increase of 1,100% compared with 2010—and in December, the European Council agreed that conviction data relating to terrorists and serious and organised criminals should be shared systematically. We must never give up trying to improve our ability to deal with FNOs and tackle the barriers to deportation: we have just legislated to GPS-tag FNOs who are subject to a deportation order, and we are legislating to establish an FNO's nationality as early as possible to avoid delays during deportation proceedings.

Before 2010, there was no plan for deporting foreign national offenders. Their rights were given a greater priority than the rights of the public here, and they were routinely abusing the appeals system to avoid deportation. This Government have put in place a strategy for removing foreign national offenders, which is increasing removals, protecting the public and saving the taxpayer money.

Sir William Cash: Does the Home Secretary agree, given that today, 6 June, is the anniversary of the Normandy landing, that those who fought and died there did not do so to enable convicted EU rapists, paedophiles and drug dealers who are now here in prison to be protected under new European human rights laws, including the European charter, and the European Court; that they should be deported; and that the Home Affairs Committee was clearly right to indicate that, in these circumstances, the public will

"question the point of the UK remaining in the EU"?

Furthermore, why have the Government failed to introduce our own Bill of Rights and remove us from the EU charter? Does it not make a mockery of the Queen's Speech that the Government continue to uphold, as they say,

"the sovereignty of Parliament and the primacy of the House of Commons"?

Mrs May: I accept that my hon. Friend has his own personal reasons for remembering very much the impact of the D-day landings. It is true that those who gave their lives on the beaches of Normandy did so to protect our freedoms. The Government, as I indicated in my response to his question, have put in place a number of measures, and we continue to work to do more to ensure that we can protect the public from those serious criminals—rapists and others—who may choose to come here from whichever country they come from. My hon. Friend referred to the Bill of Rights: it is the Government's intention to bring forward a Bill of Rights, and that was referred to in the Gracious Speech that we heard a few weeks ago. I can assure him that the action that the Government have taken, for example in rebalancing the interests of the public and the interests of foreign national offenders, in the reference to article 8, show that we take seriously the need to ensure that the human rights of the British public are recognised when we deal with these issues.

Andy Burnham (Leigh) (Lab): While I congratulate the hon. Member for Stone (Sir William Cash) on securing this question, I hope that he will not be too offended that I do not agree with every word of his opportunistic election broadcast on behalf of the leave campaign. Is it not plainly the case that this is not an EU question but a question of the competence, or lack of it, of his Government and his Home Secretary? As last week's Select Committee report makes clear, while there has been progress on the deportation of foreign national offenders, it has been too slow.

Does the Home Secretary agree with what the Prime Minster told the Liaison Committee in May? He said that she and the Home Office "should have done better" on this issue. This is not the first time that the Home

[Andy Burnham]

Secretary has been warned about these failings. In the last Parliament, the National Audit Office found that more than a third of failed removals were the result of factors within the Home Office's control. Despite that, we now learn that the problem is getting worse, not better, in some areas. The Select Committee said that it was deeply concerned that there were nearly 6,000 foreign national offenders living in the community—the highest figure since 2012. Can the Home Secretary explain why the figure is so high? How many of those people are still subject to active deportation proceedings, and what is she doing to bring the figure down? She urgently needs to get a grip on the issue.

Does the Home Secretary agree that it is much easier to do that while remaining part of the European Union, and that leaving would make it harder to deport people? Is it not the case that the prisoner transfer agreement at least provides a framework to speed up the process and that country-to-country deals are far harder to achieve? Is it not also true that our access to the Schengen information system and the European criminal records information system helps us to stop criminals arriving here, and the European arrest warrant means that they can be brought to justice?

Finally, would not the British people be better off listening to the two former Met commissioners and other senior police who, at the weekend, said that our membership of the EU helps us to fight crime, rather than to the unpleasant scaremongering of the leave campaign?

Mrs May: The right hon. Gentleman's early remarks do not sit well with the facts that I have presented to the Commons. Last year, we deported a record number of foreign national offenders. Of course, the Government should always do more and always seek to ensure that we can improve our ability to do so. He talked about the higher numbers of people in the community, but it is also the case that because of the number of criminal record checks that the police now undertake with other countries we have secured a higher level of identification of foreign national offenders, which has increased the number available for us to deal with, and for all of them we make every effort, and continue to make efforts, to deport.

On the right hon. Gentleman's final point, I agree that it is easier for us to deal with these issues as a member of the European Union. He mentioned a number of tools and instruments available to us. On the figure I quoted in relation to foreign criminal checks, he mentioned ECRIS and SIS, which mean that information is available to us at the border which would otherwise not be available.

Mr Kenneth Clarke (Rushcliffe) (Con): When I was the Home Secretary's colleague as Justice Secretary, it was my pleasure to bring to a conclusion in the Council of Ministers the negotiations begun by the previous Government to get the EU-wide agreement that prisoners could be compulsorily returned to the their own country. Progress of course depends on the efficiency and priority applied to that by the bureaucracies of every Government across Europe, but I congratulate her on the very good progress being made here. Will she point out to my hon. Friend the Member for Stone (Sir William Cash) that if we were not members of the European Union, we would go back to a system where we had absolutely no ability to deport anybody to their country of origin unless we could persuade the Government of that country to accept them?

Mrs May: I thank my right hon. and learned Friend for the work he did in relation to the prisoner transfer framework decision, which was an important step forward. Crucially—this relates to the latter part of his question—that decision enables us to deport people compulsorily from the United Kingdom to serve their sentences elsewhere, whereas arrangements that may have been in place previously were about voluntary transfer, where the prisoner had to actually agree to move. The current arrangement gives us far greater scope in being able to remove people from the United Kingdom, and it is another reason why it is important to remain part of the European Union.

Joanna Cherry (Edinburgh South West) (SNP): Removing foreign national offenders is important and rightly attracts public interest, but it does require sensible and measured debate. As the Home Affairs Committee report pointed out last week, and as the Home Secretary has said, the Government have been making some progress on this issue. Does she agree that being in the European Union gives us access to criminal records sharing and prison transfer agreements, as the right hon. and learned Member for Rushcliffe (Mr Clarke) has just said, and helps us better to identify people with criminal records, allowing us to send them back to their home countries to serve their sentences? Does she agree that there is really no evidence that leaving the European Union would help rather than hinder the removal of EU offenders? Finally, does she agree that it is a shame that some other good work and powerful recommendations of the Home Affairs Committee have been overshadowed by Brexiteers determined to twist any issue to their cause, even in the absence of logic?

Mrs May: I agree with the hon. and learned Lady that being a member of the EU does give us access to certain tools and certain instruments that help us to share information that otherwise would not be available to us, and that is very important in the sharing of criminal records information. There is more for us to do, and I am working with others to ensure that we can enhance our ability to share that information so that we have more information available to us. On her latter point, I have to say that the Chairman of the Home Affairs Committee rarely allows himself to be overshadowed.

John Redwood (Wokingham) (Con): I congratulate the Home Secretary on her changes to UK law and her success with non-EU criminals, but is it not the case that freedom of movement and a series of court judgments and decisions by the European authorities have made it much more difficult to tackle the problem of EU criminals?

Mrs May: The important issue for us in being able to prevent people from entering the UK, should we consider that they are individuals whom we do not wish to have in the country, or in being able to deport people is retaining our borders, which we do. It is important that

we have at our border controls information available to us to help us make those decisions. That is why membership of SIS II is an important part of the tools and the framework that we have to enable us to deal with criminality. Of course, in the deal that was negotiated by my right hon. Friend the Prime Minister in relation to our membership of the European Union, we have enhanced our ability to deport people with criminal records and to prevent people from coming here with criminal records. We will also be ensuring that certain decisions taken by the European Court of Justice are overturned.

Keith Vaz (Leicester East) (Lab) *rose—*

Mr Speaker: Ah, the Chair of the Home Affairs Committee—Mr Nigel Keith Anthony Standish Vaz.

Keith Vaz: Time and again, the Home Affairs Committee has warned successive Governments—not just this Government, but way back to the last Labour Government—about the need to remove foreign national offenders. Credit should be given to the Home Secretary. She has relentlessly pursued people such as Abu Qatada out of the country; in fact, I was surprised that she did not pilot the plane that took him back to Jordan at the end of that saga. The fact remains, however, that eight of the top 10 countries are either Commonwealth or EU countries, and there is, frankly, no excuse for friendly countries and key allies not to take back citizens of theirs who have committed serious offences. Eighteen months ago we made a very sensible and simple suggestion, namely that the passports of foreign national offenders should be taken away from them at the time of sentencing. Has that now been implemented?

Mrs May: The right hon. Gentleman and his Committee have been consistent in raising this issue, and I am sure that he welcomes the fact that we are now removing record numbers of foreign national offenders. We are taking a number of steps in relation to the identity and identification of foreign national offenders. In most cases, passports will be taken away, although some individuals will have destroyed their documentation. That is one of the difficulties involved in returning people to countries when they have no documentation; getting the correct identity is one of the challenges faced by the recipient country, regardless of where in the world it is.

Damian Green (Ashford) (Con): The Home Secretary will be as aware as anyone of how difficult it is to deport a foreign criminal to any country and that it is all but impossible to do so to some countries. Does she agree that the EU prisoner transfer framework directive gives us a much better chance with those countries than with any other country, including Commonwealth countries; that, if my hon. Friend the Member for Stone (Sir William Cash) has his way in the referendum, that would make it more, not less, difficult to deport foreign prisoners and that our prisons' problems would therefore continue; and that that would be, by any standards, a perverse outcome?

Mrs May: I entirely agree with my right hon. Friend, who has experience of these issues from his time as the Immigration Minister. Membership of the European Union gives us access to information sharing and instruments that help increase our ability to deal with foreign national offenders and criminals. Crucially, as I indicated earlier to my right hon. and learned Friend the Member for Rushcliffe (Mr Clarke), the prisoner transfer framework decision gives us the ability to return people on a compulsory basis, rather than requiring the prisoner themselves to agree to that return.

Mr Alistair Carmichael (Orkney and Shetland) (LD): Does the Home Secretary recall that when her right hon. Friend the now Leader of the House served as the Secretary of State for Justice, he told the Home Affairs Committee that it was

"very obvious to me that it is…in our national interest to be part of"

the EU prison transfer agreement. Does she agree with that statement, as I do, and does she happen to know whether her right hon. Friend still holds that view?

Mrs May: I agree with the view about the transfer decision, and as for the views of my right hon. Friend, I suggest that the right hon. Gentleman asks him himself.

Mr Bernard Jenkin (Harwich and North Essex) (Con): My right hon. Friend has rather candidly admitted that it is more difficult to control immigration while we are a member of the EU. Does she agree that two of the reasons why we have 4,000 EU nationals in our jails are, first, that if we deport them and our EU partners do not choose to keep them in prison, they have the right to come straight back here and be free to roam our streets because they are EU citizens; and, secondly, that these people now have access to the EU charter of fundamental rights, which the Prime Minister said he wanted a complete opt-out from, but he did not get that in his renegotiation?

Mrs May: I am afraid that my hon. Friend has been misinformed about the impact of the deportation of a foreign national offender. It is not the case that a foreign national offender who is deported to another EU country would be able immediately to come back. The point of the deportation is that it means that they are not able to return to the UK, unless they apply to have that deportation revoked. Of course, it would be for the Government to decide whether it would be revoked.

Stephen Pound (Ealing North) (Lab): Some of my constituents who were born in this country, who are able to serve in the armed forces of this country, and who do not hold passports in many cases—they can even be MPs—find themselves facing deportation for historical reasons because they are citizens of the Republic of Ireland. There is statute for that special arrangement. Could the Home Secretary tell the House what her views are in respect of citizens of the Irish Republic currently in British prisons?

Mrs May: As I understand it, a memorandum of understanding was signed by the last Labour Government and the Republic of Ireland Government, which means that we are not currently transferring prisoners between the United Kingdom and the Republic of Ireland. That is an issue that others have raised, but my understanding is that that is the current situation.

Sir Edward Leigh (Gainsborough) (Con): Can the Home Secretary confirm—I fear she cannot, but if she can, I for one will be delighted—that everybody entering this country from an EU destination has their passport checked not only against possible terrorist links but against whether they have a criminal record? I fear that these passports are not checked, so even if we can deport these people, they can, in reality, come straight back.

Mrs May: I am not sure when my hon. Friend last came into Heathrow or Gatwick, or into St Pancras through the juxtaposed controls in Brussels or France, but he will have noticed that his passport was indeed checked as he came through, as are the passports of those who are not British citizens. As I have indicated in response to a number of queries, we now have more information available at the border through being a member of SIS II. That is one of the EU arrangements on justice and home affairs matters that the Government chose to rejoin and that this Parliament unanimously agreed to rejoin.

Mr Barry Sheerman (Huddersfield) (Lab/Co-op): Is the Secretary of State aware of how thankful I am for the work that she and her Department have done to educate me over recent months, as I campaigned to bring back, through extradition, people accused of foul crimes against constituents of mine in Huddersfield and other people in the UK? She educated me about how complex that is, and about how, without the European Union and the help of our fellow EU members, we would never have got those people back to face justice in this country.

Mrs May: I am grateful to the hon. Gentleman for his reference to how complex some of these cases can be. That is the point. Very often there are barriers, such as lack of documentation, which need to be overcome before we are able to make these deportations. As a number of people have indicated, in the EU, the prisoner transfer framework decision gives us the framework under which we can deport foreign criminals from European member states.

Sir Edward Garnier (Harborough) (Con): Does the Home Secretary agree that the problem, which is of some standing and goes way back to the early part of this century, when the Labour Government faced it, is not one of law or the interpretation of legal instruments, but one of proper administration? Is there not a second problem, in that there are far too many barrack-room lawyers who keep following their own advice?

Mrs May: I would hesitate to come between my right hon. and learned Friend and any other lawyer in this Chamber or elsewhere.

Diana Johnson (Kingston upon Hull North) (Lab): If we left the EU, the prisoner transfer agreement would no longer stand. How long does the Home Secretary think it would take to negotiate with each EU country a fresh agreement on returning EU prisoners?

Mrs May: The answer is that nobody knows how long it would take to negotiate those bilateral arrangements. Of course, under the arrangements of the treaty—under article 50—two years are set aside for negotiations for a member state leaving the European Union, but that does not necessarily cover the bilateral arrangements that would need to be in place if we were outside the co-operative arrangement of which we are members in the EU. It is very uncertain how long it would take to put any such arrangements in place.

Mr Stewart Jackson (Peterborough) (Con): This is a shocking record to defend: 13,000 foreign national offenders—equivalent to the population of a small town—wandering around our country. We have heard all this before. The issue has been before the Public Accounts Committee, and in 2012 the Home Secretary gave me undertakings to improve the situation when I introduced my European Union Free Movement Directive 2004 (Disapplication) Bill under the ten-minute rule. If she wants to deal with the issue of foreign national offenders upstream, she must deal with protecting the border. On that basis, will she explain why her Department is today stonewalling on legitimate freedom of information requests about migrant incursions on the coast? Is that the case, and if so, why is she not giving that information to media and other outlets?

Mrs May: On the last point, I simply say to my hon. Friend that he should not always believe everything he reads in the newspapers in relation to the action that is taking place. He refers to the record and says that all 13,000 foreign national offenders are wandering the streets; I should be very clear with the House that they are not doing so. A significant number of them are serving custodial sentences and are therefore within our prison estate, and some of them, having been detained, are within our immigration detention estate, waiting for their deportation.

I am clear, as is my hon. Friend, that we need to do more in this area. That is why the Government have made a number of legislative changes to make it easier for us to deport people, and to rebalance the system in reference to article 8. We will continue to put forward changes that we think will improve our ability to deport foreign national offenders.

Mike Gapes (Ilford South) (Lab/Co-op): The Home Secretary mentioned the European arrest warrant. If we voted to leave the European Union, what would happen to the implementation of the European arrest warrant system, and would it make it more difficult or easier to get people back from other countries when we want to imprison them in this country for crimes committed here?

Mrs May: I think the European arrest warrant is a very useful tool for us to access as a member of the European Union. That is why, when we considered the justice and home affairs opt-in/opt-out decision, I proposed to the House that we should go back into the European arrest warrant system, and the House voted to do so unanimously. If we were not a member of the European Union, we would have to negotiate alternative arrangements, but that might not be possible with every country. For example, some member states of the European Union will not allow the extradition of their nationals to countries other than members of the European Union.

Mrs Anne Main (St Albans) (Con): These figures were given to me by the Secretary of State in answer to a question in May. I also received an answer saying that we actually refuse entry to 20 times more non-EU applicants than EU applicants. Border controls are therefore important. That shows that the bar is much higher for non-EU countries. If border controls are so important, will she explain why we have only six boats patrolling our waters, when Italy has 600 and France has 600? Surely we should have stronger border controls in all areas.

Mrs May *rose—*

Mr Speaker: On prisons, in particular, rather than boats.

Mrs May: Perhaps a prison ship might deal with the question.

Of course our border controls are important because we want to ensure, where we can, that we are able to identify those whom we do not wish to have in the United Kingdom, to make sure that they do not cross our borders and that, when we identify them in the United Kingdom, we are able to take action to deport them. As I said earlier, as part of the deal that my right hon. Friend the Prime Minister negotiated in Brussels, it will be easier for us in future, should we remain in the European Union, to both deport criminals from other EU countries, and ensure that they do not reach the UK in the first place.

Margaret Ferrier (Rutherglen and Hamilton West) (SNP): My constituent Elsie lives with the actions of a foreign national offender each day, following the tragic murder of her son Mark at the hands of a Polish national. Does the Home Secretary agree that the tawdry tabloid treatment of this serious subject does little to address the very real problems and daily agony of people such as Elsie, and will she join me in calling for all debate on this topic to remain measured and respectful?

Mrs May: The hon. Lady makes an extremely important point, which is that behind the figures we exchange across the House lie the lives of people who have been seriously affected by the impact of criminality. Such an impact occurs whatever the identity of the criminals, but there are cases such as the one to which she referred. Our hearts must go out to Elsie given the fact that, as the hon. Lady said, she lives day to day with the impact of the actions of a foreign national offender.

Crispin Blunt (Reigate) (Con): The number of foreign national offenders deported at the end of their sentence reflects the efficient way in which my right hon. Friend has run her Department, and she is to be congratulated on that. The difficult challenge is getting sentenced prisoners from the EU to return to their country to serve their sentence under the EU prisoner transfer framework decision, which was negotiated by my right hon. and learned Friend the Member for Rushcliffe (Mr Clarke) when we were at the Ministry of Justice, where I was his junior Minister, responsible for prisons. It is four years since we departed from the MOJ; how many people have actually been deported to serve their sentence in other EU countries since then?

Mrs May: I do not believe that I have the exact figure to hand, but I will give it to my hon. Friend. We are seeing an increase in the number of people who have been deported under the prisoner transfer decision, because it is being put in place by other member states. As I am sure he will recall from his time in the Ministry of Justice, Poland had a derogation until December 2016, so at the end of this year Poland will become a part of the prisoner transfer decision. Two countries—I believe they are the Republic of Ireland and Bulgaria—are yet to implement it. There is movement, and there has been an increase in the numbers being transferred under that decision.

Paul Flynn (Newport West) (Lab): My constituents' pride in giving hospitality to and assimilating newcomers for the past 150 years was put under strain last year, when a foreign national offender who was deemed too dangerous to be located in London—his home—was placed in my constituency, where he committed crimes for which he is serving a four-year sentence. Would it not be far better for public acceptance of migrants if there was a fair and even distribution of asylum seekers and other migrants throughout the country? My constituency takes 500; will the Home Secretary tell me how many there are in her constituency, and whether there are still none in the constituencies of the Prime Minister and the Chancellor?

Mrs May: I have answered that question previously, and the hon. Gentleman knows the figure. He has carefully elided the issue of prisoners with the overall issue of the dispersal system for asylum seekers, which, as has been pointed out in the House before, is exactly the same as that operated by the last Labour Government.

Mr Ranil Jayawardena (North East Hampshire) (Con): The Home Secretary referred to GPS tags in her first answer. What assessment has she made of the effectiveness of those tags for deporting foreign national offenders?

Mrs May: The reason for legislating to have the tags is to be able to identify where people are, so that when the circumstances allow for deporting them, it is easier for us to do so.

Jim Shannon (Strangford) (DUP): I thank the Home Secretary for her answers so far. Does she recognise that the Government's failure to deport more EU murderers and rapists undermines the case for remaining in the EU, particularly when housing EU convicts in UK jails costs the taxpayer some £150 million each year? What has been done to reduce that drain on our financial resources?

Mrs May: The number of European economic area foreign national offenders who have been deported has tripled since 2010-11, from just over 1,000 to well over 3,000. We are making progress in that field.

Henry Smith (Crawley) (Con): At the beginning of this year, a Dutch resident entered through Gatwick airport, very swiftly assaulted a member of staff there, went before the local magistrate, and was released, without having any address, on to the streets of Crawley. Several days later, they hammer-attacked two female police officers. Will my right hon. Friend reflect on the

[Henry Smith]

difference between the rhetoric about sharing criminal records and the reality as experienced by all too many of our constituents?

Mrs May: I am aware of this case, as my hon. Friend came to see me to raise it. Given the circumstances that he has set out, I can fully understand why he chose to do so, and why he has raised the case again today. He referred to criminal records exchange. The tools are there, but operational decisions will be made by those involved at any point in time. As I have indicated, the police have significantly increased the number of criminal record checks that they make, but whether and at what point they make those checks are decisions for them.

Tim Loughton (East Worthing and Shoreham) (Con): Perhaps uniquely, I shall ask a question that does not involve Europe. Notwithstanding the progress that the Home Secretary has alluded to, does she acknowledge that the report shows that it still takes, on average, 149 days to deport a foreign national offender? Will she also acknowledge that the delay is exacerbated by the appalling record of the contracted transportation company Tascor, which regularly fails to show up to transport prisoners from immigration detention centres to the aeroplane, resulting in further detention and the cost of tickets for missed flights? What will she do about that?

Mrs May: I assure my hon. Friend that we look constantly at our contracts with those who provide services to the Government. There can be a complex range of reasons why in some cases it is difficult to deport people, or some last-minute problem with deportation, but if someone who expects to be deported is not deported, we make every effort to do so at the earliest opportunity.

Matt Warman (Boston and Skegness) (Con): Boston in my constituency has seen more than its fair share of serious crimes committed by foreign nationals, and people are rightly worried. Does the Home Secretary think that the process of negotiating 20-plus new bilateral agreements, or the outcome of that, could conceivably make those people safer?

Mrs May: Again, my hon. Friend has specifically raised the concerns of his constituents on that issue, and my answer is that being within the European Union, and having the single prisoner transfer framework decision and various other tools, makes us safer. There is uncertainty and delay in having to negotiate bilateral arrangements—indeed, nobody knows whether it will be possible to negotiate bilateral arrangements that are of equal benefit to the British public as those that we have as members of the EU.

Philip Davies (Shipley) (Con): Despite the Home Secretary's tough talk, the figures are stark. Since 2002-03, the number of EU prisoners in our prisons has trebled. As an illustration, the number of Polish prisoners has gone up from 46 to 983, and the number of Romanian prisoners has increased from 50 to 635. Over the past three years, the Metropolitan police have arrested 100,000 EU nationals and charged more than 30,000 with an offence. The Home Secretary is clearly failing to stop EU criminals coming into the UK, and failing to deport them. Is the only conclusion to be drawn that the free movement of people means the free movement of criminals into the UK?

Mrs May: My hon. Friend may not be surprised to hear that I draw different conclusions. It is obviously important that we are able to deal with those who try to cross our borders and have a record of criminality, and we must have access to information that enables us to make decisions about such people. That is why access to SIS II, and other systems that allow us to check criminal records, is so important.

Mr David Nuttall (Bury North) (Con): The cost of foreign criminals coming to the UK is just one of the many strains that the free movement of people puts on the British taxpayer. Does the Home Secretary agree with the National Audit Office that the best estimate for the costs of administering foreign national offenders is £850 million a year, and could be as much as £1 billion a year?

Mrs May: Of course there are costs involved with people who come to the country. Indeed, there are British citizens who commit crimes, and the criminal justice system obviously bears costs to ensure that they are brought to justice and given custodial sentences in our prisons. I urge caution, however, because questions this afternoon have focused on foreign national offenders from other EU member states, but many foreign national offenders in prisons in the United Kingdom come from countries outside the European Union. We make every effort to return those foreign national offenders and deport those people, as we do for those from the EU.

Mr Philip Hollobone (Kettering) (Con): As a former special constable with the police parliamentary scheme, I was involved at first hand in arresting eastern Europeans on the streets of London for crimes that they were in the process of committing. I saw at first hand the wave of crime from eastern Europe following the accession of those countries in 2004. Does the Home Secretary believe that the situation will get better or worse with the admission of Albania, Serbia, Montenegro, Macedonia and Turkey? To ensure that she does not inadvertently mislead the House, given that she has attended today to answer a question on the removal of foreign national offenders and EU prisoners, does she seriously expect us to believe that she will not tell the House the number of prisoners transferred under this super-duper EU prisoner transfer agreement? She attends today with seven officials in the civil servants' box and her entire ministerial team. Will she now disclose that number?

Mrs May: My hon. Friend did great service as a special constable, and has referred to foreign national offenders from particular countries whom he was involved in arresting. Something like a third of the population of London are foreign nationals, and I think I am right in saying that the figures show that about a third of the criminals arrested in the Metropolitan police area are foreign nationals. I might draw a different lesson from that than the one drawn by my hon. Friend, but that is an important fact.

I am sorry if my hon. Friend is disappointed that I do not happen to have the figure he asks for in front of me. I indicated to my hon. Friend the Member for Reigate (Crispin Blunt) that I will write to him with it.

BHS

4.16 pm

The Minister for Small Business, Industry and Enterprise (Anna Soubry): I should like to make a brief statement on British Home Stores. The House will remember that, on 25 April, I made a statement after BHS entered administration. The administrators, Duff & Phelps, tried to sell BHS as a going concern with a view to retaining all the stores and as many jobs as possible. I understand that it had talks with a number of interested parties. As reported last week, the administrators have now concluded that process. Although offers were received, none was sufficient to enable a deal to be completed, and they have had to take the decision to wind the business down. That will be devastating news for workers at BHS and their families, and for those businesses that supply BHS. Our thoughts are with all of them. That follows the sad news received by Austin Reed workers on 29 May that only a partial sale of that business was possible, with the remainder being wound down over the course of June.

A number of questions have properly been raised about how BHS found itself in that situation. The proper authorities—the administrators, the Insolvency Service and the pensions regulator—are already looking into these matters. I am clear that any wrongdoing will be taken very seriously and I will return to that later in my statement.

Our focus now is to support all those affected and to get people back into work as quickly as possible. While we await the administrators' plans for winding down the business, I can inform the House that Jobcentre Plus has been in contact with them and is preparing a range of support to assist staff. Jobcentre Plus is on standby to go into BHS stores and directly advise affected staff of their various options. Already, teams are centrally tracking vacancies in the retail sector and will ensure that BHS branches are aware of any vacancies in the area.

Jobcentre Plus stands ready to deploy its rapid response service in acknowledgment of the scale of the job losses. The service has a strong record of helping people at very distressing times. It can offer workers support, including help with job searches, CV writing and interview skills. It can also help to identify transferable skills and skills gaps linked to the local labour market. It can help with training to update skills and learn new ones, and gaining industry-recognised certification will improve employability. It can give help to overcome barriers to attending training, and securing a job or self-employment, such as childcare costs, work clothes and travel costs.

I can inform the House that the Department for Work and Pensions has written to major retailers asking them to consider what opportunities they can offer the workers and local areas affected as the situation becomes clearer this week. DWP will also monitor the impact of redundancies locally on a continuing basis, and will provide additional targeted support to any areas that are particularly badly affected. I assure the House that we will do everything in our power to support workers and their families through this difficult time—not just BHS workers, but those made redundant by Austin Reed.

On the wider issues, on 3 May, the Business, Innovation and Skills Secretary instructed the Insolvency Service to begin its investigation into the extent to which the

[Anna Soubry]

conduct of the directors of BHS led to its insolvency and/or caused detriment to its creditors. The Insolvency Service cannot give a running commentary on its investigations, but I know its work is well under way. I am clear that if evidence is uncovered that indicates that any of the directors' conduct fell below what is expected, action will be taken. This can include applying to the courts to disqualify the relevant parties from being a company director for a period of two to 15 years. If there are any indications of any criminal wrongdoing relating to BHS, we will ensure that the relevant investigatory body is informed.

Members will be aware of considerable concern about the BHS pension scheme. The BHS schemes are in a Pension Protection Fund assessment period. The test is whether the schemes' funds are sufficient to allow each scheme to buy annuities that will pay members at least PPF-level benefits. If it cannot, the scheme will transfer to the PPF and compensation will be paid. The PPF aims to resolve these issues as quickly as possible.

PPF compensation is generally 100% of the pension in payment for anyone over the scheme's normal pension age at the date of the insolvency, and, for everyone else, 90% of the accrued pension, subject to a maximum cap.

The Pensions Regulator is currently undertaking an investigation into the BHS pension scheme to determine whether it would be appropriate to use its anti-avoidance powers. This means that if the regulator believes an employer is deliberately attempting to avoid its pension obligations, leaving the PPF to pick up its pension liabilities, the regulator may intervene and seek redress from the employer—and, if I may say so, Mr Speaker, rightly so. There is a clear process that must be followed and this can sometimes take a considerable amount of time. When it becomes appropriate to do so, the regulator will consider issuing a report of its activities in this case. We will examine its findings closely.

As I said on 25 April, retail is a vital sector for the United Kingdom economy and the Government are committed to it, which is one reason why I will be meeting key retailers this Thursday with ministerial colleagues from other Government Departments. The news of the BHS closure is a huge blow, but as a whole the retail sector is resilient. There are now 3.1 million retail jobs in the United Kingdom, up by 83,000 since 2010 and almost back to record pre-recession levels.

High streets remain a crucial part of our local and regional economies, creating jobs, nurturing small businesses and injecting billions of pounds into our economy. A recent report by the Association of Town Centre Management found that town centres contribute nearly £600 billion to the economy each year. That is why we continue to support the British high street. We reduced corporation tax and I am so pleased that we announced the biggest ever cut in business rates in England, worth £6.7 billion over the next five years, which will of course benefit small businesses in particular.

I know little of this will be of comfort to BHS workers facing an uncertain future, but I assure them and the House that the Government will do everything within their powers to get every affected worker back into a job as soon as possible. I commend the statement to the House.

4.22 pm

Bill Esterson (Sefton Central) (Lab): I thank the Minister for advance sight of her statement.

The whole House will be concerned for the 11,000 staff who are losing their jobs as a result of the liquidation of BHS and Austin Reed. The closures also affect supply chains, local economies and communities. Can the Minister tell me whether the taxpayer will have to pay for redundancies, as happened at Comet where the previous owners, not staff, were preferred creditors? Given what she said about the Pensions Regulator, does she envisage an investigation into the actions and activities of Sir Philip Green? Will he be asked to make up the pension shortfall, so that pensioners are not short-changed by receiving only 90% of their pensions guaranteed under the PPF?

The Minister mentioned work done to support the high street. I agree that the high street is a crucial part of the UK economy, but I am afraid the evidence of the failure of BHS, Austin Reed and others suggests that the work done by the Government simply has not been enough. As Mary Portas said, the Government have so far made only token gestures to help our high streets.

The allegations about what happened at BHS are beyond belief. A BHS pension surplus became a deficit of £571 million. The business was sold to Retail Acquisitions, a firm whose head was a three-times bankrupt with no apparent experience of turning around struggling retailers and who appears to have taken significant sums out of the business while it was still trading. What investigation will the Minister's Department carry out into why Sir Philip Green sold the business when he did and what due diligence he carried out into the buyer?

Sir Philip Green's family were paid hundreds of millions of pounds in dividends, and all the while the business was lacking the investment in modernisation that might have allowed it to survive and indeed thrive, as others have done. While his former workers contemplate redundancy with significantly reduced terms and a reduced pension, he awaits the delivery of a brand-new £100 million yacht. The Minister mentioned possible investigations. Will she say whether under existing insolvency law she thinks criminal investigations should be considered? Does she envisage a change in the law so that obscene profiteering by the likes of Sir Philip Green and Retail Acquisitions are made illegal? Just what scrutiny does she think is needed of the period prior to insolvency in cases such as those of BHS and Comet? Does she think, as many people do, that Sir Philip Green should be referred to the police for his actions while he owned BHS? It is not just Opposition Members who think his actions a disgrace; one of her own Back Benchers described this as the "unacceptable face of capitalism" the last time we debated the challenges and concerns around BHS.

BHS, as with Comet before, is an example of wealth extraction, not wealth creation, and a system that favours a very small number of people, rather than the wider economy. The Minister and her colleagues need to intervene and investigate in full what happened at BHS and make sure that action is taken against the likes of Sir Philip Green; otherwise they will be complicit in a system of exploitation by a few owners at the expense of the many staff and pensioners.

Anna Soubry: As I have said, I will not refer to any individuals. The Pensions Regulator is—quite properly—conducting an investigation into the BHS pension scheme, and there are other investigations. I have made it clear that I and everyone in government take such misconduct, where there is such misconduct, extremely seriously, and if the investigations find the sort of misconduct that should lead to a police inquiry, so be it—let the full process take place—and if anybody needs to be brought to criminal justice, that must be right. As the House knows, I am a one nation Conservative. I support capitalism but not unfettered capitalism without compassion and care, and that extends to anybody working for any business in our country.

Mr David Davis (Haltemprice and Howden) (Con): I think the Minister said that any wrongdoing would be dealt with, but the problem is that much of this was, I suspect, legal. That places a moral responsibility on every Government over the last few decades who have allowed such action to be legal. The actions of Philip Green, his family and his companies, in taking out more than £500 million in dividends from a company that cost them £200 million, can be described as little else than asset stripping. What matters now, however, is that those employees dependent on the pension scheme are set to lose 10% of their pensions, if the scheme goes into the Pension Protection Fund. Many Government Members think that the minimum that needs to happen is for Philip Green to pay back enough to save them from that.

Anna Soubry: As I said, I will not name any individual. Investigations are being conducted—quite properly—so before we rush to judgment in this place or anywhere else, let us wait for those full investigations to conclude. Then we can see if we need to take matters forward.

Roger Mullin (Kirkcaldy and Cowdenbeath) (SNP): I thank the Minister for early sight of the statement, and I particularly welcome her robust comments about pursuing any wrongdoers—that is entirely the right thing to do. If ever there was an unacceptable face of capitalism, it comes in the form of Sir Philip Green and his like.

The BHS store in Kirkcaldy, in my constituency, is one of 16 stores affected in Scotland, many of them in middle-sized towns such as Kirkcaldy, Livingston and Falkirk where the loss of employment will create considerable problems. These employees have contributed to their pensions at BHS over a lifetime and now find that, because of Green's failure as a businessman and his naked greed, which may have been legal, they face redundancy and great anxiety about their pensions, even if they are guaranteed the 90% of accrued pensions, subject to a cap.

Furthermore, to have sold off BHS for personal convenience for £1 to Retail Acquisitions—led as we have heard by Dominic Chappell, who has been declared bankrupt three times as of the end of last week—is, to say the least, scandalous, even more so as we now know that Green rejected the opinion of Goldman Sachs, his own advisers. This raises profound questions about the due diligence process, which the Minister may wish to reflect on. Many will be thinking that Green is little better than a corporate crook. He cannot be allowed to sail off in his third yacht, a £100 million luxury "gin palace", as one newspaper put it. The SNP stands with the communities, families and individuals affected by this dreadful situation. We believe there is a fundamental need to readdress the regulation of the pensions industry to ensure the protection of workers.

I end with three brief questions. First, in Scotland the Partnership Action for Continuing Employment initiative will respond to assist all those made redundant. What are the UK Government's plans to mirror the breadth of action undertaken by PACE? Secondly, what action do the UK Government contemplate to address the ease with which unscrupulous chancers such as Green can denude businesses of their financial assets? Finally, does the Minister understand why many employees will feel that the Pensions Regulator should seek the entire £571 million actuarial deficit from Green himself?

Anna Soubry: May I thank the hon. Gentleman and say that it is a long time since I had the great pleasure of going to Kirkcaldy? It is a few years now, but I know it is a great town. As on many high streets, wherever they might be in the United Kingdom, the role of BHS has been critical. Unfortunately its fortunes have not been good for some considerable time. Perhaps that is the fault of us all for not paying a visit and buying in its shops—I suspect I am guilty of that from the time I used to go up to Kirkcaldy as a regular visitor.

The hon. Gentleman makes a good point about greed. It does not matter who it is, it is certainly not acceptable, whatever one's faith may be—I am helpfully reminded by the Deputy Leader of the House that it is apparently a deadly sin. The hon. Gentleman makes a number of points. As I say, there are a number of investigations. We have to await the outcome and if we need to take further action, we will not flinch from doing that.

Richard Fuller (Bedford) (Con): The questions at the heart of British Home Stores are not necessarily ones of legality; they are ones about the judgments made by people in positions of authority at British Home Stores and Arcadia and about the ethics of those entrusted with such responsibilities for those companies. My right hon. Friend will be aware that over the last few weeks Sir Philip Green's reputation has come under substantial fire. Of course it is up to him to decide how he wishes to respond, but is she also aware of the concern of others in business at the collateral damage being done to people's trust in business across the United Kingdom by the actions of the people involved at Arcadia and British Home Stores?

Anna Soubry: I could not agree more with my hon. Friend, and I thank him as ever for his valuable contribution. The reason I am choosing my words today with some care is not because I do not have my own views, based on what I have read, but it is important that we allow these investigations to take place before we rush to judgment. However, it is fair and right to say that, on the basis of what we have read in the newspapers, nobody could be in any way content with some of the allegations that have been made. They are very serious and my hon. Friend rightly makes the point that in effect that damages the reputation of all businesses, and that cannot be right either.

Mr Iain Wright (Hartlepool) (Lab): It is clear from the woeful evidence given to our inquiry by Lord Grabiner, chairman of Arcadia, that effective corporate governance in BHS was almost entirely absent—something that

[Mr Iain Wright]

prompted the director general of the Institute of Directors to state in a letter to my right hon. Friend the Member for Birkenhead (Frank Field) and me on Friday that it

"represents a blight on the reputation of British business,"

adding that

"if the Chairman of Arcadia is not properly looked at, it could set an appalling precedent for future sales of failing businesses."

Has the Minister raised BHS with the Financial Reporting Council, which, six weeks after the business went into administration, has still not committed to investigating the matter? Will the Government consider altering the FRC's remit to ensure that directors and their failings are brought under its jurisdiction?

Anna Soubry: I pay tribute to the great work that the hon. Gentleman and indeed his BIS Committee do. I know that he is already conducting—I think, successfully—an inquiry into the working practices of one business, and he has successfully acquired attendance at the Select Committee. He raises important points, and I will write to him on the specific questions he raises, because I will need to make further inquiries about them. I reiterate that we must await the outcome of full investigations, so that we know all the facts, but he can be absolutely sure that we take these matters extremely seriously and that we will not have the good name of British businesses besmirched by the wrongdoings of others.

Mr Jonathan Djanogly (Huntingdon) (Con): While managers and owners can and should be concerned about, and indeed be answerable for solvency, viability, governance and employee wellbeing in their own companies, does the Minister agree that there are serious legal complexities involved in dictating that owners must assess the viability and character of purchasers or be responsible for purchasers' business conduct post-sale?

Anna Soubry: I am grateful for my hon. Friend's well-informed contribution, as his contributions always are. He makes some very good points. I am sorry to bang on about this, but it is very important to say that investigations have, quite properly, been started, will continue and will reach conclusions and that if there are any allegations of wrongdoing, we will be absolutely firm in our view that justice will be done.

Dr Roberta Blackman-Woods (City of Durham) (Lab): BHS was an anchor store in the Prince Bishops shopping centre in my constituency, and the staff who work there are really concerned about their future and that of their pensions. There are wider issues, too, about the impact of closure on our high street. Can the Minister tell us what she is going to do to address my constituents' concerns and to call to account previous owners and current owners and directors for any part they have played in the downfall of BHS?

Anna Soubry: Let me make it clear to the hon. Lady that I would be more than happy to meet her. The Under-Secretary of State for Communities and Local Government, my hon. Friend the Member for Nuneaton (Mr Jones), who has responsibility for the high street and the Under-Secretary of State for Disabled People, my hon. Friend the Member for North Swindon (Justin Tomlinson) are in their places, for which I am grateful. I think that shows the level of absolute determination we have to make sure that all those affected by this closure are found alternative work. I reiterate that a full investigation is going on and we expect it to be conducted properly. If there is a need to take further action, that will happen.

Jeremy Quin (Horsham) (Con): While the investigators must be allowed to get on with their work, does my right hon. Friend agree that wider lessons might need to be drawn on the corporate governance of large private companies, both in respect of how decisions are made and the degree of transparency that applies? The Cadbury code looked into listed companies; perhaps large private companies should look to their own governance arrangements and the degree of transparency around them.

Anna Soubry: I completely agree. If the reports are right, this is obviously very deeply concerning, and many lessons might well have to be learned. We await the conclusions of these various inquiries before deciding what further action needs to be taken. We will not hesitate to do that.

Frank Field (Birkenhead) (Lab): I thank the Minister for her statement, and use my response to it to express the anger on both sides of the House at the threat to 11,000 jobs and 20,000 pensions. When the Minister goes back to her Department, will she consider blowing a whistle on the break-up of this great empire? Is she satisfied that a company that could be sold for a quid should now be broken up because somebody could not meet a timetable for £100 million-worth of working capital? Is she satisfied that the firm entrusted with dealing with the break-up will actually behave in the best interests of the whole network rather than perhaps sell off some assets rather cheaply to known figures in this terribly sorry saga?

Anna Soubry: I have faith in the workings of the administrators. They are under strict duties and I expect them to comply with those duties. I know of no reason why they would not do so. I also pay tribute to the good work being done by the Insolvency Service. It takes these matters seriously, as do all Members on both sides of the House.

The right hon. Gentleman asked a number of questions, and I have no difficulty with that. I am more than happy to write to him with any answers that I can provide to all the questions he raised.

Pauline Latham (Mid Derbyshire) (Con): I welcome the Minister's statement on BHS, but it is not only BHS that has a problem. Companies in the supply chain could also have problems, including Courtaulds in my constituency, which has just been put into administration. There are companies that want to buy that business but cannot do so because it is a shed and the things inside have gone elsewhere. They have not gone elsewhere physically, but they have been put into another company. I would like to commend the Minister's Department and the Department for Work and Pensions for their rapid reaction on the day BHS told people that they

were to be made redundant, but will the Minister investigate what is happening at Courtaulds, because I think that there could be some wrongdoing there?

Anna Soubry: Courtaulds is very much part of that supply chain and, as I mentioned in my statement, this is not just about the workers at BHS. Of course, it is a dreadful moment for those individuals and their families when they lose their job, but there is also huge concern right the way through the supply chain. As an east midlands MP, I am of course familiar with Courtaulds. It is a great company, and, like my hon. Friend, I am concerned about its demise. I take this matter very seriously. I do not know whether someone in my Department has already offered to meet her to discuss these matters, but I am more than happy to meet her to ensure that the best is now done by Courtaulds.

Angela Rayner (Ashton-under-Lyne) (Lab): We must never forget that pensions are deferred wages for people who have worked hard all their lives. The Pension Protection Fund was set up under a Labour Government, and it plays a vital role in protecting workers and pensioners when an employer goes out of business. Will the Minister join me in sending a clear message from this House that the pensions regulator has our full support in being as robust as possible on this matter? We must also look to the proposed pensions Bill to close any loopholes and deal with any scapegoats that exist as a result of the current regulations. We need to make those regulations much firmer so that people can no longer get away with any wrongdoing when it comes to wages.

Anna Soubry: The hon. Lady makes a good point. When people reach retirement, they look forward to receiving the pension they have paid into. They have put their money into their pension on trust, and they expect a certain benefit to come back to them when they retire because they have already paid into it. We all know that there are a lot of problems with a lot of our big pension schemes, but it is imperative that all employers do the right thing by those schemes. I absolutely pay tribute to the Labour Government for setting up the Pension Protection Fund. We are not content, in that it cannot always deliver what people would have had if their schemes had been successful, but it is nevertheless an extremely good lifeboat when pension schemes unfortunately fail. As I have said, an investigation is taking place and there are no doubt lessons to be learned.

David Rutley (Macclesfield) (Con): I welcome the ongoing investigations, and I trust that regular updates will be given to the House and to the employees as appropriate. I am also pleased to hear that further action is being taken for our high streets, and I would encourage the Minister to focus not only on retail but on commercial, leisure and residential activities to bring new life back to the high street in a more balanced way, given the current trends in online trading.

Anna Soubry: I could not agree with my hon. Friend more, and the high street Minister, my hon. Friend the Member for Nuneaton (Mr Jones), is nodding furiously in agreement as well. The high street needs to diversify, and I urge all hon. Members to look at the great report written by Bill Grimsey. It was commissioned by the Labour party, and it provides an outstanding forward look into the future of the high street. It is packed full of ideas, some of which are controversial, and it is full of good, sound advice that many a high street and town centre should put into action.

Alan Brown (Kilmarnock and Loudoun) (SNP): Kilmarnock in my constituency has one of the 16 BHS stores in Scotland. My hon. Friend the Member for Kirkcaldy and Cowdenbeath (Roger Mullin) referred to the concerns for the workers and for the potential void in our high streets that will need to be filled. In her statement, the Minister said that Jobcentre Plus would help to identify and fill skills gaps and vacancies. However, my local jobcentre and the Department for Work and Pensions have confirmed that jobcentres do not monitor long-term vacancies as a matter of course and would therefore not identify any skills gaps relating to those vacancies. Does she not agree that such monitoring should be a routine measure, in that it would help to create opportunities and fill the gaps?

Anna Soubry: This is the sort of conversation that I should have with the hon. Gentleman, because this subject is not within my field expertise or ministerial brief—I will be quite frank about that—but if he is right, that is obviously of concern. I am more than happy to speak to him about the matter, but he is quite right to identify that the main thing for consideration today should be all those who find themselves without a job.

Robert Jenrick (Newark) (Con): It is becoming increasingly clear that Philip Green, aided by weak directors such as Lord Grabiner, washed his hands of the business because it was doomed and had a doomed pension scheme. There is a long-established principle in English law that a seller should not have to vouch for their successor—caveat emptor—but is it not time that the Minister, perhaps aided by the inquiries of this House and others, revisited that in instances where a seller recklessly or knowingly sells their stake in a business to somebody who is completely unsuited and unable to meet creditors' demands?

Anna Soubry: I really do thank my hon. Friend for that important and incredibly profound point. We are holding an investigation, and there will no doubt be many questions at its conclusion and there may well be some sort of action. He raises an incredibly important point that will undoubtedly be considered seriously by this House and by the Government at the end of the investigations.

Derek Twigg (Halton) (Lab): It would have been useful to have heard from the Minister how long the investigations will take to conclude, because people will be worried about their jobs and pensions in the meantime. Referring back to the question of my right hon. Friend the Member for Birkenhead (Frank Field), when did the Minister last meet the administrators? What discussions has she had with them about what stores could be saved as a going businesses? For example, at the weekend I was talking to an employee of the BHS store in my constituency, who believed that the store was doing well, so there are clearly businesses within the business

[Derek Twigg]

that were faring well. What discussions is the Minister having about keeping jobs rather than losing them and getting Jobcentre Plus to help?

Anna Soubry: I can completely answer the hon. Gentleman's question face on: I have not had any discussions with the administrators, but I do not believe that that would be the norm. I have confidence in them, and I have confidence in the Insolvency Service, which does have regular contact with my Department. If the hon. Gentleman wants me to make further inquiries, I have no difficulty with that and am more than happy to do so, especially in relation to jobs for BHS workers in his constituency and in anybody else's.

Edward Argar (Charnwood) (Con): Just as it is right that the circumstances that brought BHS to this point, which have been raised extensively today, are properly looked into, it is also important that everything possible is being done to help those employees affected by this devastating news. Will my right hon. Friend reassure me that Jobcentre Plus's rapid response service will receive all the support it needs from her and Government to do everything it can for the affected employees?

Anna Soubry: I am grateful to the Under-Secretary of State for Disabled People, my hon. Friend the Member for North Swindon (Justin Tomlinson), for attending today, because he is the relevant Minister in the Department for Work and Pensions. He has heard all that has been said. I have been assured about all the support that is available through the rapid response service. If there are any difficulties, we will take them seriously. We are going to do everything that we can to rectify any of that. It is important that people are given good support so that we can get them back into work.

Neil Coyle (Bermondsey and Old Southwark) (Lab): Insolvency Service inquiries have always been restricted, but the Minister told the House on 25 April that the inquiry would be open and transparent. What did she mean by that? What are the Government doing differently with this inquiry to ensure that information is as open and transparent as possible, especially for affected staff and customers across the country, including at the Surrey Quays shopping centre in my constituency?

Anna Soubry: As I said, the Government have looked at the widespread reports about the goings-on that led to this unfortunate situation. We take those allegations extremely seriously, which is why we have said to the relevant organisations that there must be a full inquiry. We expect the inquiries to be concluded as quickly as possible, but they must be thorough. After that, we will take any action necessary to ensure that if there has been wrongdoing, people are brought to justice.

Mr Philip Hollobone (Kettering) (Con): The staff at Jobcentre Plus provide a fantastic service in getting people who have lost their jobs back into employment. What can the Jobcentre Plus rapid response service do for BHS staff? Does the Minister agree that the retail sector, in which we hope these people can be found alternative jobs, will be far healthier over the next five years as a result of the business rates cut announced in the Budget?

Anna Soubry: I do not really want to go back through my statement, but I did identify in some detail the assistance that people are given, be it help with CV writing, or making sure they have access to training and reskilling. The Department for Work and Pensions—this is a good and admirable idea—is contacting other retailers to see what jobs might be available locally for people, so that they can, in effect, transfer over and apply for those jobs. And, yes, I do believe that our cuts to business rates for small businesses was an outstanding achievement of the Chancellor in the last Budget, and I am confident that as a result real assistance will be given to small businesses, notably those on the high street.

Greg Mulholland (Leeds North West) (LD): The first concern of everyone in this House are the people who have lost jobs and pensions, and there are many questions to which they and we still want to hear answers. Looking forward, however, will the Minister assure the House that the Department for Business, Innovation and Skills will look at the lessons from this and the failure of Austin Reed? Will she consider launching a retail strategy, working with business, so that we do not end up with high streets that are all just payday lenders and betting shops?

Anna Soubry: We started a great deal of work, as the last Government, on looking at the future of the high street, going to Mary Portas and others for ideas on how we could assist. That has mainly been done through not only BIS, but, notably, the Department for Communities and Local Government. As I am sure the hon. Gentleman is aware, local government can play a hugely important part in ensuring that high streets develop in the right way, thrive and grow, which is one reason why we changed the planning laws. Often this relies on local people thinking outside the box and being radical in how they think about the future of their high street. I think there was another question, but I cannot remember it, because there were quite a few. In any event, the usual rules will apply: I will write to him if there is anything I have forgotten.

Andrew Gwynne (Denton and Reddish) (Lab): Given that 11,000 direct jobs and many other indirect, supply chain jobs are at risk, I find it very difficult to understand why the Minister has not had a meeting with the administrator. Given that the Denton store, in my constituency, and the Stockport store, which also covers part of my constituency, tell me that they are profitable parts of the BHS business, the Minister has to have a discussion with the administrator about what parts of that business can be saved, in another guise or as part of BHS reinvented. The fact that she has not had any time to meet the administrator is shocking and a travesty, given those 11,000 jobs.

Anna Soubry: Just when I think it is going so well, the hon. Gentleman always disappoints. I did not say that I did not have the time—

Andrew Gwynne: Eleven thousand jobs—

Anna Soubry: The hon. Gentleman wants to talk about the 11,000 people, so let us do that and not score party political points. Of course we came to the situation where the administrators could not find a buyer only in the past few days. So we do not have government interfering in that process, but now we are where we are—*[Interruption.]* He shouts from a sedentary position, "Ditch them."

Andrew Gwynne: Meet them!

Anna Soubry: Meet them. Well, I have just said to one of the hon. Gentleman's comrades that I do not have a problem in contacting the administrators if that has and will have any benefit at all. But we must get a sense of proportion here: this unfortunate news has only just been announced.

Jim McMahon (Oldham West and Royton) (Lab): This really is not good enough. It is not good enough that the Minister has not met the administrators to talk about the people who are affected. It is not good enough that 11,000 people face redundancy and an uncertain pension while the millionaires cream tens of millions of pounds off the top to pay for brand-new yachts. The people in my constituency, where the store is likely to close, will not see justice in their view until somebody is in the dock, facing trial. Does the Minister agree with me that Sir Philip is not fit to lick the boots of those people, let alone be a knight of this realm? Will she support me in having that revoked?

Anna Soubry: There are a number of points there. Let me make it absolutely clear: the Government are not legally entitled to intervene and direct the administrator. The administrator has to act absolutely independently. We have already—quite unusually—announced a number of investigations into these matters. We will wait to see the outcome of the investigations rather than rush to judgment. As I have said repeatedly, if there is further action to be taken, we will not hesitate to take it.

Points of Order

4.55 pm

Pete Wishart (Perth and North Perthshire) (SNP): On a point of order, Mr Speaker. There are now some 30 hon. Members being investigated by 18 different police forces across England in relation to the very serious allegation that the Representation of the People Act 1983 may have been contravened in the declaration of candidate expenditure. Can you make a ruling on what may or may not be raised in this House in reference to those allegations, given the deep concern among the public and the fact that any successful prosecution may result in serious consequences for the hon. Member involved, and even call into question last year's general election result?

Mr Speaker: What I would say to the hon. Gentleman, to whom I am grateful, is as follows. First, the matter is not sub judice—he was not suggesting that it is, but I understand that it is not. Secondly, however, I think it prudent and wise to leave the investigating authorities to conduct their investigations, and not to seek to do so ourselves in this Chamber with an imagined expertise and authority. Last, when the hon. Gentleman seeks my wider guidance, I think it best to avoid the hypothetical and to deal with these matters as and when—but only as and when—they arise. We will leave it there.

Greg Mulholland (Leeds North West) (LD): On a point of order, Mr Speaker.

Mr Speaker: On a different and unrelated matter, I am sure. The hon. Gentleman is nodding solemnly and sagely.

Greg Mulholland: Thank you, Mr Speaker. I seek your advice for the second time in a matter of months. A ministerial visit has been organised to the excellent Makkah mosque in Headingley in my constituency. On this occasion, I had to drag it out of the office of the Secretary of State for Communities and Local Government what the visit was for. I was delighted he was doing it, but can you make it clear to Ministers that, while we welcome their visits, they should have the courtesy to tell us where they are going and what they are doing?

Mr Speaker: First, I think it best that Ministers who are going to visit colleagues' constituencies are explicit and candid about these matters, subject only to security considerations. It is much better to tell colleagues what the visit is about than to deprive them of that information. Secondly, I must say that I have always found the Secretary of State for Communities and Local Government, who visited my own constituency recently, the very embodiment of courtesy.

Ms Harriet Harman (Camberwell and Peckham) (Lab): To you.

Mr Speaker: That has been my experience of the Secretary of State—an extremely courteous individual. The right hon. and learned Lady says, "To you," but generally I find the Secretary of State is courteous to most people. If there has been a lapse in this case, I regret that.

[Mr Speaker]

Thirdly, I just say that is not worth the hassle with the hon. Gentleman, who is a very persistent terrier. My advice to anybody who is going to wander into his constituency on anything that might be considered to be official business is: tell the bloke in advance.

Mr Philip Hollobone (Kettering) (Con): On a point of order, Mr Speaker. It relates to the non-disclosure of Government-held information to the House. During the response to the urgent question on the deportation of foreign and EU prisoners, at 5 minutes past 4 this afternoon my hon. Friend the Member for Reigate (Crispin Blunt) asked the Home Secretary if she would tell the House how many EU prisoners had been transferred compulsorily from this country to their EU country of origin under the terms of the EU prisoner transfer agreement, which the Home Secretary prayed in aid in her response to the urgent question. The Home Secretary said in answer to him that she did not have that information readily available. I repeated the question 10 minutes later, at quarter past 4. The Under-Secretary of State for Justice, the hon. Member for South West Bedfordshire (Andrew Selous), was on the Front Bench, there were seven officials in the box, and there were other Home Office Ministers on the Front Bench. I find it inconceivable that the Home Secretary was not apprised of that information, and withheld it from the House. What can be done, Sir, to make sure that that information is released to the House before it rises later today?

Mr Speaker: I did not quite hear the tail end of the hon. Gentleman's question, but I am sure that he would not suggest that a Minister would deliberately refuse to give information that she had at the time. As for exactly what was known by the Minister, or what was available to Minister, or what was proffered to the Minister, I do not know. If a Minister has not given a correct answer it is incumbent on them to correct it as quickly as possible. If the hon. Gentleman is dissatisfied, as he clearly is, he has the resources of the Table Office open to him to table a question, including a question for a named day. If he is dissatisfied with the answer to that named day question, or does not receive a substantive answer, there is an arsenal of parliamentary weapons available to him, especially if he judges the matter to be urgent. I will leave the hon. Gentleman, who is a wily and experienced parliamentarian, to his own devices.

Investigatory Powers Bill (Programme) (No. 2)

5.1 pm

The Minister for Security (Mr John Hayes): I beg to move,

That the Order of 15 March 2016 (Investigatory Powers Bill (Programme)) in the last session of Parliament be varied as follows:

(1) Paragraphs (5) and (6) of the Order shall be omitted.

(2) Proceedings on Consideration shall be taken on the days and in the order shown in the first column of the following Table.

(3) The proceedings shall (so far as not previously concluded) be brought to a conclusion at the times specified in the second column of the Table.

Table

Proceedings	*Time for conclusion of proceedings*
Day 1	
New Clauses and new Schedules relating to, and amendments to, Part 1; new Clauses and new Schedules relating to, and amendments to, Part 8	Three hours after the commencement of proceedings on the Motion for this Order
New Clauses and new Schedules relating to, and amendments to, Part 2; new Clauses and new Schedules relating to, and amendments to, Part 5; new Clauses and new Schedules relating to, and amendments to, Chapter 1 of Part 9	Six hours after the commencement of proceedings on the Motion for this Order
Day 2	
New Clauses and new Schedules relating to, and amendments to, Part 6; new Clauses and new Schedules relating to, and amendments to, Part 7	Three hours after the commencement of proceedings on Consideration on the second day
New Clauses and new Schedules relating to, and amendments to, Part 3; new Clauses and new Schedules relating to, and amendments to, Part 4; new Clauses and new Schedules relating to, and amendments to, Chapter 2 of Part 9; remaining proceedings on Consideration	One hour before the moment of interruption

(4) Any proceedings in Legislative Grand Committee and proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on the second day.

I am immensely grateful to you, Mr Speaker, for the opportunity to move the programme motion. I do not want to delay the House unduly, because there are many significant matters to debate in this important legislation. It has been the Government's habit, in respect of the Bill, to engage in the most careful—

Hon. Members: Formally!

Mr Hayes: I have already excited my right hon. and learned Friend the Member for Beaconsfield (Mr Grieve), and I hope that I will continue to do so.

Mr Speaker: I am not sure whether "excited" is correct; I think "irritated" might be, but in my experience the right hon. Gentleman has never let that put him off in the past.

Mr Hayes: And will certainly not do so in the next two days, Mr Speaker.

The programme motion is relatively straightforward, because, as I was about to say, it is the Government's habit, in respect of the Bill, to both listen and learn. Over the next two days, I hope to be able to show that we have done both. Scrutiny has been considerable, and the draft Bill that preceded the Bill that we are considering on Report was scrutinised closely by three parliamentary Committees, including a special Joint Committee, chaired and supported by Members of the Lords and the Commons, who gave the measure considerable attention. The Joint Committee produced a report with numerous recommendations, and members of the Public Bill Committee engaged in debate on those recommendations. There has therefore been a thorough process, and that will continue over the next two days.

Question put and agreed to.

Investigatory Powers Bill

[1st Allocated Day]

Consideration of Bill, as amended in the Public Bill Committee

New Clause 5

General duties in relation to privacy

"(1) Subsection (2) applies where a public authority is deciding whether—

(a) to issue, renew or cancel a warrant under Part 2, 5, 6 or 7,

(b) to modify such a warrant,

(c) to approve a decision to issue, renew or modify such a warrant,

(d) to grant, approve or cancel an authorisation under Part 3,

(e) to give a notice in pursuance of such an authorisation or under Part 4 or section 216, 217 or 220,

(f) to vary or revoke such a notice,

(g) to approve a decision to give a notice under section 216 or 217, or

(h) to apply for or otherwise seek any issue, grant, giving, modification, variation or renewal of a kind falling within paragraph (a), (b), (d), (e) or (f).

(2) The public authority must have regard to—

(a) whether what is sought to be achieved by the warrant, authorisation or notice could reasonably be achieved by other less intrusive means,

(b) the public interest in the integrity and security of telecommunication systems and postal services, and

(c) any other aspects of the public interest in the protection of privacy.

(3) The duties under subsection (2)—

(a) apply so far as they are relevant in the particular context, and

(b) are subject to the need to have regard to other considerations that are also relevant in that context.

(4) The other considerations may, in particular, include—

(a) the interests of national security or of the economic well-being of the United Kingdom,

(b) the public interest in preventing or detecting serious crime,

(c) other considerations which are relevant to—

(i) whether the conduct authorised or required by the warrant, authorisation or notice is proportionate, or

(ii) whether it is necessary to act for a purpose provided for by this Act,

(d) the requirements of the Human Rights Act 1998, and

(e) other requirements of public law.

(5) In this section "public authority" includes the relevant judicial authority (within the meaning of section 66) where the relevant judicial authority is deciding whether to approve under that section an authorisation under Part 3." *—(Mr John Hayes.)*

This new clause imposes certain duties in relation to privacy.

Brought up, and read the First time.

5.4 pm

The Minister for Security (Mr John Hayes): I beg to move, That the clause be read a Second time.

Mr Speaker: With this it will be convenient to discuss the following:

[Mr Speaker]

Government new clause 6—*Civil liability for certain unlawful interceptions.*

New clause 4—*Offence of unlawful use of investigatory powers*—

"(1) A relevant person is guilty of an offence if—

(a) by way of conduct described in this Act, he knowingly or recklessly obtains the communications, communications data, secondary data, equipment data or personal information of an individual, and

(b) the person does not have lawful authority to make use of the investigatory power concerned.

(2) Subsection (1) does not apply to a relevant person who shows that the person acted in the reasonable belief that the person had lawful authority to obtain the information referred to in subsection (1)(a).

(3) In this section "relevant person" means a person who holds an office, rank or position with a relevant public authority (within the meaning of Part 3).

(4) A person guilty of an offence under this section is liable—

(a) on summary conviction in England and Wales—

(i) to imprisonment for a term not exceeding 12 months (or 6 months, if the offence was committed before the commencement of section 154(1) of the Criminal Justice Act 2003), or

(ii) to a fine, or to both;

(b) on summary conviction in Scotland—

(i) to imprisonment for a term not exceeding 12 months, or

(ii) to a fine not exceeding the statutory maximum, or to both;

(c) on summary conviction in Northern Ireland—

(i) to imprisonment for a term not exceeding 6 months, or

(ii) to a fine not exceeding the statutory maximum, or to both;

(d) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.

(5) The offence in this section shall have precedence over any other relevant offences in the Data Protection Act 1998, Wireless Telegraphy Act 2006, Computer Misuse Act 1990, and the common law offence of misfeasance in public office."

On behalf of the Intelligence and Security Committee of Parliament, to provide for a unified offence for the misuse of intrusive investigatory powers at the beginning of the Bill, in Part 1, rather than having each offence scattered throughout the Bill or in other legislation.

New clause 21—*General duties in relation to privacy*—

"(1) Subsection (2) applies where a public authority is deciding whether—

(a) to issue, renew or cancel a warrant under Part 2, 5, 6 or 7,

(b) to modify such a warrant,

(c) to approve a decision to issue, renew or modify such a warrant,

(d) to grant, approve or cancel an authorisation under Part 3,

(e) to give a notice in pursuance of such an authorisation or under Part 4 or section 216, 217 or 220,

(f) to vary or revoke such a notice,

(g) to approve a decision to give a notice under section 216 or 217, or

(h) to apply for or otherwise seek any issue, grant, giving, modification, variation or renewal of a kind falling within paragraph (a), (b), (d), (e) or (f).

(2) The public authority must give effect to—

(a) the requirements of the Human Rights Act 1998, and

(b) other requirements of public law.

(3) The public authority must also have regard to—

(a) whether what is sought to be achieved by the warrant, authorisation or notice could reasonably be achieved by other less intrusive means,

(b) the public interest in the integrity and security of telecommunication systems and postal services, and

(c) any other aspects of the public interest in the protection of privacy.

(4) The duties under subsection (3)—

(a) apply so far as they are relevant in the particular context, and

(b) are subject to the need to have regard to other considerations that are also relevant in that context.

(5) The other considerations may, in particular, include—

(a) the interests of national security or of the economic well-being of the United Kingdom,

(b) the public interest in preventing or detecting serious crime,

(c) other considerations which are relevant to—

(i) whether the conduct authorised or required by the warrant, authorisation or notice is proportionate, or

(ii) whether it is necessary to act for a purpose provided for by this Act.

(6) In this section "public authority" includes the relevant judicial authority (within the meaning of section 66) where the relevant judicial authority is deciding whether to approve under that section an authorisation under Part 3."

This new clause sets out general duties in relation to privacy.

Amendment 14, in clause 1, page 1, line 4, at end insert—

"( ) This Act sets out the extent to which certain investigatory powers may be used to interfere with an individual's privacy."

On behalf of the Intelligence and Security Committee of Parliament, to place privacy at the forefront of the legislation.

Government amendments 26 to 34.

New clause 1—*Notification by the Investigatory Powers Commissioner*—

"(1) The Investigatory Powers Commissioner is to notify the subject or subjects of investigatory powers relating to the statutory functions identified in section 196, subsections (1), (2) and (3), including—

(a) the interception or examination of communications,

(b) the retention, accessing or examination of communications data or secondary data,

(c) equipment interference,

(d) access or examination of data retrieved from a bulk personal dataset,

(e) covert human intelligence sources,

(f) entry or interference with property.

(2) The Investigatory Powers Commissioner must only notify subjects of investigatory powers under subsection (1) upon completion of the relevant conduct or the cancellation of the authorisation or warrant.

(3) The notification under subsection (1) must be sent by writing within thirty days of the completion of the relevant conduct or cancellation of the authorisation or warrant.

(4) The Investigatory Powers Commissioner must issue the notification under subsection (1) in writing, including details of—

(a) the conduct that has taken place, and

(b) the provisions under which the conduct has taken place, and

(c) any known errors that took place within the course of the conduct.

(5) The Investigatory Powers Commissioner may postpone the notification under subsection (1) beyond the time limit under subsection (3) if the Commissioner assesses that notification may defeat the purposes of an on-going serious crime or national security operation or investigation.

(6) The Investigatory Powers Commissioner must consult with the person to whom the warrant is addressed in order to fulfil an assessment under subsection (5)."

New clause 2—*Referrals by the Intelligence and Security Committee of Parliament—*

"(1) Subsection (2) applies if the Intelligence and Security Committee of Parliament refers a matter to the Investigatory Powers Commissioner.

(2) The Investigatory Powers Commissioner must inform the Intelligence and Security Committee of Parliament of the outcome of any investigation, inspection or audit arising from such a referral."

To allow the Intelligence and Security Committee to refer matters, on behalf of Parliament, to the Commissioner and to provide a mechanism for the Committee to be informed of the outcome.

New clause 16—*Investigatory Powers Commissioner: obligation to notify—*

"(1) The Investigatory Powers Commissioner is to notify the subject or subjects of investigatory powers relating to the statutory functions identified in section 196, subsections (1), (2) and (3), including—

(a) the interception or examination of communications,

(b) the retention, accessing or examination of communications data or secondary data,

(a) equipment interference,

(b) access or examination of data retrieved from a bulk personal dataset.

(2) The Investigatory Powers Commissioner must only notify subjects of investigatory powers under subsection (1) upon completion of the relevant conduct or the cancellation of the authorisation or warrant.

(3) The notification under subsection (1) must be sent by writing within ninety days of the completion of the relevant conduct or cancellation of the authorisation or warrant.

(4) The Investigatory Powers Commissioner must issue the notification under subsection (1) in writing, including details of the provisions under which the conduct has taken place.

(5) The Investigatory Powers Commissioner may postpone the notification under subsection (1) beyond the time limit under subsection (3) if the Commissioner assesses that notification may defeat the purposes of the on-going serious crime or national security operation or investigation.

(6) The Investigatory Powers Commissioner must consult with the person to whom the warrant is addressed in order to fulfil an assessment under subsection (5)."

This new Clause would ensure that individuals are informed after the event that they have been a subject of investigatory powers.

Amendment 465, in clause 194, page 149, line 7, at end insert—

"( ) There shall be a body corporate known as the Investigatory Powers Commission.

( ) The Investigatory Powers Commission shall have such powers and duties as shall be specified in this Act."

See amendment 469.

Amendment 466, page 149, line 12, at end insert—

"(1A) The Investigatory Powers Commissioner must appoint—

(a) the Chief Inspector, and

(b) such number of Inspectors as the Investigatory Powers Commissioner considers necessary for the carrying out of the functions of the Investigatory Powers Commission.

(1B) In appointing Investigators the Investigatory Powers Commissioner shall—

(a) appoint an individual only if the Investigatory Powers Commissioner thinks that the individual—

(i) has experience or knowledge relating to a relevant matter, and

(ii) is suitable for appointment,

(b) have regard to the desirability of the Investigators together having experience and knowledge relating to the relevant matters.

(1C) For the purposes of subsection (2)(a) the relevant matters are those matters in respect of which the Investigatory Powers Commission has functions including, in particular—

(a) national security;

(b) the prevention and detection of serious crime;

(c) the protection of privacy and the integrity of personal data;

(d) the security and integrity of computer systems and networks;

(e) the law, in particular, as it relates to the matters in subsections (-)(a) – (b);

(f) human rights as defined in Section 9(2) of the Equality Act 2006."

See amendment 469.

Amendment 295, page 149, line 19, leave out paragraph (a).

A paving amendment for the proposed requirement on the Prime Minister to act on the recommendation of the relevant chief justice when appointing Judicial Commissioners.

Amendment 296, page 149, line 20, leave out paragraph (b).

A paving amendment for the proposed requirement on the Prime Minister to act on the recommendation of the relevant chief justice when appointing Judicial Commissioners.

Amendment 297, page 149, line 21, leave out paragraph (c).

A paving amendment for the proposed requirement on the Prime Minister to act on the recommendation of the relevant chief justice when appointing Judicial Commissioners.

Amendment 7, page 149, line 23, at end insert—

"(3A) The term of office of a person appointed under subsection (1)(a) as Investigatory Powers Commissioner must not begin before the Intelligence and Security Committee of Parliament has consented to the proposed appointee."

This amendment would require the appointment of the Investigatory Powers Commissioner to be agreed by the Intelligence and Security Committee of Parliament.

Amendment 298, page 149, line 28, at end insert—

"(5A) When appointing any person under subsection (1), the Prime Minister must act on the recommendation of—

(a) the Lord Chief Justice of England and Wales, in relation to Judicial Commissioners appointed from England and Wales,

(b) the Lord President of the Court of Session, in relation to Judicial Commissioners appointed from Scotland, and

(c) the Lord Chief Justice of Northern Ireland, in relation to Judicial Commissioners appointed from Northern Ireland."

An amendment to require the Prime Minister to act on the recommendation of the Lord Chief Justice of England and Wales, the Lord President of the court of Session, or the Lord Chief Justice of Northern Ireland, when appointing Judicial Commissioners.

Amendment 146, page 149, line 35, at end insert—

"(7A) The Investigatory Powers Commissioner shall ensure that all judicial authorisation functions under this Act are carried out by different Commissioners from those who carry out the

audit and inspection functions set out in this Part."

This amendment requires the Investigatory Powers Commissioner to ensure the separation of the judicial authorisation function from the ex post audit and inspection function..

Amendment 467, page 149, line 35, at end insert—

"(7A) The Prime Minister may make an appointment under subsection (1) only following a recommendation by—

(a) The Judicial Appointments Commission;

(b) The Judicial Appointments Board of Scotland; or

(c) The Northern Ireland Judicial Appointments Commission."

See amendment 469.

Amendment 468, page 149, line 35, at end insert—

"(7A) The Chief Inspector is an Inspector and the Chief Inspector and the other Inspector are to be known, collectively, as the Inspectors."

See amendment 469.

Amendment 469, page 150, line 2, at end insert—

"(c) to the Investigatory Powers Commission are to be read as appropriate to refer to the body corporate, the Investigatory Powers Commission, and in so far as it will refer to the conduct of powers, duties and functions, those shall be conducted by either the Judicial Commissioners or the Inspectors as determined by this Act or by the Investigatory Powers Commissioner, consistent with the provisions of this Act."

The purpose of these amendments is to replace the proposal to create an Investigatory Powers Commissioner with provisions to create a new Investigatory Powers Commission. They would provide that no appointment can be made except pursuant to a recommendation by the independent bodies in England and Wales, Scotland and Northern Ireland tasked with making judicial appointments in those jurisdictions.

Government amendment 35.

Amendment 8, in clause 196, page 152, line 9, at end insert—

"(4A) In keeping matters under review in accordance with this section, the Investigatory Powers Commissioner must, in particular, keep under review the operation of safeguards to protect privacy."

On behalf of the Intelligence and Security Committee of Parliament, to make explicit that the Investigatory Powers Commissioner is required to scrutinise the underlying safeguards, procedures and processes relating to bulk powers, including the arrangements for the protection of, and control of access to, material obtained through their use.

Amendment 18, in clause 197, page 153, line 8, after "Commissioner", insert

"or the Intelligence and Security Committee of Parliament."

On behalf of the Intelligence and Security Committee of Parliament, to allow the Prime Minister to issue directions at the request of the ISC (in addition to the Commissioner).

Amendment 189, in clause 198, page 153, line 21, leave out

"if the Commissioner considers that—".

See amendment 195.

Amendment 472, page 153, line 21, leave out from "aware" to end of line 24.

See amendment 477.

Amendment 190, page 153, leave out line 23.

See amendment 195.

Amendment 191, page 153, leave out line 24.

See amendment 195.

Amendment 473, page 153, line 25, leave out subsections (2) to (5) and insert—

"(2) The Investigatory Powers Commissioner may decide not to inform a person of an error in exceptional circumstances.

(1) Exceptional circumstances under subsection (1) will arise if the public interest in disclosure is outweighed by a significant prejudice to—

(a) national security, or

(b) the prevention and detection of serious crime."

See amendment 477.

Amendment 192, page 153, line 25, leave out subsection (2).

See amendment 195.

Amendment 193, page 153, line 29, leave out subsection (3).

See amendment 195.

Amendment 194, page 153, line 32, leave out subsection (4).

See amendment 195.

Amendment 474, page 153, line 44, at end insert—

"(5A) Provide the person with such details of the submissions made by the public authority on the error and on the matters concerned pursuant to subsection (5) as are necessary to inform a complaint to the Investigatory Powers Tribunal."

See amendment 477.

Amendment 195, page 154, line 6, leave out from "having" to end of line 9.

These amendments will remove excessive restrictions on the Investigatory Powers Commissioner to instruct and inform individuals who have been subject to surveillance and will ensure that they are always notified of that fact when unlawful errors occur.

Amendment 2, page 154, line 10, leave out subsection (7).

Amendment 476, page 154, line 16, leave out paragraph (b).

See amendment 477.

Amendment 477, page 154, line 23, leave out paragraph (b).

These amendments would amend the Bill to provide for the Commissioner to notify any relevant person of any error made pursuant to the activities in the Bill, in order to allow those individuals to consider whether a claim may lie to the Investigatory Powers Tribunal for redress. It makes provision for non-disclosure in circumstances where the public interest in disclosure would be outweighed by a significant risk of prejudice to national security or the prevention and detection of crime.

Amendment 479, in clause 199, page 154, line 28, leave out "Judicial Commissioner" and insert "Investigatory Powers Commission".

See amendment 481.

Amendment 478, page 154, line 34, at end insert—

"(1A) A Judicial Commissioner may refer to the Investigatory Powers Tribunal any matter the Commissioner considers may have involved the unlawful use of investigatory powers."

See amendment 481.

Amendment 480, page 154, line 35, leave out "Judicial Commissioner" and insert "Investigatory Powers Commission".

See amendment 481.

Amendment 481, page 154, line 38, leave out subsections (3) and (4) and insert—

"(3) In any circumstances where the Commission has identified a relevant error pursuant to section 198, the Commission must give such documents, information or other material as may be relevant to the investigation of the error to the Tribunal.

(4) The duty in subsection (3) shall be exercised without request from the Tribunal."

These amendments would remove the requirement to consult the Secretary of State and would make clear that in circumstances where a relevant error has been identified, material should be provided to the Tribunal by the Commission. It would make clear that any potentially unlawful use of the powers in this Act may be referred to the Tribunal by the Commissioners. These amendments would remove the requirement to consult the Secretary of State before giving assistance direct to other public authorities.

Amendment 482, in clause 203, page 159, line 2, at end insert—

"(1A) A disclosure pursuant to subsection (1) will not constitute a criminal offence for any purposes in this Act or in any other enactment.

(1B) In subsection (1), a disclosure for the purposes of any function of the Commissioner may be made at the initiative of the person making the disclosure and without need for request by the Investigatory Powers Commissioner."

This amendment would make it clear that voluntary, unsolicited disclosures are protected, and that any whistle-blower is also protected from criminal prosecution.

Amendment 483, in clause 208, page 160, line 29, after "determination" insert

"or ruling or decision, including relating to a procedural matter."

See amendment 486.

Amendment 484, page 160, line 29, leave out from "Tribunal" to the end of line 30.

See amendment 486.

Amendment 485, page 161, line 8, leave out subsection (6).

See amendment 486.

Amendment 486, page 162, line 38, at end insert—

"(6) After section 68(1) of the Regulation of Investigatory Powers Act 2000, insert—

(1A) Any hearing conducted by the Tribunal must be conducted in public, except where a special proceeding is justified in the public interest.

(1B) Any determination by the Tribunal must be made public, except where a special proceeding may be justified in the public interest.

(1C) A special proceeding will be in the public interest only where there is no alternative means to protect sensitive material from disclosure.

(1D) Material will be sensitive material for the purposes of this Section if its disclosure would seriously prejudice (a) national security or (b) the prevention and detection of crime.

(1E) Publication for the purposes of this Section will be seriously prejudicial if it would lead to a significant threat to life or of a serious physical injury to a person.

(1F) The Tribunal shall appoint a person to represent the interests of a party in any special proceedings from which the party (and any legal representative of the party) is excluded.

(1G) Such a person will be known as a Special Advocate."

These amendments make clear that all decisions, determinations and rulings can be appealed on a point of law.

Amendment 487, page 162, line 38, at end insert—

"(6) After Section 4(5)(f) of the Human Rights Act 1998 insert—

'(g) the Investigatory Powers Tribunal.'"

This amendment makes clear that all decisions, determinations and rulings can be appealed on a point of law.

Government amendments 36 to 43 and 48.

Mr Speaker: The Minister now has a second opportunity to practise his oratory.

Mr Hayes: As you know, Mr Speaker, practice makes perfect, and we have two days to perfect all we do and say.

We open the debate on the Bill with a group of provisions that address a matter which lies at its very heart. Throughout the lengthy consideration the Bill has enjoyed in its draft form and its final form, the issue of privacy, and the balance between security and private interest, has been frequently considered and debated. The balance that lies at the heart of our considerations and the proposed legislation is critical to the acceptance we need to engender for a Bill that is in the national interest.

The word "balance" was used by the hon. Member for City of Chester (Christian Matheson) during the Committee's scrutiny of the Bill. He talked about the balance between national interest and personal interest—in my terms, the defence of personal privacy and the underpinning of the common good. For me, communal wellbeing and individual fulfilment are inseparable, and the national interest can only be defined as the people's interest. It is right that we should consider how that balance is reflected in the words before us. The issues of privacy and oversight are central to our considerations, and the Government are determined to ensure that the Bill reflects the concentration on those two matters.

We are clear that, in considering and passing the Bill, we must do more—more in respect of checks and balances, more in respect of safeguards and more in respect of oversight, and that is indeed what we have tried to do in the provisions we are considering. It is important to understand that privacy is at the very core of the Bill—it runs through its very fabric. The protection of private interests and the protection of the public are at the heart of all we seek to do.

In Committee, the hon. and learned Member for Holborn and St Pancras (Keir Starmer) tabled a new clause to strike a balance on this issue in sympathy with my view that privacy is woven throughout the Bill's provisions. I have concluded that he was right to emphasise the need to make that palpably clear on the face of the legislation; to seek to reinforce the determination that I have described to protect private interest. It seemed to me that he was also right to suggest that that should be an overarching aspect of the Bill—in other words, that we should, explicitly, at the outset of this legislation, make it clear that privacy matters in the way that I have described. He therefore suggested—indeed, he has tabled an amendment today, too—that we add to the Bill just such an overarching emphasis on the defence of private interests.

By underpinning the powers and the sensitive capabilities available to our law enforcement and security services, the Bill provides—as successive Governments have, by the way—an appropriate degree of oversight of those powers. Furthermore, through the change to authorisation, we have, for the first time, and in highly significant—one might even say groundbreaking—terms, struck an important balance between the role of the Executive and the role of the judiciary. That answers the call of those who, on the one hand, made the case in our earlier considerations that it is politicians who should decide these things because they are accountable to the people and those who, on the other hand, felt that that alone was not sufficient and that it was also important for lawyers to play their part in ensuring that decisions made in respect of warranting were reasonable, necessary

[Mr John Hayes]

and proportionate. The core principle—the necessity of proportionality—therefore applies to all such powers. It is underpinned by the changes that we seek to make in the Bill.

In essence, the provisions reflect the collective consideration of the three independent reviews I mentioned briefly in our short consideration of the programme motion. The Intelligence and Security Committee's report on the draft Bill, which was published last year, called for the inclusion of an overarching clause dealing with privacy protections, and that call was echoed by the Opposition and the Scottish National party during the Committee stage.

The Government have been clear throughout the passage of the Bill that they would listen to recommendations that would improve this important proposed legislation, and that is just what we have done. We have tabled a number of amendments that demonstrate exactly that willingness to listen and that desire to strike the right balance.

Government amendment 34 relates to clause 10, an important safeguard in the Bill that prevents numerous powers in other legislation from being used to acquire communications data. There are a small number of exceptions to that restriction, and the purpose of the amendment is to ensure that they are clearly limited. The amendment therefore makes it absolutely clear that the use of regulatory powers to acquire communications data is limited to those that are exercisable in connection with telecommunications or postal regulation.

Government amendment 35 extends the oversight provided by the investigatory powers commissioner to all efforts made by prison governors to prevent the use of illegal mobile phones in custodial institutions. That is something that the interception of communications commissioner has previously called for, so I am pleased to be able to amend the Bill to take account of his advice. The amendment will also ensure that the investigatory powers commissioner has oversight of any interference with electronic communications.

That issue was raised in Committee by the hon. and learned Member for Edinburgh South West (Joanna Cherry) and I said that we would give it further consideration. We have done so and come to the conclusion that her argument is right. Although this tort would apply only to very limited circumstances—indeed, we believe that it has never been used—I accept that in such cases a person should have the power to seek appropriate redress through the civil courts.

Probably the most important amendment tabled by the Government is new clause 5—the privacy clause to which I referred at the outset. It puts privacy at the heart of the Bill in precisely the overarching way that those who scrutinised it prior to and during Committee recommended. It responds, therefore, both to the recommendations of the Intelligence and Security Committee and to the extensive debates held since then. As we have indicated, the protection of privacy is woven throughout the Bill, but we recognise the merit in setting it out at the very start.

I do not want to indulge in hyperbole, but consideration of the Bill has been characterised by an unusual degree of co-operation to get it right across the House. All legislation benefits from that kind of considered scrutiny and co-operation. Legislation that is in the national interest, as this Bill certainly is, is far better for that kind of approach, and that is exactly the approach that the Government have adopted.

Dr Andrew Murrison (South West Wiltshire) (Con): My right hon. Friend is being ever so slightly modest in relation to new clause 5, which is aimed primarily at protecting personal privacy. Clearly he has been listening, since one of the concerns expressed by industry is that interference and hacking may cause a failure of business confidence in IT. Subsection (2)(b) will go some way to protect the interests of such companies and businesses, since it states explicitly that the public authority must have regard to the public interest in such matters, including the viability of those undertakings.

Mr Hayes: It is true that such concerns have been expressed. Indeed, as we debate the Bill in further detail, particularly with regard to internet communication records, we will see that the capability of organisations to meet the Bill's requirements must be met in a way that is not excessively expensive or impossible to implement, and that does not have the sort of unintended consequences described by my hon. Friend. It is partly the response to those overtures that has stimulated the changes under discussion. So it was, as he said, partly about what the Opposition said in Committee, partly about what the three reports said in respect of privacy and the consequences he described, and partly about the extensive discussions we have had with the sector on how these things could best be implemented.

5.15 pm

My hon. Friend is right that the effective implementation of these provisions is critical to their success. Had we paid less attention to that, he would have been the first to criticise us. He has been a diligent Member of this House for a very long time and he was a member of the Joint Committee that I mentioned, which looked at this Bill in some detail. If I understated the virtues of the new clause, as he suggested, perhaps that is a reflection of my style. As I said earlier, I wish to avoid hyperbole. I am grateful to him for drawing attention to the additional virtues of the new clause.

The new clause was inspired by the ISC, and it is based on the amendment that the hon. and learned Member for Holborn and St Pancras (Keir Starmer) tabled in Committee. I hope that on that basis, the whole House will be able to support it. It makes it clear that warrants or other authorisations should not be granted where information could reasonably be obtained by less intrusive means. It requires that persons, including Secretaries of State and judicial commissioners, who exercise functions under the Bill have regard to the public interest in respect of privacy, as my hon. Friend the Member for South West Wiltshire (Dr Murrison) has described. It makes it clear that criminal offences that apply to misuse of powers under the Bill are sufficient to put beyond doubt the fact that should anyone misuse the powers, severe penalties would apply. There can be no truck with that kind of deliberate wrongdoing.

Mr Dominic Grieve (Beaconsfield) (Con): I realise that the Bill is complex, but could I ask my right hon. Friend—not during today's debate, but before our

consideration of the matter is concluded—to write to me setting out each of the penalties for each of the misconducts identified in the Bill? The point that I will make to him in due course is that it remains extremely complex to follow, and, in some cases, the penalties appear to be little more than a rap over the knuckles under the Data Protection Act.

Mr Hayes: My right hon. and learned Friend has made the point about incomprehensibility previously. Indeed, when we debated the draft version of the Bill, one of the telling points he made was that new legislation was needed in part because it should be more comprehensible, easier to navigate and thus more understandable to more people. He is right that the fact that existing provisions are to be found in a number of places makes it hard to determine exactly what powers there are and how the abuse of those powers will be dealt with. I happily concede the point that he has made, because it is important that all Members of this House, particularly he and the Committee that he chairs, are fully aware of the kinds of penalties that might apply. I have described them as "severe", and I have made the point that wrongdoing cannot be tolerated. Therefore, the least I can do is agree with him that it would be helpful to set out those penalties as he has described. We will do so before the Bill completes its passage through Parliament, because it is only right for us to do so.

The purpose of the amendments and new clauses that we have tabled is to reflect the consideration of the Committee chaired by my right hon. and learned Friend, and to reflect the character and content of the debate that took place when the Bill enjoyed scrutiny in Committee. As we considered privacy to an increasing degree, it became clear that as well as the implicit emphasis on private interest, which runs through the Bill, there was a compelling case for an explicit commitment to privacy in the form of a new clause. To that end, it is right to say that both the minor parties on the Committee—in this case, the Scottish National party—

Pete Wishart (Perth and North Perthshire) (SNP) *indicated dissent.*

Mr Hayes: The hon. Member for Perth and North Perthshire (Pete Wishart) shakes his head, but given that the SNP had only two Members on the Committee, I cannot describe it as the major contributor. Before he started shaking his head, I was about to say that the SNP made an incredibly helpful contribution, because it tested the Government, held us to account and made a number of useful and thought-through proposals. The Opposition—by the way, I say to the hon. Gentleman that they are Her Majesty's Opposition—equally added immense value to our consideration by making the proposal for this new clause, among others. In my judgment, it was absolutely clear that the Opposition were determined to improve the legislation, rather than to weaken or dilute it. In that spirit, I am happy to propose the Government new clauses and amendments in this group.

To allow as many colleagues as possible to contribute to this important debate, I will now finish, except to say this: when Bills come before the House and are considered on Second Reading and debated in Committee and on Report, different circumstances apply and different shadow Ministers and Ministers approach the matter in their own style, but I take the view that although circumstances are beyond human control, our conduct, to quote Benjamin Disraeli, "is in our power", and our conduct in consideration of this Bill, which is in our power, should continue to be as measured, reasonable and moderate as it can be.

Keir Starmer (Holborn and St Pancras) (Lab): I thank all Members who have so far been involved in the scrutiny of the Bill, both in its early stages and in the Public Bill Committee. I particularly pay tribute to all members of the Committee from both sides of the House. That of course includes the SNP Members, who worked hard and constructively with us on the Bill. I pay tribute to the hon. and learned Member for Edinburgh South West (Joanna Cherry), who leads for the SNP on this matter.

This group of amendments deals with the general provisions and the overarching privacy clause, so it is important for me to set out Labour's position before I move on to new clause 5. Safety and security matter. The current threat level for terrorism is severe, which, as we all know, means that an attack is highly likely. We all remember and are deeply conscious of the attacks in Paris and Brussels in the not too distant past, as well as other attacks. However, the Bill deals with not just terrorism, but other serious crimes, such as the threats from people traffickers, including those who traffic children, as well as those who indulge in sexual abuse and those who commit stalking and harassment. The starting position must therefore be that the security and intelligence services, GCHQ, the National Crime Agency and the police should have the powers to deal with these threats.

However, human rights matter, too. That includes the right to privacy, the right to be left alone, the right to have private data protected with security and integrity, and the right to redress when things go wrong, which are important rights. In relation to the issues covered by the Bill, I have seen things from at least two important perspectives. I was a defence human rights advocate for 20 years, taking many cases against some of the law enforcement agencies, and I then had the privilege to be the Director of Public Prosecutions for five years, working with the security and intelligence services and the other law enforcement agencies, so I have seen the threats and how they are dealt with, but also the importance of human rights considerations.

Safety and security and human rights are not mutually exclusive: they are not either/ors and we can have both. That is why Labour has supported the principle of the Bill, but also why we are focused intensely on the necessity of the safeguards for the powers in the Bill. We have supported the principle of the new legislation not only because investigatory powers need updating in a fast-changing world, but, equally importantly, because, after Snowden, it is important that the powers exercised are avowed, that they are placed in statute and that everybody understands the safeguards around them.

In that respect there are two very important reasons why we need new legislation. But some of the proposed powers are very wide—the bulk powers are very wide indeed. That is why Labour's first and consistent demand of the Government has been for an independent review of

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the operational case for the bulk powers. The Government published a short operational case alongside the Bill, but we judged that inadequate and have been pressing for a full independent review since.

I am pleased to say that in a letter of 23 May the Home Secretary accepted the case for an independent review of the operational case for the powers. That is a significant and welcome step, and is the right step. I want to strike the right tone here. Labour made very significant demands when the Bill was in Committee. We sought to do so constructively, and there have been significant movement and concessions from the Government; again, that has been constructive. Important moves in the right direction, which will improve the Bill, have been achieved through that dialogue.

Having gone that far it is important now to focus on the task and terms of the review—having the review of bulk powers is one thing, but having the right terms is equally important.

Mr David Winnick (Walsall North) (Lab): I appreciate all that my Front-Bench team has done and is trying to do to minimise the harm, as I see it, to privacy and civil liberties. But my hon. and learned Friend said that Labour accepts the principle, so may I say that some of us—myself, certainly, as I stated on Second Reading—do not accept the principle of the measures, consider the bulk powers unnecessary and will vote against them at every opportunity?

Keir Starmer: That intervention gives me the chance to say that by and large—there are some exceptions—the bulk powers are available and being exercised at the moment, under the existing arrangements. The Bill puts them on a statutory footing with proper safeguards. Not to do so would leave the situation as it is now; that is unsatisfactory because the powers are not clear and safeguards are not in place. That is an important reason why, in principle, we support the legislation. From my own perspective, having worked with the security and intelligence services on real cases, in real time, I also appreciate why some of the powers are needed and how they are used. We must never forget that important consideration.

We know that David Anderson QC will conduct the review. We have great faith in him, as I think do most Members of this House. It is important that the task he is performing is clear. We have argued that he should look not at the utility of the bulk powers but at their necessity, that he should be able to choose a suitably qualified security cleared panel himself to help him, that he must have access to all the material necessary to carry out the review effectively, including, of course, the material made available to the Intelligence and Security Committee, and that he must have time to carry out his review; we envisage that he will report in time for the consideration in Committee in the House of Lords of parts 6 and 7 of the Bill, which should be in about three months.

I am pleased to say that as those terms of reference are of considerable importance to Labour I have had the opportunity to discuss them with the Minister, and can tell the House that today we exchanged letters setting out that important framework for the review, namely that it should be a review of the necessity of the powers, that there should be properly cleared panel members chosen by David Anderson, that he should have access to all material and that there should be a report within three months. All those are very important for the conduct of the review.

Mr David Davis (Haltemprice and Howden) (Con): The whole House is glad to hear that there has been constructive engagement on this matter, as it is incredibly important to get it right. Will the hon. and learned Gentleman ensure that those letters are put in the Library today so that the rest of the House is aware of what is going on, as this is fundamental to the Bill?

Keir Starmer: I take that point, although obviously one of the letters is not mine—

Mr Hayes: I am more than happy to make my letter to the hon. and learned Gentleman available to the House immediately, and I am sure he will do the same. One important point—I want to prevent the hon. and learned Gentleman from having to deal with this himself—is that the review must be conducted during the period in which the Bill is considered, because a review after the legislation has been passed would not be sufficient. I know that the hon. and learned Gentleman has asked for that, and other hon. Members will also take an interest in it, so I happily make that further commitment on the Floor of the House.

5.30 pm

Keir Starmer: I was about to say that I will happily publish my letter but that I did not have custody of that of the Minister. I will make my letter available so that all Members can see the exchange and what I asked for in my letter, and the response I received. If we do that straightaway we will have it for the rest of the debate, and certainly tomorrow when we return to bulk powers.

Turning briefly to our other demands, we have consistently asked the Government for an overarching privacy clause, and I will return to that in a moment. As the Minister said, however, new clause 5 is an overarching privacy clause. We have tabled new clause 21, and in a moment I will discuss the differences between the two. We also stated that the Bill must include a provision to make it clear that legitimate trade union activities are not a sufficient reason for powers under the Bill to be exercised—that has been a long-standing concern of the Labour party and the SNP. We have tabled an amendment on that issue and held constructive discussions, and it was the third issue on which we have been constructively engaged. The fourth issue is that there should be a higher threshold for access to an internet connection.

Simon Hoare (North Dorset) (Con): As someone who served on the Bill Committee with the hon. and learned Gentleman, I welcome the approach taken by the Labour Front Bench. May I remind him that the concern to ensure the legal entity and rights of trade unions and trade unionists was shared across the Committee and not just by Labour and the SNP? It was echoed by the Minister when he responded to the debate, and by many members of the Committee.

Keir Starmer: I actually said that that issue was being pressed for by Labour and the SNP—I think that is accurate—but of course I accept that in Committee, and outside, there has been constructive engagement by

the Government. The Minister was quick to indicate a willingness to consider this issue, and discussions have been ongoing. It is important to have clarity so that legitimate trade union activities are protected. Our new clause is now broader than the one we considered in Committee because it goes to national security as well as economic wellbeing. It therefore covers trade union activities in this country, and not just acts outside the British Isles, as would be the case if it was just about economic wellbeing. Such constructive engagement has pushed the Bill forward.

As I said a moment ago, we have made significant demands—I do not hide that—and the Government have moved significantly in response to those demands. This is not a list of victories, scalps, concessions or U-turns; our demands were significant and we stuck by them, and in fairness the Government have responded in the right spirit—that is for those demands that we know about, although we will come to others during the debate.

Mr Kenneth Clarke (Rushcliffe) (Con): I am listening with interest because the question of an overriding privacy clause has concerned a lot of people. I was not involved in the Committee, and I am not a member of any Select Committees. I am waiting to hear whether the hon. and learned Gentleman is satisfied by new clause 5, which he appears to be. The drafting of legislation is always somewhat obscure nowadays, but does he think that the new clause is satisfactory? It says that the public authority should have regard to

"any other aspects of the public interest in the protection of privacy".

Would he have preferred some reference to the right of a citizen of the United Kingdom to privacy? Does he think that there is a significant difference, or am I simply making a minor drafting point?

Keir Starmer: If the House is content, I will deal with that in detail later. I have tabled an alternative in new clause 21 precisely to tighten up the reference to human rights and public law. It might be easier if I deal with that point in a few minutes when I get to that provision.

Labour has asked for a revised test for judicial commissioners. Currently in the Bill, the test is reviewed by reference to judicial review principles. The concern is that the judicial review exercise is a flexible test that, at one end, has close scrutiny, when judges look at the substance as well as the process of the decision. At the other end, there is a light-touch review, when the judges look more at process. We have argued that the review should be towards the upper end of strict scrutiny. I am pleased that the Government this morning tabled a manuscript amendment setting out a test for the judicial commissioners that makes it clear that the review will be an upper-end, stricter one—the close scrutiny that we have argued for. That refers back to the privacy clause, and I will try to make good that link when I get to it.

The manuscript amendment is a constructive move by the Government to meet my concern that review must be real and meaningful, not a long-arm, Wednesbury-unreasonableness review. The manuscript amendment is a significant change.

Mr Hayes: The hon. and learned Gentleman draws attention to the manuscript amendment the Government tabled this morning. We did so, as he describes, precisely to deal with the point raised in Committee and by others that the judicial review process might be interpreted in different ways by different commissioners. The amendment is a tighter definition of their role, strengthens the double lock and is very much in response to the Opposition critique and that of Government Members that the new process needs to be as well defined as possible.

Keir Starmer: I am grateful to the Minister—that was what the Opposition pressed for.

There have been differences of approach to the test for judicial commissioners. On the one hand, colleagues on both sides of the House have made a powerful argument that the judicial commissioners should retake the decision. On the other hand, others have argued that the decision should be reviewed. The amendment strikes a third route, which is to apply a review test but to confine it to the stricter end of the judicial review principles.

As hon. Members know, I have been a lawyer for many years and have dealt with many public law cases, as other hon. Members have. The difference between strict scrutiny and long-arm judicial review is very real—it is a material difference. That is why the manuscript amendment is highly significant.

Joanna Cherry (Edinburgh South West) (SNP): It has been a pleasure to work with the hon. and learned Gentleman on the Bill. Like me, as a lawyer, he will have advised clients frequently on judicial review. He will no doubt agree that judicial review looks to the reasons given for a decision. There is no duty on the Secretary of State to give reasons for her decision on whether or not to grant a warrant. How can there be judicial review when no reasons are given?

Keir Starmer: The hon. and learned Lady made that very important point in the Bill Committee. Normally when decisions are subject to judicial review, there are reasons for the decision. What is envisaged is that the decision itself, plus such material as has been looked at by the Secretary of State, will be put before the judicial commissioner. There will not be reasons, which makes the task more difficult, but what is important about the test set out in the manuscript amendment is that the judicial commissioner must ensure that the duties under the privacy clause are complied with, which means that he or she will have to look at that underlying material. It might well be a good point to say, "If there are reasons, it would be an easier task," but I do not believe the task cannot be performed without reasons. In due course, the judicial commissioners may say, "We need further help on particular issues."

Mr John Hayes: The hon. and learned Gentleman made the point in passing, but it is salient: in reviewing what has happened, the commissioner will receive the same information as the Secretary of State. The review will not, as was feared at one point, merely be a review of process, in which the reviewer would say, "Yes, the Secretary of State has taken the right steps," rather than looking at the arguments that the Secretary of State had considered. Those are the two points I make on what he and the hon. and learned Member for Edinburgh South West (Joanna Cherry) said.

Mr David Davis *rose—*

Keir Starmer: I am happy to give way again straight away.

Mr Davis: There were two reasons for concern. First, the House should seek certainty in the law, rather than any notion that the law would alter depending on the judge. The Minister is one of those who wants certainty in the law and less law-making by judges, so he should accept that point. Secondly, the Home Secretary reviews approximately 2,500 warrants a year—10 a day. The ability to do so is dependent to a very large extent on the data presented and the time available. The reason we wanted a reasons-based judgment was the feeling that an hour on any given warrant was simply not enough time. At this point, I do not know whether this provision will meet that requirement, but that is the test in my mind.

Keir Starmer: I am grateful for that intervention. The certainty point is really important. It is a point that Lord Judge made when he gave evidence to the Public Bill Committee. When I asked him about the reference to judicial review principles, he was concerned that that was not clear enough for the judges to know which particular test they were to apply. Now, with the new text in the manuscript amendment, it is crystal clear to the judges that they review the decision according to judicial review principles, but they must

"consider the matters referred in subsection (1)"—

necessity and proportionality—

"with a sufficient degree of care as to ensure that the Judicial Commissioner complies with the duties imposed by the section".

That is the privacy clause. The test for the judges is now crystal clear: look at necessity and proportionality, and review the Home Secretary's decision with a sufficient degree of care to make sure that the judicial commissioner complies with the duties imposed by the general provision in relation to privacy. That deals with the certainty point.

As far as the reasons are concerned, I cannot improve much on my previous answer. What I think is envisaged is that there will be a number of judicial commissioners whose task will be to undertake this review, and to take such time as they need to look at the material and apply this test. They will not necessarily have the constraints that the Home Secretary and the Foreign Secretary have, but obviously a lot of this will happen in real time, so there will be the constraint of time in that sense. As I said, they will not be doing that alongside the other sorts of duties that a Secretary of State has to carry out during the course of a day.

I share the concerns that have been expressed on this matter, but I am clear in my mind that close scrutiny on judicial review principles is markedly different from Wednesbury unreasonableness and makes a real difference in real cases, so long as there is access to all the material, and clarity that the privacy provisions must be complied with. That effectively means that there are factors that it is mandatory for the judicial commissioner to take into account. That makes a material difference. That is why we will support the amendment.

The Solicitor General (Robert Buckland): The hon. and learned Gentleman and I debated this point closely in Committee, and I thank him for the way in which he has approached the matter. With regard to clarity, it is not now beyond any doubt that the test will depend not on the personality of commissioners, but the facts before them? They have a very clear basis on which to make their judgment, looking at the particular degree and seriousness of the case, and balancing the right to privacy with all the qualifications that he, I and others know exist in article 8.

Keir Starmer: I am grateful for that intervention. To illustrate why we are satisfied, under the general privacy clause—I have a tighter version of new clause 21, but for this purpose that does not matter—one of the general duties is to have regard to

"whether what is sought to be achieved by the warrant, authorisation or notice could reasonably be achieved by other less intrusive means".

Under this test, a judicial commissioner will have access to the material, will obviously know the Secretary of State's decision, and will have to ask himself or herself that question. That is a long way from simply asking whether a decision was so unreasonable that no reasonable Secretary of State could have taken it, and that is why the new clause makes it clear that it is close-scrutiny review, rather than long-arm review, that is being dealt with.

5.45 pm

I will deal with two other issues on which Labour has made demands. The first is better protection for sensitive professions, which will come up under a different group of amendments. Amendments on that subject have been tabled by Members on both sides of the House, and by the Government, who have moved in relation to journalists and the protection of their sources, but not in relation to legal privilege. However, I will leave that until we get to those amendments. Secondly, Labour demanded a higher threshold for retaining health records and tabled an amendment in Committee that is now largely reflected in the Government's new clause 14. Again, there was constructive dialogue on that important issue; a number of Members were very concerned about health and mental health records being made available via the bulk powers.

I will deal briefly with the privacy clause, passing over the bits I have already discussed. There are at least two versions of the clause before the House. The first is the Government's new clause 5, and the second is Labour's new clause 21. The essential difference between the two is that whereas the Government's new clause simply states that the public authority, in carrying out its duties, "must have regard to" other matters that apply in the context, including

"the requirements of the Human Rights Act…and…other requirements of public law",

our new clause 21 makes it clear that the Human Rights Act 1998 and the requirements of public law are of general application in all decisions. Our clause requires the public authority—the judicial commissioners—to

"give effect to…the requirements of the Human Rights Act 1998, and…other requirements of public law".

It might be stating the obvious, but the Bill contains a statement from the Home Secretary saying that it complies with section 19 of the Human Rights Act. It therefore must be right that the duty is to "give effect to" the Act and public law, not simply to "have regard to" it. That is the only material difference between the two new clauses. I ask Members to support new clause 21, rather than

new clause 5, because new clause 21 makes it clear that the Act and those powers and duties are important and apply.

Mr John Hayes: I note the hon. and learned Gentleman's comments about the difference between the two new clauses, and the Government are not blind to his argument about ensuring that the connection to human rights is secure. The Bill will clearly continue to enjoy scrutiny over the coming weeks and months, and he needs to know that, as he described earlier, we are always happy to listen and learn. I hope that tonight we can establish that an overarching privacy clause is essential, and can continue to have a discussion about the fine details.

Keir Starmer: I am grateful for that indication.

Victoria Atkins (Louth and Horncastle) (Con): Section 6 of the Human Rights Act requires public authorities to have regard to the Act in any event, so I wonder what advantage the hon. and learned Gentleman thinks referring to the Act in the Bill will have.

Keir Starmer: I am grateful for that intervention, because it drives us back to the point of the privacy clause, which we debated in Committee and which has been debated elsewhere. It is important for three reasons. First, this is a statement of principle about the important interests and duties running through the Act, and it is important to have that statement in the Act. It avoids inconsistency and reminds decision makers of the importance of taking into account privacy, the integrity of data, human rights and so on in all cases, so this is a matter of principle.

The second reason why our new clause is important is because of practical considerations. I worked with the Police Service of Northern Ireland for five years in relation to its compliance with the Human Rights Act. Having structures and decision making written into everything it did helped it to reach better decisions, and I am sure it is the same for other polices forces and for public authorities. Never underestimate the practical application that such a clause has in real time for people in public authorities trying to do their job. The third reason—I will come back to this in a minute—is that our new clause gives real teeth to the test that the judicial commissioners apply, because there would be a link between the privacy clause and the test.

Mr David Davis: I thank the hon. and learned Gentleman for his patience in giving way so many times. Frankly, I favour his version and the reason is this. It rather bounces off something he said earlier, when he was talking about the protection of trade unionists. Of course, he is right: historically, there have been cases, 20 years ago or so, of what one might call foolish interference in trade union actions by the agencies. Today, one of the problems is interference in what might be thought of as legitimate demonstrations, by environmental groups and so on, that have become public scandals. When he was talking about trade unionists, I was trying to think how we generalise that. It seems to me that his new clause is the right way to protect those engaged in legitimate democratic activity from improper intervention.

Keir Starmer: I am grateful for that intervention. It is the historic trade union cases that have caused so much concern, but our new clause is intended also as a future-proofing exercise to ensure that, whatever human right is at issue and whichever individual or organisation is involved, there is a provision that requires decision makers to take into account the convention rights involved.

Mr Dominic Grieve (Beaconsfield) (Con): The hon. and learned Gentleman will have seen that the Intelligence and Security Committee has tabled a short amendment that says:

"This Act sets out the extent to which certain investigatory powers may be used to interfere with an individual's privacy."

We felt that that, linked to either his or the Government's amendment, would send out a clear general statement about the state's requirement to protect privacy. I wonder whether he has a view on that, because it seems to me that our amendment would add something without in any way undermining the ability thereafter in the Bill to undertake those necessary interferences that might be required.

Keir Starmer: I am grateful for that intervention, because what amendment 14 makes clear—the point is sometimes missed—is that these, or indeed any, investigatory powers affect an individual's privacy. We have to be absolutely clear: the right to privacy is fundamental, but it is not absolute. The Bill gives the state a power to interfere with privacy—that is what it is about. The question then becomes: is there a case for the interference in the first place, and if there is, is that interference necessary and proportionate? Obviously it is for the Minister to respond to our amendment, but in a sense it is all of our duties to remind ourselves that this is all about an interference with privacy, and that is why the safeguards are so important.

To finish the short point I was developing, the third reason the overarching privacy clause is important is because it is now linked to the test for judicial review of the Home Secretary and Foreign Secretary's decision, so it has real application every day when one of the warrants is applied for.

Finally, let me say a few words about the appointment of judicial commissioners, an issue that has cropped up a number of times. Under clause 194, it is for the Prime Minister to appoint the Investigatory Powers Commissioner and

"such number of other Judicial Commissioners as the Prime Minister considers necessary for the carrying out of the functions of the Judicial Commissioners."

Before doing that, he must consult the Lord Chief Justice of England and Wales, the Lord President of the Court of Session, the Lord Chief Justice of Northern Ireland, the Scottish Ministers and the First Minister and Deputy First Minister in Northern Ireland. Our amendment 298 would ensure that the Prime Minister acted on the recommendation of

"the Lord Chief Justice of England and Wales, in relation to Judicial Commissioners appointed from England and Wales,"

and likewise the recommendation of the Lord President of the Court of Session and the Lord Chief Justice of Northern Ireland in relation to Scotland and Northern Ireland.

The reason is that it is envisaged that judicial commissioners will be appointed from among those who are already very experienced judges—High Court and above—either serving or retired. They will obviously

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have gained the qualifications to be judges and will be appropriately skilled and qualified to take these decisions, so in truth the exercise of appointing a judicial commissioner will be an exercise in deploying, from the pool of available judges, those who will sit as judicial commissioners.

That is an important consideration. Our amendment is tabled on the basis that it is not appropriate for the Prime Minister to decide that sort of deployment—he does not have the skills and experience to do it—nor, in a sense, should it be a political deployment. This is something routinely done by the Lord Chief Justice of England and Wales. Our amendment would ensure that the Lord Chief Justice of England and Wales, the Lord President in Scotland and the Lord Chief Justice of Northern Ireland make a recommendation that binds the Prime Minister. The appointment is, of course, the Prime Minister's, but that is the right way to carry out the appointment to this important judicial role, rather than the version in the Bill.

Mr George Howarth (Knowsley) (Lab): I am grateful to my hon. and learned Friend for giving way again. If the recommendation should be a judicial one and if, as I think I understood him to say, the Prime Minister would not have the ability to overturn it, I fail to understand what the point would be of involving the Prime Minister at all.

Keir Starmer: The answer to that is twofold, although I should say that if the decision was on the recommendation of the Lord Chief Justice and so on, it would not be open to the Prime Minister not to follow that recommendation. We need a slight reality check. At the moment under clause 194, if the Lord Chief Justice of England and Wales—or, I am sure, the equivalent in Scotland—was consulted and made his or her views clear, it would be highly unlikely that any Prime Minister would act in a way that was contrary to the advice they were receiving from the senior judge in those jurisdictions, but our amendment would bind the Prime Minister. The question is: what is the point of involving the Prime Minister? The answer to that—to some extent this is to the Minister—is that there is the question of accountability for making the appointment.

There is also the point, as the Lord Chief Justice has pointed out, that he—or she, as the case may be—is not in the business of making judicial appointments as such, and will therefore be reluctant to have that power. The Minister might want to confirm that, because he has been having those discussions, not me. I think the Lord Chief Justice and others are reasonably happy to help with the deployment exercise, but not with the business of appointing judges.

Mr John Hayes: I have no doubt that the Solicitor General will deal with this later, but the point is that the Prime Minister is ultimately responsible for the protection of national security. As the hon. and learned Member for Holborn and St Pancras (Keir Starmer) said, when Lord Judge gave evidence to the Joint Committee, he made exactly the point that the hon. and learned Gentleman has made. Just to affirm the other argument that he advanced, the Prime Minister will of course seek advice on these matters in the way that the hon. and learned Gentleman has described, and I share his view that it is highly unlikely that the Prime Minister would then take a perverse decision.

Keir Starmer: I am grateful for that indication.

I have taken longer than I had anticipated. I think I have taken every intervention, because there were important points being made—that is in mitigation rather than an excuse, I suppose—but the House will be pleased to know that I have finished, at least on these amendments.

Mr Grieve: It is a pleasure to take part in this debate. As will be noted, the Intelligence and Security Committee has tabled a number of amendments to this part of the Bill for the House's consideration. I want briefly to run through them and explain the Committee's collective position.

I want to start, however, by commenting on the debate we have just been having about privacy. It seems to me that it is absolutely central to the duty on this House that we should ensure that the principle of the right to privacy against the state is maintained except if there is a good and sufficient reason why that should not happen. In that context, it is extremely important that the Bill should be clear about the right to privacy. I very much welcome new clause 5; indeed, the difference between that and the new clause tabled by the hon. and learned Member for Holborn and St Pancras (Keir Starmer) is, in reality, very slender indeed, as I see he acknowledges.

Keir Starmer *indicated assent.*

Mr Grieve: That said, words sometimes matter, and the clearer the statement, the better. I hope that my right hon. Friends on the Treasury Bench will take that into account.

6 pm

We ourselves had originally suggested, before this Bill was introduced, that privacy protection should form the backbone, around which the exceptional powers of intrusion should then be built. We rather regretted the fact that that was not present when the Bill was first introduced, but we have now made a great deal of progress. Yet we still think it could do with improvement, and that was the context in which we tabled amendment 14. As I said a few moments ago in my intervention, it simply

"sets out the extent to which certain investigatory powers may be used to interfere with…privacy."

If I may say so, it is entirely complementary and compatible with both the Government new clause and the amendment proposed by the hon. and learned Member for Holborn and St Pancras. I hope that the Government will consider whether building such a statement on the face of the Bill, along with the other changes, might be of value in providing public reassurance about what the House intends and particularly the powers we intend to give to the Government and the agencies as a result.

Let me turn to new clause 4. I tabled it as a probing amendment, but I very much hope that the Government will take it carefully into consideration. I intervened on the Minister because I wanted to highlight the extent to which penalties for misuse of the powers that we are

providing under this legislation remain entirely scattered within the legislation itself or even in some cases have to be found elsewhere. Here are powers that we are providing for, which are capable of revealing the most sensitive and detailed information about a person's private life, so if misuse were to occur, it must be viewed as a very serious matter.

In my role as Chairman of the Intelligence and Security Committee, I have great confidence in the ethical standards of the agencies, but that is not to say that we can disregard this issue. Neither is it entirely adequate to say that in many cases, particularly if of a rather venal character, it should be a matter simply of dismissal, even though that would of course be a substantial sanction for the individual concerned. I think Parliament is entitled to expect that the powers will not be misused and that there is adequate punishment if they are.

In those circumstances, it is worth bearing in mind that although some of the misuses might fall under the Computer Misuse Act 1990, the offences are not comprehensive, not clear and in some cases appear to be rather inadequate—punishable only under the Data Protection Act 1998 or under the current common law offence of misconduct in public office. As many Members who are lawyers will know, it is very hard to prosecute for that offence and in any event it is inadequate to meet much of mischief to which it is aimed.

I would be grateful—I repeat my request to the Minister—if he could provide as quickly as possible through his officials, a run-down of all the offences that could be committed under the misuse provisions of the Bill, so that the House can have a clear understanding of what is covered by what offence, which offences appear in the Bill and which are covered only by misconduct in public office or the Data Protection Act 1998.

Mr John Hayes: My right hon. and learned Friend makes a good additional point. He first, perfectly properly and sensibly, asked for clarity about the character of the penalties, and now makes a telling second point about how this Bill relates to other existing legislation that deals with these or related matters. A further note to the House, during the passage of this legislation, dealing with that second point is necessary, and I commit to providing it. Let me draw Members' attention, as my right hon. and learned Friend will do, to the first part of the Bill, which deals with offences. I accept that that does not wholly answer the question—

Mr Deputy Speaker (Mr Lindsay Hoyle): Order. Let me help the Minister a little. He has asked for more time at the end in which to deal with various points, but what we are bothered about is eating into that time when so many Members wish to speak. Being quicker in responses would help.

Mr Grieve: Thank you, Mr Deputy Speaker. I am grateful to the Minister for his response, and I look forward to such a review happening. It would be good if it could take place in plenty of time before the Bill is passed, because we must have this issue in mind if we want to take different steps in respect of this matter.

Let me move on to new clause 2 and the associated amendment 18, which reflect some of the important concerns of the Intelligence and Security Committee. The Bill contains some welcome reforms to the commissioners who are currently responsible for the audit of authorisations and warrants that govern the use of intrusive powers. I am sure that all Members will agree that the new judicial commissioners will be critical in providing the assurance we need that the intrusive powers are being used appropriately.

What is currently missing, however, is a power to refer cases to the commissioners by the Intelligence and Security Committee. The ISC considers strategic issues and overall policies, including operations of significant national interest, but that is quite a different role from the commissioners who audit specific authorisations and warrants. The Committee sees our roles as complementary and, at times, our own work will throw up concerns about issues that we ourselves are not in a position to investigate. It is entirely appropriate that matters arising from a strategic or high-level inquiry conducted on behalf of Parliament by the ISC be capable of being referred to the commissioners for more detailed audit.

To date, however, I have to say that the informal process has not been working well. I mentioned previously that the ISC discovered that the Interception of Communications Commissioner did not know how many selection rules GCHQ applied to its bulk intercept materials. In such circumstances, the ISC should be able to refer that matter to the commissioner to ensure that he investigates the selection rules and provides thorough oversight.

To provide a further example, in its report on the killing of Fusilier Lee Rigby, the ISC identified a number of concerns about the involvement of the intelligence services prior to events and particularly in respect of one of the killers. Despite numerous invitations to discuss the matter, the Prime Minister referred it to the commissioner, yet despite numerous representations to the commissioner for an opportunity for the ISC to raise its concerns directly with him, that opportunity has never been taken up. Neither has there been any response of any kind to the ISC's representations.

I want to emphasise that the commissioner is independent. There is no suggestion on the part of the Committee that we should be telling the commissioner what to do, but if informal channels of communication do not seem to be working very well, it seems to us that greater co-operation is required to make this and every other aspect of our scrutiny and the commissioner's scrutiny work better. It would therefore be helpful if there were a clear mechanism by which the commissioner could receive a reference and be required to acknowledge it. That is why we tabled new clause 2. It has been suggested that this might be in some way improper because the commissioner has a judicial function. I have to say that although the commissioner is a person who must have held judicial office, being a commissioner is not a judicial function, so I cannot see for the life of me why this requirement cannot be placed on him.

The Solicitor General (Robert Buckland): I have listened very carefully to what my right hon. and learned Friend has said about amendment 18, which the Government are prepared to accept. On the first part of new clause 2, the Government are prepared to accept referral in principle, but I would like to address in greater detail in my closing remarks, my concerns about reporting. I am sure my right hon. and learned Friend will listen carefully to what I have to say in due course.

Mr Grieve: I will certainly listen very carefully to what my hon. and learned Friend has to say. It was on that basis, I should make clear, that I tabled new clause 2 as a probing amendment. If he can provide me with some reassurance, we will leave it there. This is an important issue, and the wording is crucial. We did not intend to put any constraint whatever on the commissioner in respect of the conclusions he reached, and I could even envisage the commissioner writing back and saying, "I have taken a preliminary look, but I'm afraid I disagree with you, and I do not think this is worthy of my investigation." That is the lowest level of response that the Committee would hope to get from the commissioner. On that basis, I find it difficult to see that that would be putting improper pressure on the commissioner to provide a response.

I gratefully accept what the Minister for Security, my right hon. Friend the Member for South Holland and The Deepings (Mr Hayes) has said about amendment 18. This means that we shall be able to go to the Prime Minister and ask him to give a direction in certain circumstances. Indeed, if the leading member of the Executive will be able to give a direction to the commissioner to carry out an investigation, it could hardly be improper for us merely to ask the commissioner to consider and acknowledge a request to investigate something.

I shall turn briefly to amendment 8, which deals with the oversight of safeguards relating to bulk powers. When we reported on the draft Bill, we recommended that bulk equipment interference warrants be removed from the Bill entirely. We said that we had

"not been provided with sufficiently compelling evidence as to why the Agencies require Bulk Equipment Interference warrants, given how broadly Targeted Equipment Interference warrants can be drawn".

In response to that recommendation, the Government helpfully provided the Committee with further extensive classified evidence, which we scrutinised in great detail. After carefully considering it, we concluded that there were circumstances—target discovery was an example—that would require a bulk equipment interference warrant and could not simply be covered by a thematic warrant. However, central to our willingness to accept that change is the need for underlying safeguards, policies, procedures and access controls to be in place.

In the last Parliament, the Committee's inquiry on privacy and security examined at great length the underlying safeguards for bulk interception, and it was those that convinced the Committee that bulk interception was properly controlled. We are told that the same principle is going to apply to bulk equipment interference. We have sought assurances from the Government that the same safeguards, policies, procedures and access controls that apply to bulk interception will also be applied to interference, and we have received those assurances.

Nevertheless, given how critical those underlying safeguards are, we regard it as essential that the Bill place an obligation on the commissioner to have particular regard to the privacy safeguards when reviewing all matters under the Bill. The reason that this must be clearly stated on the face of the Bill is that the Committee discovered in its previous inquiry that the current Interception of Communications Commissioner did not know the detail of the underlying safeguards for bulk interception. This cannot therefore be taken for granted; there must be a specific obligation in statute.

Lucy Frazer (South East Cambridgeshire) (Con): New clause 5 relates to privacy and states that the public authority must have regard to

"whether what is sought to be achieved by the warrant, authorisation or notice could reasonably be achieved by other less intrusive means".

If the new clause is accepted, could that affect the point that my right hon. and learned Friend is making? Would not the least intrusive method possible have to be used?

Mr Grieve: I think my hon. Friend makes a good point. I have an underlying confidence that the amendment we are discussing might commend itself to those on the Government Front Bench. On that basis, I do not intend to labour this point any further. I felt it was important to set it out, however, because it marked a significant shift in the Committee's approach to this legislation. I wanted the House to understand why that change had come about after we had been given the extra classified briefing and why we came to the conclusion that we should accept this principle, alongside essential safeguards.

Mr David Davis: I have not read the individual amendments, so I am flying blind here. However, there is no doubt that this power is the most intrusive power in the Government's armoury. One of the problems historically has been that the sheer volume of work being conducted means that scrutiny and oversight can sometimes slip. Would my right hon. and learned Friend's amendment actually require the investigation of every single bulk intervention?

Mr Grieve: The amendment would require that

"the Investigatory Powers Commissioner must, in particular, keep under review the operation of safeguards to protect privacy."

In our view, it is crystal clear that such a provision would meet the needs that we have expressed. As I have said, the Committee has been satisfied that the rules relating to bulk interception are adequate to provide the necessary safeguards. So, as long as we apply identical standards to equipment interference, the Intelligence and Security Committee believes that this process could be made to operate properly.

6.15 pm

Mr John Hayes: I hear what my right hon. and learned Friend has said. He will be aware that, because of the arguments put forward by him and others—including Opposition Members—on bulk powers, we have agreed to a further independent review. The point of clarity here is that the review will look at the range of bulk powers and apply its assessment of necessity across that range. I just wanted to give him that additional assurance.

Mr Grieve: I am grateful to the Minister. Clearly, the more targeted a power can be, the better. Indeed, that was one of the reasons that the Committee expressed concern about whether the bulk power was required in the case of equipment interference. However, in classified evidence to us, the Government made the compelling case that simply relying on thematic powers or targeted powers would be likely to be insufficient and unsatisfactory. In changing our position, we have acknowledged that. However, that makes it all the more important that the safeguards should be properly in place. Those are the

key amendments in this group that I wanted to bring before the House. I simply reiterate my earlier comment that the Government have really co-operated and moved a great deal in relation to this legislation. They have responded positively, as I shall be able to illustrate as we come to the further amendments.

Joanna Cherry: I have unashamedly tabled a lot of amendments to the Bill, including to part 8, and the Scottish National party will also support amendments tabled by others.

I pay tribute to the hon. and learned Member for Holborn and St Pancras (Keir Starmer), with whom I worked closely in Committee. There are areas of divergence between the SNP and Labour on the Bill, but it was a pleasure to work with him and I hope that there will be other occasions on which Labour and the SNP can work together harmoniously.

I recognise that the Government have made significant concessions on part 1 of the Bill. I welcome their attempt in new clause 5 to introduce an overarching privacy requirement. Their belated conversion to the central recommendation of the Intelligence and Security Committee is a tribute to the arguments advanced by Opposition Members in Committee. I have to say, however, that I prefer new clause 21, tabled by the Labour party, which trenchantly states that regard must be given to the Human Rights Act 1998. For reasons that other hon. Members have already given, that is important. It is encouraging to see the Government making reference in their own amendments to the Human Rights Act. That gives me hope that they might have retreated from their plan to repeal the Act even further than we had hoped. That could be one of the little bits of good news to come out of this exercise.

I am also happy to welcome Government new clause 6, and I thank the Minister for Security, the right hon. Member for South Holland and The Deepings (Mr Hayes), for acknowledging that it reflects an amendment that was tabled by my hon. Friend the Member for Paisley and Renfrewshire North (Gavin Newlands) and me. It is quite a historic occasion when the Government accept an amendment tabled by the SNP, and I should like to mark it. I just wish that they would look at more of my amendments, but I fear that they will not do so. We are, however, pleased that the Government have seen fit to respond to a number of the concerns raised in Committee. That said, I want to be clear that they will have to go an awful lot further before the Scottish National Party can contemplate giving the Bill our support.

As I said on Second Reading, we would like to be able to support some aspects of the Bill, because they are necessary for law enforcement across these islands and reflect some powers that are already in force in Scotland. It is also a good idea to consolidate the powers and to have a modern, comprehensive law. However, we remain concerned about the legality of some of the powers that are still on the face of the Bill and the fact that they significantly exceed, such as with the retention of internet connection records, what is authorised in other western democracies. We continue to have severe concerns about the bulk powers enabled by parts 6 and 7 of the Bill. We are pleased that the Government have conceded that there should be a properly independent review of the bulk powers, which was argued for by both Labour and SNP Members in Committee, but we are yet to see confirmation of the review's remit. I want to associate myself with what the hon. and learned Member for Holborn and St Pancras said about the review needing to look not at whether the bulk powers are useful, but at whether they are necessary. We look forward to the publication of the correspondence between the Government and the Labour party, so that we can see what is being proposed. My hon. Friends the Members for Paisley and Renfrewshire North (Gavin Newlands) and for Glasgow North East (Anne McLaughlin) will address bulk powers and internet connection records in more detail tomorrow.

I led for the SNP in Committee, where we tabled numerous amendments to try to get the principle of suspicion-based surveillance to run throughout the Bill. We support the idea that warrants should be focused and specific and that oversight should be robust and meaningful. Nearly all our amendments were opposed or ignored by the Government, which is why we cannot give the Bill our support at this stage.

On Second Reading, the right hon. and learned Member for Rushcliffe (Mr Clarke) sought to mock me for making what he described as

"combative and partisan speeches in support of an abstention".—[*Official Report*, 15 March 2016; Vol. 607, c. 847.]

He expressed a degree of confidence in a shared consensus across this House about the principles that we should be adopting. I am afraid that my experience in Committee has shown his confidence to be misplaced. The amendments tabled by the Government for debate today are only a partial response to our legitimate concerns. The Government need to pay more than lip service to the importance of privacy and to the principles of necessity and proportionality.

Mr Alistair Carmichael (Orkney and Shetland) (LD): I am grateful to the hon. and learned Lady for giving way, because I agree with what she is saying. May I suggest that there is one means by which the Government could demonstrate good faith? In order to get to a vote on new clause 21, we will first have to vote down new clause 5. If the Government are serious about listening to the House, could they not withdraw new clause 5 to allow us to have a vote on new clause 21?

Joanna Cherry: That is an excellent suggestion that the Government should consider carefully.

I also mentioned on Second Reading that the United Nations special rapporteur had expressed concern about the Bill's provisions, especially the bulk powers. That is why it remains the SNP's position that until such time as a case has been made for the necessity of bulk powers, they should be removed from the Bill.

I make no apology for tabling numerous amendments, because this is a constitutionally important Bill. Their purpose is to try to bring the Bill into line with international human rights norms and to make it properly lawful. If the Bill is passed in its current form, there is a real risk that it will be the subject of challenge. Many of the threads running through it, such as the retention of data and bulk powers, have already been the subject of successful challenges or are awaiting the outcome of decisions. We need to be careful about passing powers into law when their legality has already been questioned

[Joanna Cherry]

by the European Court of Human Rights in Strasbourg, the European Court of Justice in Luxembourg, and a court in England.

In reality, I know that our amendments will not be accepted because we are already running out of time. We simply have not had enough time to consider the Bill. We have two days for Report, which I know is unusual, but we have short periods of time to speak about important parts of the Bill. I am only at the stage of making some introductory remarks and will have to curtail what I say about part 8 in the interest of other Members getting the right to speak. That will happen as we go through each part of programme motion.

Mr George Howarth: I share the hon. and learned Lady's concern that maybe there is not enough time to consider the Bill as fully as she or I would like, but I am a bit confused. If that is the case, why did she not oppose the programme motion?

Joanna Cherry: I knew that that was a pointless exercise that would have eaten into the time that we have, so not opposing it was a practical decision.

Mr John Hayes: More pointedly, the Committee stage finished a day early, so why did she not debate the Bill for another day in Committee?

Joanna Cherry: If anyone reads the records of that Committee, they will see that I made more than my fair share of contributions. I do not have any problem with that. My issue is that other Members—the people sitting behind me, the Labour Members and Government Members—will not get a chance to speak and that we will not get a chance to vote on more than a handful of amendments. Given the degree of concern expressed about the Bill, it is frankly ridiculous that we will get to vote only on maybe eight or nine amendments over the next couple of days out of the hundreds of amendments that have been tabled. I am not ashamed to say that that is no way to legislate. We need to look at the way we go about things.

I am going to have to cut my cloth according to how much time is left, and I want to try to address some of the key SNP amendments to part 8 of the Bill, dealing first with amendment 465 and 466 to clause 194. Part 8 deals with oversight. At an earlier stage in the process, the Government said that they wanted to create a world-leading oversight body, but they have failed to do that. Our amendments seek to say that in addition to the investigatory powers and judicial commissioners there should be a separate body, known as the investigatory powers commission. It is not just some little notion of mine or of the SNP; it is what was recommended by the Royal United Services Institute's independent surveillance review, the Joint Committee on the Draft Investigatory Powers Bill, and by David Anderson QC's investigatory powers review. David Anderson said that there should be a new independent surveillance and intelligence commission. It is a matter not only of what it is called; it is matter of what it actually does. Other hon. Members have tabled amendments relating to separating out the judicial and audit functions, and in the unlikely event that we get a chance to vote on them, the SNP will support them.

In written and oral evidence to the Bill Committee, we heard from Joanna Cavan, the head of the interception of communications commissioner's office. She reminded us that the judicial commissioners will deal only with some 2% of the applications falling within the remit of the oversight body. The remaining 98% will be subject to post-facto oversight only, so it is vital that that oversight is independent and robust. Creating a separate commission, as recommended by the three bodies I mentioned, would help to form a distinction between the approval and post-facto audit elements of the oversight body and would avoid the idea that judicial commissioners might be marking their own homework. That is what Labour's amendment 146 seeks to address and the SNP will support it if we get a chance to do so. Joanna Cavan also told us that she had spoken to a number of the UK's international oversight counterparts and that some had expressed surprised that the UK was going down the route of putting both the approval and the post-facto audit elements into the same body. Those amendment are crucial and I will be pressing them to a vote if I possibly can.

I turn now to the SNP's amendments 467 and 469 and the question of the appointment of the judicial commissioners. I listened to what the hon. and learned Member for Holborn and St Pancras said in his speech, but the SNP does not think that Labour's amendment goes far enough. The Government have made much of the main safeguard in the Bill being the role of judicial commissioners and the double lock, so it is vital that we get the judicial commissioner appointment process right. I suggest that, like the Justices of the United Kingdom Supreme Court, the commissioners should come from the jurisdictions and the judicial pool across the United Kingdom, not just the English Bench, and that the public must be confident that they are selected on merit, rather than because they can be trusted by government to be conservative or pro the state in their decision making. The SNP amendments therefore propose that, as well as having consultation with the Lord Chief Justice of England and Wales, the Lord Chief Justice of Northern Ireland and the Lord President in Scotland, these appointments should be subject to recommendations made by the independent Judicial Appointments Board of Scotland, the independent Judicial Appointments Commission in England and Wales, or the Northern Ireland Judicial Appointments Commission.

6.30 pm

It is now recognised across the UK as a crucial constitutional principle that there should be the independent appointment of judges. I accept that these judicial commissioners are going to come from a pool that has already been through that independent process, but the point is that if they are simply selected by the Prime Minister on the recommendation of the Lord Chief Justice or the Lord President, there could be a suspicion that they have been selected because they are a "safe pair of hands" or somebody who will not rock the boat, rather than because they are the right person for the job. The way to have the proper independent appointment of persons performing a judicial function is to put this through the independent board.

Pete Wishart: As usual, my hon. and learned Friend is making a powerful case. Does she agree that the judicial commissioners are the big flaw in the Government's proposals today? This idea that somehow the Prime Minister could simply just agree with what has been suggested by judicial commissioners is concerning, because he could also disagree with what has been proposed and suggested. Does she have any concerns about that?

Joanna Cherry: I do, but let us suppose the judicial commissioners have been selected by an independent board. The Judicial Appointments Board of Scotland, the Judicial Appointments Commission—in England and Wales—and the Northern Ireland Judicial Appointments Commission are not made up just of lawyers; there are lay people and people from other walks of life on these bodies. That is to give the public confidence in the independent appointment process of the judiciary, and it is very important that the public—our constituents, who have concerns about how far the powers in this Bill are going—have confidence that the judicial commissioners who will be performing the oversight functions and enforcing the safeguards on this Bill are appointed independently, rather than being the right chap for the job being chosen. I choose my words advisedly there.

I am very conscious of not eating up too much time, Mr Deputy Speaker. I have discussed two crucial amendments that I would like to put to a vote on part 8. I have tabled other amendments that others will perhaps be able to speak about, such as the measures on post-notification following surveillance and the notification of errors. I briefly wish to turn to amendment 482, which is designed to put it beyond doubt that voluntary, unsolicited disclosures are protected and that a whistleblower is protected from criminal prosecution. The amendment reflects our concern that provisions in the Bill may inadvertently risk discouraging or preventing individuals within public authorities or agencies, or in communication services providers, from approaching the Investigatory Powers Commissioner with concerns or communicating with the commission frankly. Throughout the Committee process, we attempted to amend the Bill by inserting a public interest defence for whistleblowers. Regrettably, the Government were not prepared to accept it, but I was happy that when I proposed an amendment similar to this one to part 8, the Solicitor General said in Committee that he recognised the sentiment behind the amendment and was of a mind to give it further consideration. I urge the Government now to make a gesture by supporting this amendment, which I may push to a vote if I get the chance to do so.

The Solicitor General: The hon. and learned Lady is absolutely right in her recollection, and I am giving this matter anxious consideration. I would, however, point out that clause 203, dealing with the information gateway, underpins the important principles that she outlines about the rights of whistleblowers. I hope that is of some assistance.

Joanna Cherry: I hear what the Solicitor General says, but we took clause 203 into account when framing this amendment, and we remain of the view that it needs to be put beyond doubt in the Bill that whistleblowers will be protected from criminal prosecution and that there will be a public interest defence. I will mention that again when discussing other parts of the Bill.

Time prevents me from talking about the fact that the right of appeal in respect of the Investigatory Powers Tribunal is, regrettably, curtailed, but I do not think we are going to get to deal with that today. What I really want to say in conclusion is that this Bill seeks to put on a statutory footing very extensive powers, and it is vital that there is proper oversight of the way in which they are exercised. Part 8, as it stands, is pretty mealy-mouthed. It does not even implement the central recommendation of RUSI, the Joint Committee and David Anderson that there should be a separate investigatory powers commission. Without these amendments proposed by the SNP on key recommendations about oversight, we cannot support the Bill in its current form.

Sir Simon Burns (Chelmsford) (Con): I am pleased to take part in this debate, although I shall only speak briefly because I know that many of my right hon. and hon. Friends, and Opposition Members, wish to participate. What we are debating in this group of amendments is crucial, because we are dealing with investigatory powers and, specifically, the role of technology in policing the modern age. Although I represent a constituency in Essex, which sometimes seems a world away from Westminster, I can tell hon. Members that my constituents and I worry about the same things: how we protect our country's visible and invisible borders; how we keep our local community safe; and how we spot young people at risk of abuse or of going off the rails, so that we can do something about it before it is too late.

I certainly want to ensure that our liberties are fully understood and protected. That is why I welcomed the fact that during the Committee stage, which I took part in towards the end, the Government, my right hon. Friend the Home Secretary, the Solicitor General and the Minister for Security were prepared to listen to arguments—particularly those made by the hon. and learned Member for Holborn and St Pancras (Keir Starmer)—that sought to strengthen the protections without compromising the aims of the legislation. It was refreshing, in many ways, not to have the normal Punch and Judy politics, whereby everything the Opposition proposed must be wrong because the Government had not thought of it first. That give and take, which is shown in Government new clauses 5 and 6, and in some of the amendments, particularly amendments 33 to 38 and 45 to 48, is important in meeting concerns about protecting civil liberties without compromising the main aims of the Bill. Those amendments have been tabled to make it clear that warrants or other authorisations should not be granted where information could be reasonably obtained by less intrusive means.

More than anything, however, we have to ensure the liberty of my constituents to live quietly and peacefully, free from attack—that is, of course, the most fundamental liberty of all—and it must be protected from those who wish them harm. Today such people live everywhere, and they have the powers, through the internet and modern communication techniques, to be everywhere, plotting, planning and executing their evil deeds. That is why I was pleased to see the supporting provisions that this group of amendments address in ensuring that we have not only those protections for my constituents and others, but a sympathetic and reasonable approach to protecting people's civil liberties.

[Sir Simon Burns]

This Bill goes further than ever before in terms of transparency, making clear the most sensitive powers available to the security and intelligence agencies and the strict safeguards that apply to them. The controls on bulk powers and the double lock protection, which requires a sign-off for action by not just the Home Secretary but independent commissioners, are extremely important in winning public confidence in the measures being proposed. That will be discussed in greater detail when those Committee provisions come before us later in our proceedings on this Report stage.

I ask those who worry about interception powers to remember the following simple facts relating to technical capability. Since 2010, the majority of MI5's top priority British counter-terrorism investigations have used intercepted material in some form to identify, understand or disrupt plots to harm Britain and its citizens. In 2013, this material was estimated to form between 15% and 20% of the total intelligence picture in counter-terrorism investigations. Data obtained by the National Crime Agency suggested that in 2013-14, interception played a critical role in investigations that resulted in more than 2,200 arrests and the seizure of more than 750 kg of heroin and 2,000 kg of cocaine, more than 140 firearms, and more than £20 million.

I believe that the power to intercept communications from potentially very dangerous people has helped to keep my constituents and those of other right hon. and hon. Members much safer and much more secure in their homes, in their jobs and on the streets they walk every day; but I also recognise the calls from some that we must be careful not to risk the fundamental liberties of our democracy as we do battle with potential terrorists. The Government have clearly been mindful of the Wilson doctrine and have tabled amendments, which I welcome, to require that the Prime Minister approve, rather than just be consulted on, all equipment interference warrants relating to parliamentarians.

We must ensure that the powers that we give to our police and security agencies, while they are sufficiently transparent, are also fit for purpose. Terrorists and other threats to my constituents' safety are constantly evolving and adapting their techniques to trump the safety system. They do not want to get caught; they want to catch us out, and that is why we must be prepared to adapt our rules to keep pace with technology. We cannot use an analogue approach to tackling criminals in a digital age. Such an attitude just is not safe, and I am not prepared to go back to Chelmsford and explain to my constituents there and in Great Baddow, Chelmer Village, Beaulieu Park and Old Moulsham that I was not prepared to support measures designed to make them all more secure.

I support the proposals that my right hon. Friend the Home Secretary has outlined to strengthen judicial commissioners' oversight and give commissioners a role authorising national security notices and technical capability notices, but we must not lose sight of the essence of why we need these proposals: we need them to help our police and security agencies to better identify the internet activity of potential threats, and indeed victims of crime, so they can do their jobs more quickly and effectively.

The people outside Westminster who think this is about stopping people being rude on Twitter, or cleaning up the Facebook jungle, are wrong. The Bill is about protecting those rights—the right to be irreverent or to disagree; the right to surf the net without being at risk from those who would do us harm. The Government have acted properly by being prepared to listen and to think again to a degree that I have not often encountered in the past. They have considered carefully, and we should be careful not to assume that our police and security agencies do not need these powers as amended, with the new safeguards that have been promised today. For those reasons, I shall support my right hon. and hon. Friends in the Lobby tonight.

Mr John Hayes: On a point of order, Mr Deputy Speaker. Reference was made earlier to an exchange of correspondence that I enjoyed with the hon. and learned Member for Holborn and St Pancras (Keir Starmer). I wanted you and the House to know that that correspondence is now available in the Vote Office for the information of Members.

Mr Deputy Speaker (Mr Lindsay Hoyle): That is certainly a good point of clarification. I call Harriet Harman.

6.45 pm

Ms Harriet Harman (Camberwell and Peckham) (Lab): I rise to speak in support of amendment 146, which stands in my name and those of fellow members of the Joint Committee on Human Rights. The Committee conducted legislative scrutiny of the Bill and published our report—a unanimous report—on 2 June. Like previous speakers in this debate and everyone in their right mind, we wanted to make sure that the Government and, acting on behalf of the Government, the security services have the right intercept powers to keep us safe, while at the same time respecting privacy and not invading it abusively. I thank the members of the Committee who worked on that scrutiny, the legal adviser to the Committee, Professor Murray Hunt, the Committee staff and those who gave evidence.

Because I hope to catch your eye when we debate the next group of amendments, Mr Deputy Speaker, I shall speak briefly to amendment 146, echoing the points made by the hon. and learned Member for Edinburgh South West (Joanna Cherry), who speaks on behalf of the Scottish National party. The amendment is about the role of the judicial commissioners. In essence, the commissioners are doing two things. First, they approve warrants issued by those who have the power to issue warrants—a very important role. A warrant that is not approved is a dead duck; it has to be stopped there and then. The role played by the commissioners in the approval process is set out in clause 21 and subsequent clauses. Secondly, the commissioners have an oversight and reporting function, which is set out in clause 194. They review and oversee the authorisation of warrants; they report to the Prime Minister and that report has to be published to Parliament.

It is a problem to have the same person both carrying out approval of a warrant and overseeing their approval of the warrant. The purpose of having all these measures in the Bill is to get them right. I pay tribute to the Home Secretary for her determination to understand and respond to the concerns. I hope that she will respond to the concern I am setting out now. I am not sure it is necessary to have two separate

organisations, as the SNP propose in their amendment; but I am absolutely sure that there has to be some separation of functions. Oversight of oneself is not realistic oversight.

Victoria Atkins (Louth and Horncastle) (Con): Will the right hon. and learned Lady give way?

Joanna Cherry: Will the right hon. and learned Lady give way?

Ms Harman: I will give way first to the hon. Member for Louth and Horncastle (Victoria Atkins) and then to the hon. and learned Member for Edinburgh South West (Joanna Cherry)

Victoria Atkins: The Joint Committee on the draft Bill debated this matter in some detail. We concluded that it is better for judicial commissioners to have experience on both sides of the fence, as it were, just as at the criminal Bar barristers tend to prosecute and defend, so that they have knowledge of both sides. Secondly, the Committee was optimistic that it would help to attract judges of the right calibre to apply to be auditors.

Ms Harman: It might well be useful for commissioners to have experience of both functions, but not at the same time and not using the same team of staff. I think ours is a relatively modest but important proposal. I am sure the hon. Lady can see that the arrangement could be clarified to create some sort of Chinese wall between the two functions. We are not suggesting that the functions be performed by separate organisations, but the hon. and learned Member for Edinburgh South West may be about to persuade us all that separate organisations are needed.

Joanna Cherry: I agree with the right hon. and learned Lady to an extent. Does her argument not boil down to the basic principle of Scots law and English law that no one should be a judge in their own cause? If one person grants a warrant then puts a different hat on and looks over whether that warrant was granted properly, they are being a judge in their own cause and there simply is not the proper transparency or oversight needed for public confidence.

Ms Harman: That is precisely my point. The Joint Committee on Human Rights and the independent reviewer have been helpful to the Government and bent over backwards in saying that separate organisations are not necessary—prima facie, one would say separate organisations are needed—but there should at the very least be Chinese walls. I therefore introduced the proposal in an amendment, and I hope to receive a response from the Government before the Bill goes to the Lords so that the matter can be looked at again, because we are a Joint Committee, and there are Members in the Lords who are eager to look at this. In the meantime, the Government's responsibility, if they table amendments, is to submit a European convention on human rights memorandum with them. They have failed to do so. We regard those things as important. They are important for the House, so I urge them to do that. They should not table shedloads of amendments without producing an ECHR memorandum.

Lucy Frazer (South East Cambridgeshire) (Con): Privacy is the right to be left alone. It was once proclaimed to be the most comprehensive of rights, and the right most valued by civilised men, which is why the privacy provisions in the Bill are important. There are many such provisions interweaved in the Bill. To give three important examples, targeted and bulk inception can take place only in the interests of national security, of tackling serious crime and of the economic wellbeing of the UK. It can take place only with judicial authorisation, and communications data—who, where, when—obtained from service providers have to be justified on the basis of a necessary and proportionate test. The relevant clauses all ensure that any interference with privacy is kept to a minimum.

I am pleased to have served on the Bill Committee, where the issue of privacy was raised with some force by the hon. and learned Member for Holborn and St Pancras (Keir Starmer). I am pleased that as a result of the points that he and other Members made the Bill will be amended with an overarching clause on privacy to further protect and ensure the privacy of individuals. As my right hon. Friend the Member for Chelmsford (Sir Simon Burns) said, new clause 5 provides for the public authority to have regard to the question of whether the action can be reasonably achieved by "less intrusive means". It also provides a new requirement for the consideration of the public interest in the protection of privacy. New clause 6 provides for an overarching civil liability, adding to the extensive criminal penalties in the Bill.

Those safeguards strike the right balance between privacy and scrutiny. As the hon. and learned Member for Holborn and St Pancras said, safety, security and privacy are not an either/or. That balance has been recognised in Europe, where the ECHR provides under article 8 respect for private and family life and also states that interference by a public authority is legitimate in some circumstances—in fact, the very circumstances outlined in the Bill, including the interests of national security, public safety, the economic wellbeing of the country and the prevention of crime and disorder.

The same balance has been recognised by the UN. In 2014, the UN High Commissioner for Human Rights stated:

> "Where there is a legitimate aim and appropriate safeguards are in place, a State might be allowed to engage in quite intrusive surveillance"

if

> "it is both necessary and proportionate".

That balance is recognised by the public. A TNS BMRB poll in 2014 stated that 71% of respondents prioritised the reduction of the threat posed by terrorists, even if that eroded people's right to privacy. The Bill seeks to ensure that the balance is right, and in enacting it we ought to remember that interference with privacy is often too much until it is too little.

Mr George Howarth (Knowsley) (Lab): It is a pleasure to follow the hon. and learned Member for South East Cambridgeshire (Lucy Frazer). She took the opportunity to highlight the big principles, and showed how they are included in UN documents and the ECHR. It is useful to be reminded of that.

I speak as a member of the Intelligence and Security Committee, and support the amendments and new clauses tabled by the right hon. and learned Member for Beaconsfield (Mr Grieve) and other members of the

[Mr George Howarth]

Committee, including me. I will not read them all out, because he dealt with them comprehensively. However, I wish to make some points about a couple of our proposals. Before doing so, however, I want to refer to the report that the ISC produced in the last Parliament after taking evidence on the provisions in the draft Bill. My right hon. Friend the Member for Slough (Fiona Mactaggart) and I both served on that Committee. I want to highlight two things in that report. First—and the right hon. and learned Member for Beaconsfield covered this—the overriding principle of privacy, which the hon. and learned Member for South East Cambridgeshire discussed, had to be made clearer in the Bill, and set out as unambiguously as possible.

Secondly, the right hon. and learned Member for Beaconsfield raised the issue of penalties. The measure does not exactly conform to what we wanted. We were concerned that the legislation was not consolidated into one measure. I shall deal with that more fully in a moment. Thirdly—if I do not take too much time dealing with the first and second concerns—I shall come on to the debate about judicial involvement in oversight. I hope to say a brief word about that.

I welcome new clause 5, which is helpful and goes much, if not all, of the way in meeting many concerns expressed by our Committee and by other parliamentary Committees, including Select Committees that have looked at the issue. However, in amendment 14—I know the Minister is going to refer to this, so I am not going to make a hard and fast principle out of it—we attempt to put privacy at the forefront of the Bill. If the Minister has found another way of doing that that would satisfy me I would be very pleased, but having read the Bill carefully, I do not think that there are sufficient safeguards to make it clear that that is the case.

The right hon. and learned Member for Beaconsfield referred to new clause 4, and was rightly exercised by the issue of penalties. I want to approach that issue from a slightly different direction. The Bill relies on existing legislation, including the Data Protection Act 1998 for which, if memory serves, I had ministerial responsibility. No apologies there—I think that the measure has served us quite well, although there might be other legislation for which I would apologise, but I am not going to say what it is. The Bill also relies on the Wireless and Telegraphy Act 2006, the Computer Misuse Act 1990, common law, as the right hon. and learned Member for Beaconsfield said, and, finally, misfeasance in public office. It is important that we have more information about penalties because, with such a sprawling collection of existing legislation, if someone breaks the provisions in any of those measures there should be clear and unambiguous penalties. I think that the Minister is going to address that matter shortly.

New clause 2 was tabled by the right hon. and learned Member for Beaconsfield, other members of the ISC and me. The right hon. and learned Gentleman made the point—nobody seems to have noted it, including the hon. and learned Member for Edinburgh South West (Joanna Cherry)—that a commissioner's functions are not in any sense judicial. I am not going to argue the case fully at the moment, but I could envisage constructing a system where the process is more administrative—indeed, it is an administrative process—so the skills needed to operate it do not necessarily need to be judicial.

7 pm

My right hon. and learned Friend the Member for Camberwell and Peckham (Ms Harman) and the hon. and learned Member for Edinburgh South West began from the assumption that this has to be a judicial function. I did not disagree with much of what my right hon. Friend had to say—I have known her for more than 30 years, and I have found it very unwise to disagree with her—but she predicated her whole argument on the idea that this must be a judicial function. If it is a judicial matter, it will be resolved by other means.

I will not press the issue too far, but there is a problem with using a judicial position to carry out oversight. I hesitate to say this, because I think that everybody who has spoken so far—with the possible exception of the right hon. Member for Chelmsford (Sir Simon Burns)—is a lawyer, but having served on the Intelligence and Security Committee for the last 10 years, my experience is that there is a sense in which—this is not a specific criticism of the commissioner himself—a long and distinguished legal career has certain consequences, one of which is that people are not used to having to explain themselves. Judges judge and give their verdict, but they do that without any explanation. There is a serious problem in that commissioners who were previously members of the judiciary are reluctant to explain issues that have been raised with them or issues of concern because that is not the habit they have evolved over a lifetime's experience in the judiciary.

Tom Tugendhat (Tonbridge and Malling) (Con) *rose—*

Mr Howarth: Having mentioned lawyers, I guess I have to give way to one.

Tom Tugendhat: I am no lawyer, but having sat at the table of a judge for many years, I can tell the right hon. Gentleman that judges are well used to explaining their judgments. Indeed, if one reads their judgments, one will normally find an explanation so detailed that it would torture the mind, so I would not be at all surprised to hear that the commissioners will be very ready to give an explanation.

Mr Howarth: I have to say to the hon. Gentleman that that is not my experience. The right hon. and learned Member for Beaconsfield, who chairs our Committee, gave a specific example of where someone was unwilling not only to explain themselves but even to engage with the Committee. That is why I support new clause 2, which gives the Intelligence and Security Committee the ability to refer a matter to the commissioner and to at least give them a nudge in the right direction in terms of concerns that need to be looked at.

I do not share the complete pessimism of the hon. and learned Member for Edinburgh South West. The Bill has moved an incredibly long distance since the original draft Bill. There is some way to go, but we may hear further concessions today or tomorrow. However, I would be grateful if the issues I have raised could be addressed by the Minister when he replies.

Stephen McPartland (Stevenage) (Con): I will keep my remarks short, Mr Deputy Speaker, as I appreciate that you want them to be short. I want to speak to new clause 16 and to amendments 189 to 195, but I will group them together.

I welcome new clause 5 because it puts privacy at the heart of the Bill. Although I found the draft Investigatory Powers Bill to be some kind of absolutely Orwellian nightmare that I would never have been able to support, this Bill goes some way towards being something that I would be able to support. It is horrible that we live in a society where this House, as a cross-party organisation, will have to legalise mass surveillance of every man, woman and child in the United Kingdom who has an electronic device, but sadly that is the society we live in, and we have to have a trade-off between what keeps us free from terrorism and what keeps us free in terms of privacy. I appreciate the Government's efforts in trying to put privacy at the heart of the Bill.

On my new clause and my amendments, I want to look at possibly introducing into the Bill notification of surveillance against innocent people. I have tabled 63 amendments because I know there will be a review before the Bill gets to the upper House. The Government have been incredibly conciliatory and have provided concessions all the way through. I consider both the Ministers on the Front Bench friends, and I have been speaking to them about the Bill for many months—for well over a year, in fact. I have tried to be constructive in my disagreements with them; my amendments are probing amendments—they are there not to cause difficulty but to try to tease out more information.

The Bill fails to provide a viable system of notification of surveillance, particularly for those who have been wrongly surveilled. The current drafting covers only error reporting, and it places a higher importance on public interest—I understand that that is the source of the dispute about whether we should have new clause 5 or new clause 21, in terms of privacy and what is in the public interest. The concepts of public interest and serious error are difficult to define, and that leads to the problem of the judicial commissioners and others having to decide what those concepts are, and whether there are varying degrees of them. I want the Bill to state very clearly what we want them to be, so that we do not have that mission creep.

Adding notification to the Bill through a new clause would go some way towards ensuring that privacy is further enhanced as the backbone of the Bill. To put the issue into context, the countries that permit notification of surveillance include America, Canada, New Zealand, Germany, Belgium, the Netherlands, Austria, Ireland, Switzerland, Slovenia, Montenegro and Hungary, so this is not something that will be specific to the United Kingdom, and we will not be leading the way; we will be trying to catch up with our partners. I appreciate that each of those countries offers a different threshold in terms of how people will be surveilled, but there is no possibility of notification in the Bill at the moment. The Ministers have been very conciliatory, and if they want to intervene on me to say that they will accept my new clause 16, I will happily sit down. No, I didn't think so. Never mind—we will keep trying.

Mr John Hayes: I am not going to surprise my hon. Friend or the House, but he will have noted that the changes we have brought forward to the Bill mean that if a serious error has been identified by the commissioner, the individual concerned will be notified. That is a significant and new provision, which goes some way towards satisfying his desire. Perhaps he can meet me halfway.

Stephen McPartland: I will certainly meet the Minister halfway, because I will not call a vote on my provisions, or vote against him on this aspect of the Bill. Obviously, I would like to get my own way, but I appreciate that this is about compromise, and both Ministers have been very good at compromising over the course of the Bill.

On error reporting and notification, it is worth noting the views expressed in sections 613 to 622 of the report by the Joint Committee on the draft Investigatory Powers Bill. I will not read them all out—you would not like that, Mr Deputy Speaker—but I would like to pull a few highlights out. The report states:

> "Clause 171 provides that the Investigatory Powers Commissioner must inform a person about any 'serious error' when the Investigatory Powers Tribunal agrees the error is serious",

and when that is in the public interest. But why would it ever be in the public interest to inform somebody that the error was serious? I cannot imagine that it would ever be in the public interest to do so, so they would never be informed.

The report also noted that the Bingham Centre for the Rule of Law felt that the approach in the draft Bill to error reporting was a matter of profound concern. Similarly, the Interception of Communications Commissioner's Office believed the provisions in the clause were weaker than the current well-established powers. The requirement that an error should cause significant prejudice or harm was also criticised for setting a very high bar. In addition, the test was criticised by the Law Society of Scotland, Privacy International, the Interception of Communications Commissioner's Office and Amnesty International UK for being poorly defined.

Victoria Atkins: I will be grateful to my hon. Friend if he can answer this question; it may negate the need for me to make a speech on this point. I have looked very carefully at new clause 16 and, indeed, new clause 1, and I cannot find any reference to "error" in them. New clause 16 seems to be a general clause of notification to anyone who is subject to a warrant. Is that correct?

Stephen McPartland: I certainly do not take any credit for being good at drafting new clauses. New clause 16 may not mention "error", but I think it is mentioned in amendments 189 to 195, with which it should be considered. In "A Question of Trust", David Anderson, QC, recommended that the judicial commissioners be given the power to report errors to individuals. I appreciate that the Minister has moved towards my point of view.

In conclusion, the Joint Committee made two recommendations. The first was that referral to the Investigatory Powers Tribunal was unnecessary and cumbersome and created a brake on the notification of errors. The second was that the error-reporting threshold should be reviewed so that it was more specific and defined.

Mr Alistair Carmichael: New clause 1 stands in my name and is supported by Scottish National party Members. It is remarkably similar to new clause 16, to which the hon. Member for Stevenage (Stephen McPartland) has just spoken. He says that his is a probing amendment; I regard mine as more than that, but I shall wait to hear what the Minister has to say when he replies to the debate.

[Mr Alistair Carmichael]

I will preface my remarks on new clause 1 by highlighting some more general concerns. I absolutely agree with the hon. and learned Member for Edinburgh South West (Joanna Cherry) that the way in which today's proceedings are being conducted is highly unsatisfactory. The time allowed is clearly insufficient. The Government have done themselves no favours, because all they do by insisting on conducting proceedings in this way is throw a bone to those in the other place and allow them to justify the greater degree of scrutiny that they will inevitably give to the Bill. It has already been referred to as a constitutional Bill that countenances the most egregious interference with individual liberty by the state. Such scrutiny ought to be done by this elected Chamber.

The fact that the Government are still taking on board amendments after the draft Bill, the report by David Anderson, QC, and the debate in Committee indicates an unsatisfactory attitude on their part. It shows that they are not yet putting privacy at the heart of the Bill, and that they are being dragged kicking and screaming to that position. On new clauses 5 and 21, it is unsatisfactory that the best provision has been proposed by the hon. and learned Member for Holborn and St Pancras (Keir Starmer), who speaks for the Opposition, and that we will not get to that unless we first vote down an inferior proposal that, while adequate and an improvement, is not as good as that proposed by the official Opposition. I reiterate a point that I made in an intervention on the hon. and learned Member for Edinburgh South West: the Government will still have the opportunity, if they are minded to take it, to insist on their version in the other place at a later stage, but this House should be empowered to express a view on new clause 21, which for reasons of procedure it is not able to do at present.

The thinking behind new clause 1 is that sunlight is the best disinfectant. The question of whether the Government will accept the approach suggested by us and the hon. Member for Stevenage relates to the question of whether privacy is at the heart of the Bill. As things stand, an individual will be able to find out whether they have been the subject of intrusion under the Bill's powers only through a whistleblower or public interest litigation. It is a question of happenstance. If the Government are sincere and prepared meaningfully to protect our liberties and individual rights, they should not object to a process with all the necessary safeguards, as outlined in new clause 1. There should be no objection to notifying those who have been the subject of surveillance once the surveillance has concluded. As the hon. Gentleman has pointed out, that idea is not novel. It happens in a number of jurisdictions and has already been the subject of judicial approval and, indeed, instruction from the European Court of Human Rights in two cases, namely Klass *v.* Germany in 1978, and Weber and Saravia *v.* Germany in 2006.

7.15 pm

The Home Secretary has said times without number—the same point has been made by Ministers today—that at the end of this process she wants a world-leading piece of legislation. I very much hope that that is possible, but it is not what we have at the moment. The Bill lags far behind several jurisdictions with regard to the protection of the rights of the individual. It has come some way on the protection of privacy, but as others have said, there is still a great deal of distance to go. We are testing the bona fides of the Government in their statements of general application on meaningful protections—protections such as those proposed in new clause 1. I wait to hear with interest what the Minister has to say.

Stephen Hammond (Wimbledon) (Con): I understand that you would like Members to be brief, Mr Deputy Speaker. I am not a lawyer and I was not a member of the Bill Committee, so I will be brief.

On Second Reading, I spoke about an issue that has not yet been discussed today: economic cybercrime, which I have spoken about frequently in this House. The Government's amendments enhance our ability to attack it. Constituents write to us as Members of Parliament; my hon. and learned Friend the Member for South East Cambridgeshire (Lucy Frazer) has mentioned the huge number of privacy-related issues that have been raised, including the need to ensure that, if the Government were to interfere with the right to privacy, there would be proper oversight, safeguards and transparency. I do not need to re-rehearse her arguments, but I say to the Government and my right hon. Friend the Minister for Security that while new clause 5 may not be as perfect as those lawyers present would like it to be, it goes a long way towards satisfying the public.

I want to address two aspects of new clause 5. First, our constituents are interested in the issues covered by subsections (2)(a) and (4)(c). The onus is now on the need to consider less intrusive means and proportionality. That is an obligation. Notwithstanding my hon. and learned Friend's comments about the need to understand the exact penalties for misuse, those two particular subsections go a long way to putting in place some protection.

Secondly, on economic cybercrime, we often talk about huge attacks on bank systems. New clause 5(2)(b) and (4)(b) relate to not just the public interest in detecting serious crimes, but the integrity and security of telecommunication systems and postal services. The reality is that there is a huge amount of low-level cybercrime that then moves into more serious economic cybercrime. By addressing the issue in the Bill, we are making a statement of intent. Given that there are so many e-commerce transactions today, it is hugely important that we protect and maintain the integrity of telecommunication systems, in the widest sense of the term, and postal services.

Whatever else may be, those of us who are not lawyers —we are not entirely sure what the difference is between new clause 21(2)(a) and (b), and new clause 5(4)(d) and (e), but I am looking forward to my right hon. and learned Friend explaining it—say "Well done" to the Government. New clause 5(2)(b) and 5(4)(b) protect all e-commerce, and putting the emphasis on maintaining the integrity of services, particularly telecoms services, will take away some of the public's criticisms about the snoopers' charter. The key points about subsections (2)(b) and (4)(b) are extraordinarily important, and I am pleased to see them in the Bill.

Tom Tugendhat: It is a great pleasure to speak on Report, particularly as the heirs of Walsingham and Egerton are on the Treasury Bench sitting in judgment

over a Bill that will shape our civil liberties. In their day, Walsingham broke the code, and Egerton tried Mary, Queen of Scots. The techniques that they used are still in active use today, but they have been updated. It is a question no longer of codes on paper, smuggled out in brandy bottles, but of codes hidden in computer messages, apps and other forms of communication. That is why I welcome the Bill, which updates historical practice for the present day. It is essential that we put this into statute, because for the first time we are putting into a Bill what we actually mean. For years, the state has used interpretations of legal practice rather than setting out, and debating properly, what it should do. That is why I particularly welcome the joint approach to the Bill. The hon. and learned Member for Holborn and St Pancras (Keir Starmer) has been instrumental in bringing a co-operative mood to the House, and I am grateful to him for doing so.

The Bill balances privacy against other considerations. As my hon. and learned Friend the Member for South East Cambridgeshire (Lucy Frazer) pointed out, privacy is a fundamental right of all British citizens, and one that we have enjoyed for many years. But that privacy is only worth anything if we can live in safety, not just from the obvious risk of terrorism but from the risks of child abuse, drug smuggling and other forms of violence against the people of this country. I am grateful for the fact that the Government have balanced that privacy against those threats.

I will leave it there, because there are many more amendments to come. I could address some of them in detail, and perhaps I will be called to speak again.

Victoria Atkins: I had the privilege of being a member of the Joint Committee and of the Bill Committee, so I feel as though I have lived with this Bill for many months. I will be happy to see it become law when that happens. This Bill is vital in the modern age, and it is above party politics. It is about doing the right thing for our country and for our constituents.

The Joint Committee and the Bill Committee scrutinised the Bill intensively, and I think we considered something like 1,000 amendments in the Bill Committee. I am happy to say that we managed, nevertheless, to find some areas of agreement, namely that it was necessary to introduce a Bill to set out the investigatory powers of the security services and law enforcement agencies, and to update the scrutiny and transparency of those powers and the people who use them. It is a credit to everyone, on both sides of the House, who supports the principle of the Bill.

I welcome, as others have done, new clause 5 and Government amendment 30, which will put all related criminal offences in the Bill. That will create transparency by making the misuse of these powers absolutely obvious. I want to look at two proposed new clauses that have not received the same level of scrutiny as the Bill has enjoyed; I shall endeavour to change that in the next couple of minutes. New clause 1— the notifying criminals clause, as someone remarked to me—raises grave concerns about our impact on fighting crime and terror. I am conscious that the right hon. Member for Orkney and Shetland (Mr Carmichael), who tabled the new clause, is not his place. For anyone who has not read it, it would require the police and security services to notify, within 30 days of a warrant ending, anyone who has been investigated. There is no requirement for an error to have occurred, or anything of that nature. The only requirement is that someone's data have been investigated.

James Cartlidge (South Suffolk) (Con): On the point about a time limit of three months, is my hon. Friend aware that in 58% of requests for communications data in child abuse investigations, the data are more than six months old?

Victoria Atkins: Very much so. That shows the time sensitivity of many investigations, and I am grateful to my hon. Friend for bringing it up. We know from evidence sessions in both Committees that 100% of counter-terrorism cases and 90% of serious organised crime cases involve communications data evidence. We are talking about very serious cases indeed. My concern about new clause 1 is that it in no way removes the risk that high-level criminals and terror suspects will be told that they have been investigated by law enforcement and the security services. Such people are more likely to be the subject of warrants because of their criminality, so we would be handing the investigations to those criminals on a plate.

Tom Tugendhat: The level of encryption available in public today is such that new clause 1 would allow criminals to hide the deeds that they had formerly left unhidden, and therefore it would expose the country to even greater threat.

Victoria Atkins: That is exactly right. My hon. Friend makes the point that I was about to make, in fact.

Tom Tugendhat: Oh, sorry.

Victoria Atkins: Not at all. *[Interruption.]* It has never stopped me before. The new clause will help criminals to evade investigation, arrest and prosecution. Serious organised crime gangs and terrorists talk to each other. They compare notes on investigative activities, whether ongoing or not. It will not necessarily be the first, second or third notification that starts to hint at the methodology of the police; it may be the 20th, but none the less those hints about patterns of behaviour will begin to emerge in the criminal world. Why on earth would this House pass legislation that would give serious organised crime gangs and terrorist gangs such an advantage?

Gavin Robinson (Belfast East) (DUP): The hon. Lady is making a powerful point, but she is talking about a fear of what may be to come. Is she aware that already in Northern Ireland, a chief dissident republican has had the case against him dropped because the judge ordered that the security service had to unveil its surveillance techniques? If that is the case already, imagine what would happen if every dissident republican and every terrorist in the country got notification.

Victoria Atkins: I am extremely grateful for that intervention, which shows powerfully just how important this is. I am conscious of the time, so I will make just one more point about new clause 1. Subsection (1)(e) sets out that people are to be told if they have been informed on by covert human intelligence sources. That means informants, in everyday language. The new clause,

[Victoria Atkins]

if passed, would help criminal gangs to find out who is informing on them—and, presumably, to do great harm to those informants, because no criminal likes a grass.

I am conscious that new clause 16 mirrors much of new clause 1. It does not, in fairness, contain the reference to CHISs, but the fact is that it will have a similarly devastating effect on law enforcement and security service operations in this country.

Fiona Mactaggart (Slough) (Lab): Will the hon. Lady give way?

Victoria Atkins: I am literally on my last page.

Fiona Mactaggart: It seems to me that the reason for these amendments is the sense that there is not sufficient accountability in the secret services and other bodies. To that end, would the hon. Lady support new clause 2, proposed by the Intelligence and Security Committee, which would ensure that there could be proper investigation by a commissioner of anything that we felt required it?

Victoria Atkins: I hesitate to do the job of my Front-Bench colleagues, and I know that the Solicitor General will respond to that point.

I will finish by saying that the amendments and new clauses on privacy proposed by the Government reflect the fact that the scrutiny of the Bill has worked thus far and has been a worthwhile exercise. I hope that new clauses 1 and 16 will not trouble this House, because the Bill as it stands is much stronger for the many months of scrutiny it has received.

7.30 pm

Caroline Nokes (Romsey and Southampton North) (Con): It is a pleasure to follow my hon. Friend the Member for Louth and Horncastle (Victoria Atkins). This Bill runs to the absolute heart of Government—the duty to keep us safe. I will keep my very brief remarks to the issue of privacy, which was raised in Committee and remains a point of debate.

Nobody wishes to legislate to protect the public while at the same time unfairly and unreasonably restricting the rights of the individual. None of us wishes to give the state unnecessary powers. It was against such arbitrary authority that our first charter of rights, Magna Carta, was established, and why we can to this day find written into the stone floor of Tewkesbury abbey the words:

"Magna Carta est lex, caveat deinde rex".

Magna Carta is law, and let the king beware. Today, as we debate the power of the state, I believe it is most certainly not the Head of State who threatens our law and safety, but those who threaten our state from within, and we must make our law accordingly.

The amendments that the Government have tabled on privacy protections go further than ever before in transparency, oversight and the safeguards that apply to the powers in the Bill. A great deal of advice has come from the Public Bill Committee, the ISC and the Opposition parties, and the Government have indeed listened. The amendments make it clear that warrants or other authorisation should not be granted where information could reasonably be obtained by less intrusive means. If the information is already on the internet—let us face it that there is plenty of such information—it can be got without recourse to the Bill's provisions. The Government amendments also require persons exercising functions under the legislation to have regard to the public interest and the protection of privacy, as well as other principles that underpin the legislation. The amendments also make clear the criminal offences that apply to the misuse of powers under the Bill, which puts beyond doubt the severe penalties that would apply in the event of deliberate wrongdoing by a public authority.

Privacy is at the heart of this vital piece of legislation, but its point is protection. The House should remember the statistics cited by my right hon. Friend the Member for Chelmsford (Sir Simon Burns), which I do not intend to repeat. We must be very careful not to dilute the Bill so much that the ability of our agencies to keep up with technology and those who use it in a very sophisticated way to do us harm is itself harmed. The baby must stay in the bath, while the dirty water is thrown out.

I know there has been a lot of interest in the Bill, but I also know that the amendments to it need to be weighed, rather than counted. In my estimation, it is a sound and important Bill. It will ensure that the warning in Tewkesbury abbey can be amended for our own time: "Magna Carta est lex, caveat deinde nequam"—Magna Carta is law, and let criminals beware.

Mr Alan Mak (Havant) (Con): It is a pleasure to follow my hon. Friend the Member for Romsey and Southampton North (Caroline Nokes). Having spoken on Second Reading, when I focused on economic cybercrime, and having followed the progress of the Bill, I want to make a few brief remarks on the first group of amendments, particularly Government new clause 5.

Privacy is the ability of an individual or a group to seclude themselves or information about themselves and thereby to express themselves selectively. The boundaries and content of what is considered private differ among cultures and individuals, but they share common themes. It was not a Latinist, but the Colombian novelist and Nobel prize winner Gabriel García Márquez who once observed:

"Everyone has three lives: public, private and secret."

However, we all know there are some in our society whose secrecy cannot be allowed to prevail and whose privacy cannot be a shield that allows crimes to be committed, whether those crimes are terrorism, child abuse, people trafficking or cybercrime.

There are people who, as my hon. Friend the Member for Tonbridge and Malling (Tom Tugendhat) mentioned, attempt to hide from the rest of society behind passwords, encryptions and codes known only among themselves. Because of the speed of technological change, they are operating not just outside the law, but ahead of it. That is why the law must catch up, and the Bill, with the Government new clauses, will achieve such a goal.

If we are to enhance the law and to codify the powers that our security services need to keep us safe, we must ensure that the oversight regime is robust and satisfies the other watchdogs of our liberty—Parliament and the press. The Bill creates a world-leading oversight regime that brings together three existing commissioners and provides new powers and resources for a new independent

Investigatory Powers Commissioner. Under the Bill, warrants must be subject to a new double lock in that they must be approved by the judicial commissioner before they can be issued by the Secretary of State.

Privacy is the mirror image of oversight, and the Bill and its amendments go very far in protecting individual rights. In particular, the Bill sets out the very specific circumstances in which the powers it provides for can be used. It makes clear the purposes for which those powers can be used, the overarching human rights obligation that constrains the use of those powers and whether each of the powers in the Bill is to be used in a targeted way or in bulk. The Bill goes on in that vein.

I believe that the Government have listened, acted and got the balance right between the powers necessary to keep us safe, the right to privacy of the individual and the oversight necessary to ensure that neither privacy nor safety is compromised. In conclusion, the Bill represents the pragmatic pursuit of safety in the modern age and an effective renewal of the law in the digital age. I urge the House to support its passage tonight and in the coming days.

Chris Green (Bolton West) (Con): We know that, since 2010, the majority of security services' counter-terrorism investigations have used intercepted material in some form to prevent those seeking to harm the UK and its citizens from doing so. It is vital that our security services are able to do their jobs well to maintain the operational capabilities of our law enforcement agencies and to prevent terrorism and other serious crimes. Living in the modern world with modern methods of communication, we must ensure our security services have the powers they need to keep us safe, while at the same time addressing privacy concerns and not inadvertently damaging the competitiveness of the UK's rapidly expanding technology sector or communications businesses more widely.

I will not dwell on the privacy and oversight matters that so many right hon. and hon. Members have dealt with, but go straight on to the impact on the technological sector, which was covered by the Science and Technology Committee's short inquiry on the Bill. One of the main concerns I heard from the technology sector in evidence sessions was the view that there needs to be more clarity about the extraterritorial application of the Bill and more consideration of its compatibility with the legislation of other nations. Failure to provide clarity will make it harder for the Government to achieve their own aim of delivering world-leading legislation. I am pleased that the Government have listened to the Committee's concerns about industry, and that they intend to develop implementation plans for retaining internet connection records in response to the Committee's recommendations.

In responding to the revised Bill, TechUK has praised the fact that the Government have responded to the criticism about ICRs. However, it has raised concerns that, despite that, no single set of data will constitute an internet connection record and that, in practice, it

"will depend on the service and service provider concerned".

This highlights the difficulties that industry will face if required to generate and retain ICRs.

Although the Bill does not go as far as the Science and Technology Committee would have liked, by putting 100% of cost recovery into the Bill, the supporting documents reaffirm the Government's long-standing position of reimbursing 100% of the costs. I am pleased that the Government have listened to the pre-legislative scrutiny that it and the Committees have provided.

In conclusion, although finding the balance between privacy and security is not an easy task, I believe that Britain needs to put in place this legislation to bring together powers, which are already available to law enforcement agencies and the security and intelligence agencies, to protect the British people and to ensure our security services have the tools to keep us safe in modern Britain.

Simon Hoare: It was my pleasure to serve on the Bill Committee for most of its sittings. I put on the record my thanks to my right hon. Friend the Member for Chelmsford (Sir Simon Burns) for taking my place when I had to leave the Committee.

It is always with some reluctance, if not trepidation, that I raise a question on a point made by my right hon. and learned Friend the Member for Beaconsfield (Mr Grieve), not only because I am not right honourable, but because I am not learned, as I am not a lawyer. When my hon. and learned Friend the Solicitor General sums up, I invite him to try to address a concern that is exercising my mind, about a possible unforeseen consequence of new clause 2, namely the confliction and conflation of judicial and Executive oversight. My view is that those two things are best kept entirely separate. I fear that it may be an intended, or, as I would hope, an unintended consequence of what my right hon. and learned Friend the Member for Beaconsfield has suggested that the two might merge in a rather unsatisfactory and possibly even anti-democratic way.

Mr Grieve: I certainly would not wish to see the two conflated, but—to reassure my hon. Friend—I really do not think that that is the case. The point at issue is that the commissioner has a specific power of investigation of particular things, whereas the Committee looks at the generality. It seems to me very much in the public interest that the Committee should be able to refer to the commissioner something that it thinks the commissioner might look at. All we ask of the commissioner is that he should acknowledge that and indicate to us whether he is minded to look at it. Beyond that, it is entirely a matter for him. There needs to be some formal structure, because otherwise there is the risk that that communication will not be there.

Simon Hoare: I am grateful for my right hon. and learned Friend's clarification. That might be the intention of the structure but I still have that reservation and look to the Solicitor General either to confirm what our right hon. and learned Friend has said or to confirm or address my suspicion.

This is probably the most important Bill that we will deal with. I support new clause 5, and think that it amplifies incredibly well the approach that Members on the Treasury Bench and the Opposition Front Bench took in Committee. The words, tone, tenor and approach of the hon. and learned Member for Holborn and St Pancras (Keir Starmer) are to be welcomed. I always contended that the rights and the importance of the privacy of our constituents were an unspoken golden thread running through the Bill. Through new clause 5,

[Simon Hoare]

the Government have decided—I therefore support them in doing this—that as those rights are not always implicit they should be made explicit.

Like my hon. Friend the Member for Louth and Horncastle (Victoria Atkins), I will oppose new clauses 1 and 16. It seems to me utterly and totally counterproductive and counter-intuitive to give those who have been investigated, either correctly or incorrectly, notice of the fact that they have been. I take slight issue with the hon. and learned Member for Edinburgh South West (Joanna Cherry)—she will not be surprised at that. In Committee, I was never convinced that her party got the fact that we were talking about delivering security and safety for our constituents. This Bill does so. This is not an abstract theoretical debate in a law faculty; it is about providing security and safety for our citizens—the first duty of all of us.

I am pleased with the Government's approach and the way in which they have responded. I am grateful for the tone of the Front Bench team and look forward to supporting the Bill as it progresses through the House.

Huw Merriman (Bexhill and Battle) (Con): Much of the Bill as it currently stands is about drawing together many strands of existing legislation, much of which has been criticised previously for being written in an arcane and inaccessible manner, and about providing more protection of and ensuring compliance with our fundamental human rights. I therefore welcome the Bill, as it makes matters much clearer, and preserves powers and the rights that we hold so dear while protecting our constituents from more modern forms of terrorism, which we must all be so wary of and do everything we can to protect against. In assessing the oversight regime I will focus on the roles of two bodies that in my view provide sufficient oversight and checks and balances on the use of investigatory powers, in the light of the Government provisions that we are debating today.

7.45 pm

The Investigatory Powers Tribunal was set up to provide the right of redress for those who believe that they have been unlawfully subjected to investigatory powers or have had their human rights breached by a Government agency. I note that the rules and procedures of the IPT have been found lawful by the European Court of Human Rights. The IPT sits and reports in public where to do so does not compromise privacy or security. The Bill will strengthen the tribunal process and give individuals recourse to take a tribunal decision to the Court of Appeal.

With respect to the proper oversight of the investigatory powers exercised by public authorities, it must surely be a source of great strength to consolidate the existing three separate commissioners into a more powerful single oversight body headed by the Investigatory Powers Commissioner. The office of the commissioner will be supported by a number of other judicial commissioners, all of whom must hold or have held high judicial office. The judicial commissioners will be appointed by the Prime Minister, who must consult the most senior members of the judiciary in England, Wales, Scotland and Northern Ireland, a point I reflected on when hearing from the SNP on whether judges would be suitably impartial in determining their powers. The fact that they must have held the highest judicial office gives me the comfort that they will.

I welcome new clause 5, which should bolster privacy while providing our public agencies with the powers they need to keep us safe. Under the new clause there will be an assumption that a warrant or authorisation should not be granted where the information could be obtained by "less intrusive means", the Secretary of State and judicial commissioners must have regard to

"the public interest in the protection of privacy"

and criminal sanctions are specified for those who abuse the powers in the Bill. Those sanctions should act as a deterrent, alongside the recourse to the tribunal should the powers be abused.

I look at the Bill very much with regard to whether it balances the needs of human rights with our need to protect our constituents. I believe it does. We should recall that the bulk of the Bill brings together numerous items of legislation that have not been as transparent as the Bill is, and have fallen foul of fundamental EU rights. In doing so, the Bill captures the work of three important reports of 2015, all of which concluded that the law in this area was unfit for purpose and needed reform, and pre-legislative scrutiny by three parliamentary Committees. Ultimately, we live in dangerous times, and it is vital to ensure that our Government agencies have the powers to protect without the ability to harm the individual liberties of law-abiding constituents. The Bill and the amendments that the Government have tabled deliver that balance.

The Solicitor General: I am sure hon. Members on both sides will forgive me if I have to canter through all the issues that have been raised at the pace of a Derby thoroughbred and so do not name them in turn. I am grateful for the thrust of the debate, which dealt very much with the historic but continuingly important balance between the need to protect the individual's right to privacy—a right against intrusion—and the clear national interest in making sure that the agencies responsible for the detection and prevention of crime and terrorism have the tools to do the job.

I will deal first with new clause 21, which has taken up much of the debate. In an intervention on the hon. and learned Member for Holborn and St Pancras (Keir Starmer), my right hon. Friend the Minister for Security indicated that we will consider the position with regard to new clause 5 very carefully. That is indeed the case. It seems to me that we are very close indeed on the provision on privacy. There is one issue, namely the effect of the Human Rights Act. I would say that it is axiomatic that all public bodies are subject to that Act, so an amendment to make that even clearer is not necessary. However, we are going to consider the matter very carefully, and I invite further deliberation in another place. In that spirit, I invite hon. Members on all sides to support Government new clause 5. As someone who has consistently advocated action on privacy by this place, as opposed to leaving it to the courts, I am delighted to see that new clause being placed in a major piece of legislation that I hope will stand the test of time.

I shall now deal with amendments tabled on behalf of the Intelligence and Security Committee. I am grateful to its members for their careful consideration of the Bill.

In an intervention on my right hon. and learned Friend the Member for Beaconsfield (Mr Grieve), the Committee Chair, I indicated the Government's position on amendment 18. Amendment 8 relates to the underlying internal safeguards. The Government are happy to accept this amendment so that greater clarity and reassurance to Parliament and the public can be provided. Let me make it crystal clear that the remit of the investigatory powers commissioner will include oversight of the internal handling arrangements and processes that enable compliance with the Bill's safeguards.

I have already indicated that in principle the Government accept the first part of new clause 2, which concerns the referral of issues to the investigatory powers commissioner, and we will table an amendment in the other place to give effect to that intention. As I said, however, I have rather more hesitation with regard to reporting. In agreeing the principle of reference and referral, we are already creating that line of communication that, as my right hon. and learned Friend said, was not working in one respect.

I am grateful to my hon. Friend the Member for North Dorset (Simon Hoare) for directly outlining some of the tensions that still exist with regard to the judicial status and independence of the investigatory powers commissioner, and a role that could lead to an overlap or—dare I say it?— confusion, given how important it is to have clear lines of authority and reporting.

Mr Grieve: I realise that time is short. The Minister has gone a long way towards reassuring me, and I certainly do not wish to press this issue to a vote unnecessarily. However, if there is a reference mechanism, an obligation of acknowledgement and at least an indication of what is happening and a report back seem eminently reasonable—after all, the Intelligence and Security Committee exists on Parliament's behalf to provide scrutiny. I simply do not see how it undermines any element of judicial independence whatsoever.

The Solicitor General: I am not saying that the new clause is unreasonable; I am simply being cautious about the need for those involved—namely the commissioner—to be part of the process, and to be consulted if there is to be such a change. With regret, I cannot at this stage support that part of the new clause, but I am grateful to my right hon. and learned Friend for the clear, careful and considered way that he and the Committee have put that point.

New clause 4 relates to clarity on criminal offences. The Minister for Security has properly said that the Government will undertake to prepare a schedule of existing criminal law, and I think he will find that whatever our arguments about the level of penalty in the Data Protection Act, every bit of potential misconduct or criminality that could be carried out under the Bill will be covered by existing criminal law. As practitioners in the field for many years, my right hon. and learned Friend and I are always anxious about the creation of unnecessary new criminal offences. My simple argument is that I am not persuaded that new clause 4 would add anything to criminal law or achieve the sort of clarity that he and others seek, and I am therefore not persuaded and able to accept the new clause.

Let me move swiftly to the amendments on judicial commissioners which were tabled by the hon. and learned Member for Holborn and St Pancras. I listened carefully to the arguments, and I agree that there is real merit and value in providing expertise from the heads of the judiciary in the appointment process. I also believe that there is a role for the Lord Chancellor in these appointments. He has responsibility for ensuring that the Courts and Tribunals Service has enough judges to operate effectively. Given the limited number of High Court judges, these appointments could affect that. Involving the Lord Chancellor in making a recommendation on appointment would help to avoid any accusations of judicial patronage. On the basis that we will table an amendment in the other place to fulfil that aim, I invite the hon. and learned Gentleman to withdraw his amendments.

Let me deal quickly with the judicial appointments commission and the amendment tabled by the hon. and learned Member for Edinburgh South West (Joanna Cherry). I am persuaded by the argument of Lord Judge who, when asked in the Bill Committee about that matter, said:

"there is no point whatever in involving the Judicial Appointments Commission".

Why? Because judges will have been through the process themselves, and the measure is therefore completely otiose.

On the hon. and learned Lady's other amendments, I am still not persuaded that the creation of an independent non-departmental public body—namely the investigatory powers commission—would add anything to the thrust of reforms that we are already undertaking, other than cost to the taxpayer. I therefore do not think that creating a new statutory body will add anything to the public interest, which is what we are trying to serve.

The right hon. and learned Member for Camberwell and Peckham (Ms Harman) chairs the Joint Committee on Human Rights, on which I served in the previous Parliament. She is not currently in her place, but I wish to deal with the question of the Chinese wall. She was right to make the concession about David Anderson, who himself said there should be a relationship between the judicial authorisation function and the inspectorate. Indeed, there needs to be a distance, but creating the sort of division envisaged in the amendment would break the important link that exists to allow those who review fully to understand how the process works in practice. For that reason, the Government will seek to resist that amendment if it is pushed to a vote.

My hon. Friend the Member for Louth and Horncastle (Victoria Atkins) clearly and eloquently set out her objections to the amendments tabled in the name of the right hon. Member for Orkney and Shetland (Mr Carmichael) and others on notification. I cannot improve on her argument, except to say that comparisons with other jurisdictions are somewhat invidious, bearing in mind the differing natures of, for example, an inquisitorial process as opposed to the adversarial process that we use in the United Kingdom. My worry is simply that those who are continuing in their criminality will change their behaviour as a result of notification. For that reason, the Government cannot accept the amendment.

On amendment 482, I am happy to consider how to make it absolutely clear that whistleblowers can make disclosures to the IPC without fear of prosecution. I agree that that should be the case, and I will consider how to amend the Bill to bring even greater clarity to that issue. Amendments can also be tabled in the other

[The Solicitor General]

place, which I hope the hon. and learned Member for Edinburgh South West will take on board when considering her party's position.

On the wider amendments to the investigatory powers tribunal, let us not forget that the Bill already represents a significant step forward. The only route of appeal available to complainants from decisions of that tribunal is currently a direct reference to the European Court of Human Rights. We are now establishing a domestic right of appeal that allows parties to seek redress in the United Kingdom, and that will also lead to greater speed. My concern is that if every decision of the IPT could be made subject to appeal, the operation of that body would grind to a halt, which I know is very much the view of its president. Currently, only 4% of claims questioning the tribunal's work have any merit to them, so I am worried about the increasing expense and loss of efficiency that would result.

Similarly, the amendment that would force public hearings would, I am afraid, remove the tribunal's discretion in deciding how best to operate in the public interest. It currently regularly holds public hearings and publishes copies of its judgments when appropriate.

The requirement to appoint special advocates is unnecessary—I argued that case forcefully in Committee. I can see no reason for departing from the position on declarations of incompatibility with the Human Rights Act, because only a small number of courts currently have that reservation.

I will close with this remark: privacy is now very clearly at the heart of the Bill. I am very proud of that, and Members on both sides of the House will agree that this is a job well done.

Question put and agreed to.

New clause 5 accordingly read a Second time, and added to the Bill.

8.1 pm

More than three hours having elapsed since the commencement of proceedings on the programme motion, the proceedings were interrupted (Programme Order, this day).

The Deputy Speaker put forthwith the Questions necessary for the disposal of the business to be concluded at that time (Standing Order No. 83E).

New Clause 6

CIVIL LIABILITY FOR CERTAIN UNLAWFUL INTERCEPTIONS

"(1) An interception of a communication is actionable at the suit or instance of—

(a) the sender of the communication, or

(b) the recipient, or intended recipient, of the communication,

if conditions A to D are met.

(2) Condition A is that the interception is carried out in the United Kingdom.

(3) Condition B is that the communication is intercepted—

(a) in the course of its transmission by means of a private telecommunication system, or

(b) in the course of its transmission, by means of a public telecommunication system, to or from apparatus that is part of a private telecommunication system.

(4) Condition C is that the interception is carried out by, or with the express or implied consent of, a person who has the right to control the operation or use of the private telecommunication system.

(5) Condition D is that the interception is carried out without lawful authority.

(6) For the meaning of 'interception' and other key expressions used in this section, see sections 3 to 5."—*(Solicitor General.)*

This amendment replicates the effect of section 1(3) of the Regulation of Investigatory Powers Act 2000. It provides for civil liability in certain cases where there has been unlawful interception of communications transmitted by means of private telecommunication systems, or to or from apparatus forming part of such a system.

Brought up, and added to the Bill.

Clause 1

OVERVIEW OF ACT

Amendments made: 26, page 1, line 5, leave out "sets out" and insert—

"imposes certain duties in relation to privacy and contains other protections for privacy.

(1A) These other protections include".

This amendment is consequential on new clause 5.

Amendment 27, page 1, line 8, leave out "It" and insert "This Part".

This amendment is consequential on new clause 5.

Amendment 28, page 1, line 12, leave out "Other" and insert "Further".

This amendment is consequential on new clause 5.

Amendment 29, page 2, line 1, after "exist" insert "—(i)"

This amendment is consequential on amendment 30.

Amendment 30, page 2, line 1, after "1998" insert—

",

(ii) in section 55 of the Data Protection Act 1998 (unlawful obtaining etc. of personal data),

(iii) in section 48 of the Wireless Telegraphy Act 2006 (offence of interception or disclosure of messages),

(iv) in sections 1 to 3A of the Computer Misuse Act 1990 (computer misuse offences),

(v) in the common law offence of misfeasance in public office,"

This amendment lists certain existing offences which protect privacy.

Amendment 31, page 2, line 4, after "circumstances" insert "(including under a warrant)".

This amendment is consequential on new clause 5.

Amendment 32, page 2, line 9, after "lawful" insert—

"in pursuance of an authorisation or under a warrant".

This amendment is consequential on new clause 5.

Amendment 33, page 2, line 12, after "data" insert—

"in pursuance of a notice".—*(Solicitor General.)*

This amendment is consequential on new clause 5.

Clause 10

ABOLITION OR RESTRICTION OF CERTAIN POWERS TO OBTAIN COMMUNICATIONS DATA

Amendment made: 34, page 8, line 20, leave out—

"for the purpose of regulatory functions"

and insert—

"in connection with the regulation of—

(i) telecommunications operators, telecommunications services or telecommunication systems, or

(ii) postal operators or postal services".—*(Solicitor General.)*

This amendment ensures that the powers and duties excluded from clause 10(2) (and dealt with in clause 10(3)) by virtue of being regulatory powers are limited to those exercisable in connection with telecommunications or postal regulation.

New Clause 1

NOTIFICATION BY THE INVESTIGATORY POWERS COMMISSIONER

"(1) The Investigatory Powers Commissioner is to notify the subject or subjects of investigatory powers relating to the statutory functions identified in section 196, subsections (1), (2) and (3), including—

(a) the interception or examination of communications,

(b) the retention, accessing or examination of communications data or secondary data,

(c) equipment interference,

(d) access or examination of data retrieved from a bulk personal dataset,

(e) covert human intelligence sources,

(f) entry or interference with property.

(2) The Investigatory Powers Commissioner must only notify subjects of investigatory powers under subsection (1) upon completion of the relevant conduct or the cancellation of the authorisation or warrant.

(3) The notification under subsection (1) must be sent by writing within thirty days of the completion of the relevant conduct or cancellation of the authorisation or warrant.

(4) The Investigatory Powers Commissioner must issue the notification under subsection (1) in writing, including details of—

(a) the conduct that has taken place, and

(b) the provisions under which the conduct has taken place, and

(c) any known errors that took place within the course of the conduct.

(5) The Investigatory Powers Commissioner may postpone the notification under subsection (1) beyond the time limit under subsection (3) if the Commissioner assesses that notification may defeat the purposes of an on-going serious crime or national security operation or investigation.

(6) The Investigatory Powers Commissioner must consult with the person to whom the warrant is addressed in order to fulfil an assessment under subsection (5)."—*(Mr Alistair Carmichael.)*

Brought up.

Question put, That the clause be added to the Bill.

The House divided: Ayes 64, Noes 278.

Division No. 5] **[8.1 pm**

AYES

Ahmed-Sheikh, Ms Tasmina
Arkless, Richard
Bardell, Hannah
Black, Mhairi
Blackford, Ian
Blackman, Kirsty
Boswell, Philip
Brock, Deidre
Brown, Alan
Cameron, Dr Lisa
Carmichael, rh Mr Alistair
Chapman, Douglas
Cherry, Joanna
Cowan, Ronnie
Day, Martyn
Docherty-Hughes, Martin
Donaldson, Stuart Blair
Durkan, Mark
Edwards, Jonathan
Farron, Tim
Ferrier, Margaret
Gethins, Stephen
Gibson, Patricia
Grady, Patrick
Grant, Peter
Gray, Neil
Hendry, Drew
Hoey, Kate
Hosie, Stewart
Kerevan, George
Kerr, Calum
Lamb, rh Norman
Law, Chris
Lucas, Caroline
MacNeil, Mr Angus Brendan
Mc Nally, John
McCaig, Callum
McDonald, Stewart Malcolm
McDonald, Stuart C.
McLaughlin, Anne
Monaghan, Carol
Monaghan, Dr Paul
Mulholland, Greg
Mullin, Roger
Newlands, Gavin
Nicolson, John
O'Hara, Brendan
Oswald, Kirsten
Paterson, Steven
Pugh, John
Ritchie, Ms Margaret
Robertson, rh Angus
Saville Roberts, Liz
Sheppard, Tommy
Stephens, Chris
Thewliss, Alison
Thomson, Michelle
Weir, Mike
Whiteford, Dr Eilidh
Williams, Hywel
Williams, Mr Mark
Wilson, Corri
Winnick, Mr David
Wishart, Pete

Tellers for the Ayes:
Tom Brake and
Owen Thompson

NOES

Adams, Nigel
Afriyie, Adam
Aldous, Peter
Allan, Lucy
Allen, Heidi
Amess, Sir David
Andrew, Stuart
Ansell, Caroline
Argar, Edward
Atkins, Victoria
Bacon, Mr Richard
Baldwin, Harriett
Barclay, Stephen
Baron, Mr John
Barwell, Gavin
Bebb, Guto
Bellingham, Sir Henry
Benyon, Richard
Beresford, Sir Paul
Berry, Jake
Berry, James
Bingham, Andrew
Blackman, Bob
Bradley, Karen
Brady, Mr Graham
Brazier, Mr Julian
Bridgen, Andrew
Brine, Steve
Brokenshire, rh James
Bruce, Fiona
Buckland, Robert
Burns, Conor
Burns, rh Sir Simon
Burrowes, Mr David
Burt, rh Alistair
Campbell, Mr Gregory
Carmichael, Neil
Cartlidge, James
Cash, Sir William
Caulfield, Maria
Chalk, Alex
Chishti, Rehman
Chope, Mr Christopher
Churchill, Jo
Clark, rh Greg
Clarke, rh Mr Kenneth
Cleverly, James
Clifton-Brown, Geoffrey
Collins, Damian
Colvile, Oliver
Costa, Alberto
Cox, Mr Geoffrey
Crabb, rh Stephen
Davies, Byron
Davies, Chris
Davies, David T. C.
Davies, Glyn
Davies, Mims
Davis, rh Mr David
Dinenage, Caroline
Djanogly, Mr Jonathan
Dodds, rh Mr Nigel
Donelan, Michelle
Dowden, Oliver
Drax, Richard
Drummond, Mrs Flick
Duncan, rh Sir Alan
Duncan Smith, rh Mr Iain
Dunne, Mr Philip
Elliott, Tom
Ellis, Michael
Ellison, Jane
Elphicke, Charlie
Eustice, George
Evans, Chris
Evans, Graham
Fabricant, Michael
Fallon, rh Michael
Fernandes, Suella
Field, rh Mark
Fox, rh Dr Liam
Francois, rh Mr Mark
Frazer, Lucy
Freeman, George
Fuller, Richard
Fysh, Marcus
Gale, Sir Roger
Garnier, rh Sir Edward
Ghani, Nusrat
Gibb, Mr Nick
Gillan, rh Mrs Cheryl
Glen, John
Goldsmith, Zac
Gove, rh Michael
Grant, Mrs Helen
Gray, Mr James

Grayling, rh Chris
Green, Chris
Green, rh Damian
Grieve, rh Mr Dominic
Griffiths, Andrew
Gyimah, Mr Sam
Halfon, rh Robert
Hall, Luke
Hammond, rh Mr Philip
Hammond, Stephen
Hancock, rh Matthew
Hands, rh Greg
Harper, rh Mr Mark
Harrington, Richard
Harris, Rebecca
Hart, Simon
Haselhurst, rh Sir Alan
Hayes, rh Mr John
Heald, Sir Oliver
Heappey, James
Heaton-Harris, Chris
Heaton-Jones, Peter
Henderson, Gordon
Hinds, Damian
Hoare, Simon
Hollinrake, Kevin
Hollobone, Mr Philip
Holloway, Mr Adam
Hopkins, Kris
Howell, John
Howlett, Ben
Huddleston, Nigel
Hunt, rh Mr Jeremy
Hurd, Mr Nick
Jackson, Mr Stewart
Javid, rh Sajid
Jayawardena, Mr Ranil
Jenkin, Mr Bernard
Jenkyns, Andrea
Jenrick, Robert
Johnson, Boris
Johnson, Gareth
Johnson, Joseph
Jones, Andrew
Jones, rh Mr David
Jones, Mr Marcus
Kawczynski, Daniel
Kinahan, Danny
Kirby, Simon
Knight, Julian
Lancaster, Mark
Latham, Pauline
Leadsom, Andrea
Lee, Dr Phillip
Leigh, Sir Edward
Leslie, Charlotte
Letwin, rh Mr Oliver
Lewis, Brandon
Liddell-Grainger, Mr Ian
Lidington, rh Mr David
Lopresti, Jack
Lord, Jonathan
Loughton, Tim
Lumley, Karen
Mackinlay, Craig
Mackintosh, David
Main, Mrs Anne
Mak, Mr Alan
Malthouse, Kit
Mann, Scott
Mathias, Dr Tania
May, rh Mrs Theresa
Maynard, Paul
McCartney, Jason
McCartney, Karl
Menzies, Mark
Mercer, Johnny
Merriman, Huw
Metcalfe, Stephen
Miller, rh Mrs Maria
Milling, Amanda
Mills, Nigel
Milton, rh Anne
Mordaunt, Penny
Morgan, rh Nicky
Morris, Anne Marie
Morris, David
Morris, James
Morton, Wendy
Mowat, David
Murray, Mrs Sheryll
Murrison, Dr Andrew
Neill, Robert
Newton, Sarah
Nokes, Caroline
Norman, Jesse
Nuttall, Mr David
Offord, Dr Matthew
Opperman, Guy
Paisley, Ian
Parish, Neil
Paterson, rh Mr Owen
Pawsey, Mark
Penning, rh Mike
Penrose, John
Percy, Andrew
Perry, Claire
Phillips, Stephen
Philp, Chris
Pincher, Christopher
Poulter, Dr Daniel
Pow, Rebecca
Prentis, Victoria
Quin, Jeremy
Quince, Will
Raab, Mr Dominic
Redwood, rh John
Rees-Mogg, Mr Jacob
Robertson, Mr Laurence
Robinson, Gavin
Robinson, Mary
Rosindell, Andrew
Rudd, rh Amber
Rutley, David
Sandbach, Antoinette
Scully, Paul
Selous, Andrew
Shannon, Jim
Shapps, rh Grant
Sharma, Alok
Shelbrooke, Alec
Simpson, David
Simpson, rh Mr Keith
Skidmore, Chris
Smith, Chloe
Smith, Henry
Smith, Julian
Smith, Royston
Soames, rh Sir Nicholas
Solloway, Amanda
Soubry, rh Anna
Spencer, Mark
Stewart, Bob
Stewart, Iain
Stewart, Rory
Streeter, Mr Gary
Stride, Mel
Sturdy, Julian
Sunak, Rishi
Swayne, rh Mr Desmond
Swire, rh Mr Hugo
Syms, Mr Robert
Thomas, Derek
Throup, Maggie
Tolhurst, Kelly
Tomlinson, Justin
Tomlinson, Michael
Tredinnick, David
Trevelyan, Mrs Anne-Marie
Tugendhat, Tom
Turner, Mr Andrew
Vara, Mr Shailesh
Vickers, Martin
Villiers, rh Mrs Theresa
Walker, Mr Robin
Wallace, Mr Ben
Warburton, David
Warman, Matt
Wharton, James
Whately, Helen
Wheeler, Heather
White, Chris
Whittaker, Craig
Wiggin, Bill
Williams, Craig
Williamson, rh Gavin
Wilson, Mr Rob
Wollaston, Dr Sarah
Wood, Mike
Wragg, William
Wright, rh Jeremy
Zahawi, Nadhim

Tellers for the Noes:
George Hollingbery and Margot James

Question accordingly negatived.

Clause 194

INVESTIGATORY POWERS COMMISSIONER AND OTHER JUDICIAL COMMISSIONERS

Amendment proposed: 465, page 149, line 7, at end insert—

'( ) There shall be a body corporate known as the Investigatory Powers Commission.

( ) The Investigatory Powers Commission shall have such powers and duties as shall be specified in this Act."—*(Joanna Cherry.)*

The House divided: Ayes 64, Noes 281.

Division No. 6] **[8.13 pm**

AYES

Ahmed-Sheikh, Ms Tasmina
Arkless, Richard
Bardell, Hannah
Black, Mhairi
Blackford, Ian
Blackman, Kirsty
Boswell, Philip
Brake, rh Tom
Brock, Deidre
Brown, Alan
Cameron, Dr Lisa
Carmichael, rh Mr Alistair
Chapman, Douglas
Cherry, Joanna
Cowan, Ronnie
Day, Martyn
Docherty-Hughes, Martin
Donaldson, Stuart Blair
Durkan, Mark
Edwards, Jonathan
Farron, Tim
Ferrier, Margaret
Gethins, Stephen
Gibson, Patricia
Grady, Patrick
Grant, Peter
Gray, Neil
Hendry, Drew
Hosie, Stewart
Kerevan, George
Kerr, Calum
Lamb, rh Norman
Law, Chris
Lucas, Caroline
MacNeil, Mr Angus Brendan
Mc Nally, John
McCaig, Callum
McDonald, Stewart Malcolm
McDonald, Stuart C.
McLaughlin, Anne
Monaghan, Carol
Monaghan, Dr Paul
Mulholland, Greg
Mullin, Roger
Newlands, Gavin
Nicolson, John
O'Hara, Brendan
Oswald, Kirsten
Paterson, Steven
Pugh, John
Ritchie, Ms Margaret
Robertson, rh Angus
Saville Roberts, Liz
Sheppard, Tommy
Stephens, Chris
Thewliss, Alison

Thomson, Michelle
Whiteford, Dr Eilidh
Whitford, Dr Philippa
Williams, Hywel
Williams, Mr Mark
Wilson, Corri
Winnick, Mr David
Wishart, Pete

Tellers for the Ayes:
Mike Weir and
Owen Thompson

NOES

Adams, Nigel
Afriyie, Adam
Aldous, Peter
Allan, Lucy
Allen, Heidi
Amess, Sir David
Andrew, Stuart
Ansell, Caroline
Argar, Edward
Atkins, Victoria
Bacon, Mr Richard
Baker, Mr Steve
Baldwin, Harriett
Barclay, Stephen
Baron, Mr John
Barwell, Gavin
Bebb, Guto
Bellingham, Sir Henry
Benyon, Richard
Beresford, Sir Paul
Berry, Jake
Berry, James
Bingham, Andrew
Blackman, Bob
Bradley, Karen
Brady, Mr Graham
Brazier, Mr Julian
Bridgen, Andrew
Brine, Steve
Brokenshire, rh James
Bruce, Fiona
Buckland, Robert
Burns, Conor
Burns, rh Sir Simon
Burrowes, Mr David
Burt, rh Alistair
Campbell, Mr Gregory
Carmichael, Neil
Cartlidge, James
Cash, Sir William
Caulfield, Maria
Chalk, Alex
Chishti, Rehman
Chope, Mr Christopher
Churchill, Jo
Clark, rh Greg
Clarke, rh Mr Kenneth
Cleverly, James
Clifton-Brown, Geoffrey
Collins, Damian
Colvile, Oliver
Costa, Alberto
Cox, Mr Geoffrey
Crabb, rh Stephen
Davies, Byron
Davies, Chris
Davies, David T. C.
Davies, Glyn
Davies, Mims
Dinenage, Caroline
Djanogly, Mr Jonathan
Dodds, rh Mr Nigel
Donelan, Michelle
Dowden, Oliver
Drax, Richard
Drummond, Mrs Flick
Duncan, rh Sir Alan
Duncan Smith, rh Mr Iain
Dunne, Mr Philip
Elliott, Tom
Ellis, Michael
Ellison, Jane
Elphicke, Charlie
Eustice, George
Evans, Chris
Evans, Graham
Fabricant, Michael
Fallon, rh Michael
Fernandes, Suella
Field, rh Mark
Fox, rh Dr Liam
Francois, rh Mr Mark
Frazer, Lucy
Freeman, George
Fuller, Richard
Fysh, Marcus
Gale, Sir Roger
Garnier, rh Sir Edward
Garnier, Mark
Ghani, Nusrat
Gibb, Mr Nick
Gillan, rh Mrs Cheryl
Glen, John
Goldsmith, Zac
Gove, rh Michael
Grant, Mrs Helen
Gray, Mr James
Grayling, rh Chris
Green, Chris
Green, rh Damian
Grieve, rh Mr Dominic
Griffiths, Andrew
Gyimah, Mr Sam
Halfon, rh Robert
Hall, Luke
Hammond, rh Mr Philip
Hammond, Stephen
Hancock, rh Matthew
Hands, rh Greg
Harper, rh Mr Mark
Harrington, Richard
Harris, Rebecca
Hart, Simon
Haselhurst, rh Sir Alan
Hayes, rh Mr John
Heald, Sir Oliver
Heappey, James
Heaton-Harris, Chris
Heaton-Jones, Peter
Henderson, Gordon
Hinds, Damian
Hoare, Simon
Hollinrake, Kevin
Hollobone, Mr Philip
Holloway, Mr Adam
Hopkins, Kris
Howell, John
Howlett, Ben
Huddleston, Nigel
Hunt, rh Mr Jeremy
Hurd, Mr Nick
Jackson, Mr Stewart
Javid, rh Sajid
Jayawardena, Mr Ranil
Jenkin, Mr Bernard
Jenkyns, Andrea
Jenrick, Robert
Johnson, Boris
Johnson, Gareth
Johnson, Joseph
Jones, Andrew
Jones, rh Mr David
Jones, Mr Marcus
Kawczynski, Daniel
Kinahan, Danny
Kirby, Simon
Knight, Julian
Kwarteng, Kwasi
Lancaster, Mark
Latham, Pauline
Leadsom, Andrea
Lee, Dr Phillip
Leigh, Sir Edward
Leslie, Charlotte
Letwin, rh Mr Oliver
Lewis, Brandon
Liddell-Grainger, Mr Ian
Lidington, rh Mr David
Lopresti, Jack
Lord, Jonathan
Loughton, Tim
Lumley, Karen
Mackinlay, Craig
Mackintosh, David
Main, Mrs Anne
Mak, Mr Alan
Malthouse, Kit
Mann, Scott
Mathias, Dr Tania
May, rh Mrs Theresa
Maynard, Paul
McCartney, Jason
McCartney, Karl
Menzies, Mark
Mercer, Johnny
Merriman, Huw
Metcalfe, Stephen
Miller, rh Mrs Maria
Milling, Amanda
Mills, Nigel
Milton, rh Anne
Mordaunt, Penny
Morgan, rh Nicky
Morris, Anne Marie
Morris, David
Morris, James
Morton, Wendy
Mowat, David
Murray, Mrs Sheryll
Murrison, Dr Andrew
Newton, Sarah
Nokes, Caroline
Norman, Jesse
Nuttall, Mr David
Offord, Dr Matthew
Opperman, Guy
Paisley, Ian
Parish, Neil
Paterson, rh Mr Owen
Pawsey, Mark
Penning, rh Mike
Penrose, John
Percy, Andrew
Perry, Claire
Phillips, Stephen
Philp, Chris
Pincher, Christopher
Poulter, Dr Daniel
Pow, Rebecca
Prentis, Victoria
Quin, Jeremy
Quince, Will
Raab, Mr Dominic
Redwood, rh John
Rees-Mogg, Mr Jacob
Robertson, Mr Laurence
Robinson, Gavin
Robinson, Mary
Rosindell, Andrew
Rudd, rh Amber
Rutley, David
Sandbach, Antoinette
Scully, Paul
Selous, Andrew
Shannon, Jim
Shapps, rh Grant
Sharma, Alok
Shelbrooke, Alec
Simpson, David
Simpson, rh Mr Keith
Skidmore, Chris
Smith, Chloe
Smith, Henry
Smith, Julian
Smith, Royston
Soames, rh Sir Nicholas
Solloway, Amanda
Soubry, rh Anna
Spencer, Mark
Stewart, Bob
Stewart, Iain
Stewart, Rory
Streeter, Mr Gary
Stride, Mel
Sturdy, Julian
Sunak, Rishi
Swayne, rh Mr Desmond
Swire, rh Mr Hugo
Syms, Mr Robert
Thomas, Derek
Throup, Maggie
Tolhurst, Kelly
Tomlinson, Justin
Tomlinson, Michael
Tracey, Craig
Tredinnick, David
Trevelyan, Mrs Anne-Marie
Tugendhat, Tom
Turner, Mr Andrew
Vara, Mr Shailesh
Vickers, Martin
Villiers, rh Mrs Theresa
Walker, Mr Robin
Wallace, Mr Ben
Warburton, David
Warman, Matt
Wharton, James
Whately, Helen
Wheeler, Heather
White, Chris

Whittaker, Craig
Wiggin, Bill
Williams, Craig
Williamson, rh Gavin
Wilson, Mr Rob
Wollaston, Dr Sarah
Wood, Mike
Wragg, William
Wright, rh Jeremy
Zahawi, Nadhim

Tellers for the Noes:
Margot James and George Hollingbery

Question accordingly negatived.

Clause 196

MAIN OVERSIGHT FUNCTIONS

Amendment made: 35, page 151, line 18, at end insert—

"() the exercise of functions by virtue of sections 1 to 4 of the Prisons (Interference with Wireless Telegraphy) Act 2012,".—*(Solicitor General.)*

This amendment gives oversight to the Investigatory Powers Commissioner in relation to authorisations to interfere with wireless telegraphy under the Prisons (Interference with Wireless Telegraphy) Act 2012.

Amendment made: 8, page 152, line 9, at end insert—

'(4A) In keeping matters under review in accordance with this section, the Investigatory Powers Commissioner must, in particular, keep under review the operation of safeguards to protect privacy."—*(Mr Grieve.)*

On behalf of the Intelligence and Security Committee of Parliament, to make explicit that the Investigatory Powers Commissioner is required to scrutinise the underlying safeguards, procedures and processes relating to bulk powers, including the arrangements for the protection of, and control of access to, material obtained through their use.

Clause 197

ADDITIONAL DIRECTED OVERSIGHT FUNCTIONS

Amendment made: 18, page 153, line 8, after "Commissioner", insert

"or the Intelligence and Security Committee of Parliament"—*(Mr Grieve.)*

On behalf of the Intelligence and Security Committee of Parliament, to allow the Prime Minister to issue directions at the request of the ISC (in addition to the Commissioner).

Clause 203

INFORMATION GATEWAY

Amendment proposed: 482, page 159, line 2, at end insert—

'(1A) A disclosure pursuant to subsection (1) will not constitute a criminal offence for any purposes in this Act or in any other enactment.

(1B) In subsection (1), a disclosure for the purposes of any function of the Commissioner may be made at the initiative of the person making the disclosure and without need for request by the Investigatory Powers Commissioner."—*(Joanna Cherry.)*

This amendment would make it clear that voluntary, unsolicited disclosures are protected, and that any whistle-blower is also protected from criminal prosecution.

Question put, That the amendment be made.

The House divided: Ayes 67, Noes 281.

Division No. 7] **[8.27 pm**

AYES

Ahmed-Sheikh, Ms Tasmina
Arkless, Richard
Bardell, Hannah
Black, Mhairi
Blackford, Ian
Blackman, Kirsty
Boswell, Philip
Brake, rh Tom
Brock, Deidre
Brown, Alan
Cameron, Dr Lisa
Carmichael, rh Mr Alistair
Chapman, Douglas
Cherry, Joanna
Cowan, Ronnie
Day, Martyn
Docherty-Hughes, Martin
Donaldson, Stuart Blair
Durkan, Mark
Edwards, Jonathan
Elliott, Tom
Farron, Tim
Fellows, Marion
Ferrier, Margaret
Gethins, Stephen
Gibson, Patricia
Grady, Patrick
Grant, Peter
Gray, Neil
Hendry, Drew
Hosie, Stewart
Kerevan, George
Kerr, Calum
Kinahan, Danny
Lamb, rh Norman
Law, Chris
Lucas, Caroline
MacNeil, Mr Angus Brendan
Mc Nally, John
McCaig, Callum
McDonald, Stewart Malcolm
McDonald, Stuart C.
McLaughlin, Anne
Monaghan, Carol
Monaghan, Dr Paul
Mulholland, Greg
Mullin, Roger
Newlands, Gavin
Nicolson, John
O'Hara, Brendan
Oswald, Kirsten
Paterson, Steven
Pugh, John
Ritchie, Ms Margaret
Robertson, rh Angus
Saville Roberts, Liz
Sheppard, Tommy
Stephens, Chris
Thewliss, Alison
Thomson, Michelle
Whiteford, Dr Eilidh
Whitford, Dr Philippa
Williams, Hywel
Williams, Mr Mark
Wilson, Corri
Winnick, Mr David
Wishart, Pete

Tellers for the Ayes:
Mike Weir and Owen Thompson

NOES

Adams, Nigel
Afriyie, Adam
Aldous, Peter
Allan, Lucy
Allen, Heidi
Amess, Sir David
Andrew, Stuart
Ansell, Caroline
Argar, Edward
Atkins, Victoria
Bacon, Mr Richard
Baker, Mr Steve
Baldwin, Harriett
Barclay, Stephen
Baron, Mr John
Barwell, Gavin
Bebb, Guto
Bellingham, Sir Henry
Benyon, Richard
Beresford, Sir Paul
Berry, Jake
Berry, James
Bingham, Andrew
Blackman, Bob
Bradley, Karen
Brady, Mr Graham
Brazier, Mr Julian
Bridgen, Andrew
Brine, Steve
Brokenshire, rh James
Bruce, Fiona
Buckland, Robert
Burns, Conor
Burns, rh Sir Simon
Burrowes, Mr David
Burt, rh Alistair
Campbell, Mr Gregory
Carmichael, Neil
Cartlidge, James
Cash, Sir William
Caulfield, Maria
Chalk, Alex
Chishti, Rehman
Chope, Mr Christopher
Churchill, Jo
Clark, rh Greg
Clarke, rh Mr Kenneth
Cleverly, James
Clifton-Brown, Geoffrey
Collins, Damian
Colvile, Oliver
Costa, Alberto
Cox, Mr Geoffrey
Crabb, rh Stephen
Davies, Byron
Davies, Chris
Davies, David T. C.
Davies, Glyn
Davies, Mims
Dinenage, Caroline
Djanogly, Mr Jonathan
Dodds, rh Mr Nigel
Donelan, Michelle
Dowden, Oliver
Drax, Richard
Drummond, Mrs Flick
Duncan, rh Sir Alan
Duncan Smith, rh Mr Iain
Dunne, Mr Philip
Elliott, Tom
Ellis, Michael
Ellison, Jane
Elphicke, Charlie
Eustice, George
Evans, Graham
Evans, Mr Nigel

Fabricant, Michael
Fallon, rh Michael
Fernandes, Suella
Field, rh Mark
Fox, rh Dr Liam
Francois, rh Mr Mark
Frazer, Lucy
Freeman, George
Fuller, Richard
Fysh, Marcus
Gale, Sir Roger
Garnier, rh Sir Edward
Garnier, Mark
Ghani, Nusrat
Gibb, Mr Nick
Gillan, rh Mrs Cheryl
Glen, John
Goldsmith, Zac
Gove, rh Michael
Grant, Mrs Helen
Gray, Mr James
Grayling, rh Chris
Green, Chris
Green, rh Damian
Grieve, rh Mr Dominic
Griffiths, Andrew
Gyimah, Mr Sam
Halfon, rh Robert
Hall, Luke
Hammond, rh Mr Philip
Hammond, Stephen
Hancock, rh Matthew
Hands, rh Greg
Harper, rh Mr Mark
Harrington, Richard
Harris, Rebecca
Hart, Simon
Haselhurst, rh Sir Alan
Hayes, rh Mr John
Heald, Sir Oliver
Heappey, James
Heaton-Harris, Chris
Heaton-Jones, Peter
Henderson, Gordon
Hinds, Damian
Hoare, Simon
Hollinrake, Kevin
Hollobone, Mr Philip
Holloway, Mr Adam
Hopkins, Kris
Howell, John
Howlett, Ben
Huddleston, Nigel
Hunt, rh Mr Jeremy
Hurd, Mr Nick
Jackson, Mr Stewart
Javid, rh Sajid
Jayawardena, Mr Ranil
Jenkin, Mr Bernard
Jenkyns, Andrea
Jenrick, Robert
Johnson, Boris
Johnson, Gareth
Johnson, Joseph
Jones, Andrew
Jones, rh Mr David
Jones, Mr Marcus
Kawczynski, Daniel
Kinahan, Danny
Kirby, Simon
Knight, Julian
Kwarteng, Kwasi
Lancaster, Mark
Latham, Pauline
Leadsom, Andrea
Lee, Dr Phillip
Leigh, Sir Edward
Leslie, Charlotte
Letwin, rh Mr Oliver
Lewis, Brandon
Liddell-Grainger, Mr Ian
Lidington, rh Mr David
Lopresti, Jack
Lord, Jonathan
Loughton, Tim
Lumley, Karen
Mackinlay, Craig
Mackintosh, David
Main, Mrs Anne
Mak, Mr Alan
Malthouse, Kit
Mann, Scott
Mathias, Dr Tania
May, rh Mrs Theresa
Maynard, Paul
McCartney, Jason
McCartney, Karl
Menzies, Mark
Mercer, Johnny
Merriman, Huw
Metcalfe, Stephen
Miller, rh Mrs Maria
Milling, Amanda
Mills, Nigel
Milton, rh Anne
Mordaunt, Penny
Morgan, rh Nicky
Morris, Anne Marie
Morris, David
Morris, James
Morton, Wendy
Mowat, David
Murray, Mrs Sheryll
Murrison, Dr Andrew
Neill, Robert
Newton, Sarah
Nokes, Caroline
Norman, Jesse
Nuttall, Mr David
Offord, Dr Matthew
Opperman, Guy
Paisley, Ian
Parish, Neil
Paterson, rh Mr Owen
Pawsey, Mark
Penning, rh Mike
Penrose, John
Percy, Andrew
Perry, Claire
Phillips, Stephen
Philp, Chris
Pincher, Christopher
Poulter, Dr Daniel
Pow, Rebecca
Prentis, Victoria
Quin, Jeremy
Quince, Will
Raab, Mr Dominic
Redwood, rh John
Rees-Mogg, Mr Jacob
Robertson, Mr Laurence
Robinson, Gavin
Robinson, Mary
Rosindell, Andrew
Rudd, rh Amber
Rutley, David
Sandbach, Antoinette
Scully, Paul
Selous, Andrew
Shannon, Jim
Shapps, rh Grant
Sharma, Alok
Shelbrooke, Alec
Simpson, David
Simpson, rh Mr Keith
Skidmore, Chris
Smith, Chloe
Smith, Henry
Smith, Julian
Smith, Royston
Soames, rh Sir Nicholas
Solloway, Amanda
Soubry, rh Anna
Spencer, Mark
Stewart, Bob
Stewart, Iain
Stewart, Rory
Streeter, Mr Gary
Stride, Mel
Sturdy, Julian
Sunak, Rishi
Swayne, rh Mr Desmond
Swire, rh Mr Hugo
Syms, Mr Robert
Thomas, Derek
Throup, Maggie
Tolhurst, Kelly
Tomlinson, Justin
Tomlinson, Michael
Tracey, Craig
Tredinnick, David
Trevelyan, Mrs Anne-Marie
Tugendhat, Tom
Turner, Mr Andrew
Vara, Mr Shailesh
Vickers, Martin
Villiers, rh Mrs Theresa
Walker, Mr Robin
Wallace, Mr Ben
Warburton, David
Warman, Matt
Wharton, James
Whately, Helen
Wheeler, Heather
White, Chris
Whittaker, Craig
Wiggin, Bill
Williams, Craig
Williamson, rh Gavin
Wilson, Mr Rob
Wollaston, Dr Sarah
Wood, Mike
Wragg, William
Wright, rh Jeremy
Zahawi, Nadhim

Tellers for the Noes:
Margot James and
George Hollingbery

Question accordingly negatived.

New Clause 7

PERSONS WHO MAY MAKE MODIFICATIONS

"(1) A major modification may be made by—

(a) the Secretary of State, in the case of a warrant issued by the Secretary of State,

(b) a member of the Scottish Government, in the case of a warrant issued by the Scottish Ministers, or

(c) a senior official acting on behalf of the Secretary of State or (as the case may be) the Scottish Ministers.

(2) A minor modification may be made by—

(a) the Secretary of State, in the case of a warrant issued by the Secretary of State,

(b) a member of the Scottish Government, in the case of a warrant issued by the Scottish Ministers,

(c) a senior official acting on behalf of the Secretary of State or (as the case may be) the Scottish Ministers,

(d) the person to whom the warrant is addressed, or

(e) a person who holds a senior position in the same public authority as the person mentioned in paragraph (d).

(3) But if a person within subsection (2)(d) or (e) considers that there is an urgent need to make a major modification, that person (as well as a person within subsection (1) may do so.

Section 31 contains provision about the approval of major modifications made in urgent cases.

(4) Subsections (1) and (3) are subject to section (Further provision about modifications) (5) and (6) (special rules where section 24 or 25 applies in relation to the making of a major modification).

(5) For the purposes of subsection (2)(e) a person holds a senior position in a public authority if—

(a) in the case of any of the intelligence services—

(i) the person is a member of the Senior Civil Service or a member of the Senior Management Structure of Her Majesty's Diplomatic Service, or

(ii) the person holds a position in the intelligence service of equivalent seniority to such a person;

(b) in the case of the National Crime Agency, the person is a National Crime Agency officer of grade 2 or above;

(c) in the case of the metropolitan police force, the Police Service of Northern Ireland or the Police Service of Scotland, a person is of or above the rank of superintendent;

(d) in the case of Her Majesty's Revenue and Customs, the person is a member of the Senior Civil Service;

(e) in the case of the Ministry of Defence—

(i) the person is a member of the Senior Civil Service, or

(ii) the person is of or above the rank of brigadier, commodore or air commodore.

(6) In this section "senior official" means—

(a) in the case of a warrant issued by the Secretary of State, a member of the Senior Civil Service or a member of the Senior Management Structure of Her Majesty's Diplomatic Service;

(b) in the case of a warrant issued by the Scottish Ministers, a member of the staff of the Scottish Administration who is a member of the Senior Civil Service." *—(Mrs May.)*

The new clause reproduces clause 30(5) to (8) and includes provision consequential on NC8.

Brought up, and read the First time.

The Solicitor General: I beg to move, That the clause be read a Second time.

Mr Speaker: With this it will be convenient to discuss the following:

Government new clause 8—*Further provision about modifications.*

Government new clause 9—*Notification of major modifications.*

New clause 20—*Power of Secretary of State to certify warrants—*

"(1) The Secretary of State may certify an application for a warrant in those cases where the Secretary of State has reasonable grounds to believe that an application is necessary pursuant to section 18(2)(a) (national security) and involves—

(a) the defence of the United Kingdom by Armed Forces; or

(b) the foreign policy of the United Kingdom.

(2) A warrant may be certified by the Secretary of State if—

(a) the Secretary of State considers that the warrant is necessary on grounds falling within section 18; and

(b) the Secretary of State considers that the conduct authorised by the warrant is proportionate to what is sought to be achieved by that conduct.

(3) Any warrant certified by the Secretary of State subject to subsection (1) is subject to approval by a Judicial Commissioner.

(4) In deciding to approve a warrant pursuant to this section, the Judicial Commissioner must determine whether—

(a) the warrant is capable of certification by the Secretary of State subject to subsection (1);

(b) the warrant is necessary on relevant grounds subject to section 18(2)(a) and subsection (1)(a) or (b); and

(c) the conduct authorised by the warrant is proportionate to what is sought to be achieved by that conduct.

(5) Where a Judicial Commissioner refuses to approve the person's decision to approve a warrant under this section, the Judicial Commissioner must produce written reasons for the refusal.

(6) Where a Judicial Commissioner, other than the Investigatory Powers Commissioner, approves or refuses to approve a warrant under this Section, the person, or any Special Advocate appointed, may ask the Investigatory Powers Commissioner to decide whether to approve the decision to issue the warrant."

Amendment 267, in clause 15, page 12, line 3, leave out "or organisation".

These amendments would retain the capacity of a single warrant to permit the interception of multiple individuals but would require an identifiable subject matter or premises to be provided. This narrows the current provisions which would effectively permit a limitless number of unidentified individuals to have their communications intercepted.

Amendment 25, page 12, line 7, leave out "or" and insert "and".

On behalf of the Intelligence and Security Committee of Parliament, to limit the potentially broad scope of thematic warrants involving people who "share a common purpose" by ensuring that they also must be engaged in a particular activity.

Amendment 131, page 12, line 8, after "activity" insert

"where each person is named or otherwise identified".

These amendments seek to make more specific the currently very broadly worded thematic warrants in the Bill, to make it more likely that such thematic warrants will be compatible with the requirements of Article 8 ECHR as interpreted by the European Court of Human Rights.

Amendment 268, page 12, line 9, leave out "or organisation".

See amendment 267

Amendment 132, page 12, line 11, after "operation" insert

"where each person is named or otherwise identified".

See amendment 131.

Amendment 272, page 12, line 12, leave out paragraph (c).

See amendment 267.

Amendment 306, page 12, line 13, leave out subsection (3).

See amendment 267.

Amendment 218, in clause 17, page 13, line 8, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 219, page 13, line 10, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 220, page 13, line 13, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 221, page 13, line 16, leave out subsection (1)(d).

Amendment 222, page 13, line 20, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 223, page 13, line 22, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 224, page 13, line 24, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 225, page 13, line 27, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 226, page 13, line 3, leave out subsection (2)(d).

Amendment 227, page 13, line 35, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 228, page 13, line 37, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 229, page 13, line 39, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 230, page 13, line 42, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 231, page 13, line 45, leave out subsection (3)(d).

Amendment 232, page 14, line 5, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 233, page 14, line 8, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 234, page 14, leave out lines 11 and 12.

Amendment 235, page 14, line 13, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 312, in clause 18, page 14, line 22, leave out paragraph (c).

See amendment 313.

Amendment 313, page 14, line 24, at end insert—

'(2A) A warrant may be considered necessary as mentioned in subsection (2)(b) and (3) only where there is a reasonable suspicion that a serious criminal offence has been or is likely to be committed."

These amendments would require that there is reasonable suspicion of serious crime for a warrant authorising interception and delete the separate subsection relating to economic well-being of the UK.

Amendment 236, page 14, line 30, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 237, page 14, line 31, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 262, page 14, line 38, at end insert—

'(6) The fact that the information which would be obtained under a warrant relates to the activities in the British Islands of a trade union is not, of itself, sufficient to establish that the warrant is necessary on grounds falling within this section."

This amendment restricts the application of warrants in relation to trade union activity.

Amendment 238, page 14, line 39, leave out clause 19.

Amendment 208, in clause 21, page 17, line 4, leave out

"review the person's conclusions as to the following matters"

and insert "determine".

Amendment 209, page 17, line 10, leave out subsection (2).

Government manuscript amendment 497.

Amendment 265, page 17, line 10, leave out from "must" to end of line 11, and insert

"subject a person's decision to issue a warrant under this Chapter to close scrutiny to ensure that the objective in issuing a warrant is sufficiently important to justify any limitation of a Convention right".

An amendment to clarify the role of judicial commissioners. This amendment is an alternative to amendments 208 and 209 (which are a package).

Government manuscript amendment 498.

Amendment 314, in clause 24, page 18, line 39, leave out "Secretary of State" and insert "Judicial Commissioner".

See amendment 316.

Amendment 315, page 18, line 41, leave out subsection (b) and insert—

"(b) the warrant involves a member of a relevant legislature."

See amendment 316.

Government amendment 53.

Amendment 316, page 19, line 7, leave out subsection (2) and insert—

"(2) Further to the requirements set out elsewhere in this Part, the Judicial Commissioner may only issue a warrant if—

(a) there are reasonable grounds for believing that an indictable offence has been committed,

(b) there are reasonable grounds for believing that the material is likely to be of substantial value to the investigation in connection to the offence at (a),

(c) other proportionate methods of obtaining the material have been tried without success or have not been tried because it appeared that they were bound to fail,

(d) it is in the public interest having regard to the democratic interest in the confidentiality of correspondence with members of a relevant legislature."

These amendments would ensure that applications for warrants to intercept the communications of elected politicians would be made to the Judicial Commissioner rather than to the Secretary of State via the Prime Minister. They would also set out additional requirements that the Judicial Commissioner must take into account before granting a warrant.

Amendment 1, page 19, line 8, at end insert

"and where the member is a member of the House of Commons he must also consult the Speaker of the House of Commons."

This amendment would require the Secretary of State to consult the Speaker before deciding to issue a warrant that applied to an MP's communications.

Amendment 137, page 19, line 8, after "Minister" insert

"and give sufficient notice to the relevant Presiding Officer of the relevant legislature to enable the relevant Presiding Officer to be heard at the hearing before the Judicial Commissioner."

Amendment 138, page 19, line 14, at end insert—

"(4) In this section "the relevant Presiding Officer" means—

(a) the Speaker of the House of Commons,

(b) the Lord Speaker of the House of Lords,

(c) the Presiding Officer of the Scottish Parliament,

(d) the Presiding Officer of the National Assembly for Wales,

(e) the Speaker of the Northern Ireland Assembly,

(f) the President of the European Parliament."

This amendment adds the safeguard of giving the Speaker, or other Presiding Officer, of the relevant legislature, sufficient notice before the Secretary of State decides whether to issue a warrant for targeted interception or examination of members' communications, to enable the Speaker or Presiding Officer to be heard at the hearing before the Judicial Commissioner.

Amendment 139, in clause 25, page 19, line 16, leave out subsections (1) to (3).

This amendment removes the power to apply for a warrant the purpose of which is to authorise the interception, or selection for examination, of items subject to legal privilege.

Amendment 140, page 19, line 44, leave out subsection (4)(c).

See amendment 141.

Amendment 141, page 20, line 7, after "considers" insert—

"(a) that there are exceptional and compelling circumstances that make it necessary to authorise the interception, or (in the case of a targeted examination warrant) the selection for examination, of items subject to legal privilege, and

(b) ".

These amendments introduce a threshold test for the interception or examination of communications likely to include items subject to legal privilege, reflecting the strong presumption against interference with lawyer-client confidentiality.

Amendment 307, in clause 27, page 21, line 7, leave out "or organisation".

See amendment 267.

Amendment 308, page 21, line 8, leave out "or organisation".

See amendment 267.

Amendment 309, page 21, line 13, leave out

"or describe as many of those persons as is reasonably practicable to name or describe"

and insert

"or specifically identify all of those persons using unique identifiers."

See amendment 267.

Amendment 310, page 21, line 15, leave out "or organisation".

See amendment 267.

Amendment 311, page 21, line 19, leave out

"or describe as many of those persons or organisations or as many of those sets of premises, as it is reasonably practicable to name or describe"

and insert

"all of those persons or sets of premises."

See amendment 267.

Amendment 19, in clause 29, page 22, line 25, leave out

"before the end of the relevant"

and insert "during the renewal".

See amendment 20.

Amendment 20, page 23, line 4, at end insert—

"(4A) 'The renewal period' means—

(a) in the case of an urgent warrant which has not been renewed, the relevant period;

(b) in any other case, the period of 30 days ending with the relevant period."

On behalf of the Intelligence and Security Committee of Parliament, to prohibit the possibility of a warrant being renewed immediately. Clauses 28 and 29 would currently theoretically allow for warrants of 12 months duration rather than the intended six.

Amendment 21, page 23, line 16, at end insert—

"(8A) In this section 'urgent warrant' has the same meaning as in section 28."

See amendment 20.

Amendment 147, page 23, line 19, leave out clause 30.

Government amendments 54 to 57.

Amendment 142, in clause 30, page 24, line 45, at end insert—

"(10A) Section 21 (Approval of warrants by Judicial Commissioners) applies in relation to a decision to make a major modification of a warrant by adding a name or description as mentioned in subsection (2)(a) as it applies in relation to a decision to issue a warrant; and accordingly where section 21 applies a Judicial Commissioner must approve the modification."

This amendment seeks to ensure that major modifications of warrants require judicial approval.

Government amendment 58.

Amendment 148, page 25, line 22, leave out clause 31.

Government amendments 59 to 73.

Amendment 317, page 34, line 21, leave out clause 44.

This amendment would delete a Clause which permits the creation of additional interception powers immigration detention facilities.

Amendment 15, in clause 45, page 34, line 42, leave out "C" and insert "D".

Consequential upon amendment 16.

Amendment 16, page 35, line 7, at end insert—

"(3A) Condition C is that the interception is carried out for the purpose of obtaining information about the communications of an individual who, both the interceptor and the person making the request have reasonable grounds for believing, is outside the United Kingdom."

On behalf of the Intelligence and Security Committee of Parliament, to reinstate the current safeguard in RIPA that the person being intercepted must be outside the UK.

Amendment 17, page 35, line 8, leave out "C" and insert "D".

Consequential upon amendment 16.

Government amendments 75 to 77.

Amendment 299, in clause 51, page 41, line 18, at end insert—

"(4) In proceedings against any person for an offence under this section in respect of any disclosure, it is a defence for the person to show that the disclosure was in the public interest."

An amendment to introduce a public interest defence for interception disclosures.

Government amendment 74.

Government new clause 11—*Persons who may make modifications under section 104.*

Government new clause 12—*Further provision about modifications under section 104.*

Government new clause 13—*Notification of modifications.*

New clause 23—*Members of Parliament*—

"(1) This section applies where—

(a) an application is made to the Judicial Commissioner for a targeted equipment interference warrant, and

(b) the warrant relates to a member of a relevant legislature.

(2) This section also applies where—

(a) an application is made to the Judicial Commissioner for a targeted examination warrant, and

(b) the warrant relates to a member of a relevant legislature.

(3) Where any conduct under this Part is likely to cover material described above, the application must contain—

(a) a statement that the conduct will cover or is likely to cover such material,

(b) An assessment of how likely it is that the material is likely to cover such material.

(4) Further to the requirements set out elsewhere in this part, the Judicial Commissioner may only issue a warrant if—

(a) there are reasonable grounds for believing that an indictable offence has been committed, and

(b) there are reasonable grounds for believing that the material is likely to be of substantial value to the investigation in connection to the offence at (a), and

(c) other proportionate methods of obtaining the material have been tried without success or have not been tried because they were assessed to be bound to fail, and

(d) it is in the public interest having regard to:

(i) the public interest in the protection of privacy and the integrity of personal data,

(ii) the public interest in the integrity of communications systems and computer networks, and,

(iii) the democratic interest in the confidentiality of correspondence with members of a relevant legislature."

This new clause would ensure that applications for a targeted equipment interference warrant or targeted examination warrant in relation to Parliamentarians are granted on application only to a Judicial Commissioner, removing the role of Secretary of State and applies additional safeguards to the correspondence of parliamentarians when a warrant for hacking is sought.

New clause 24—*Audit trail of equipment interference*—

"Any conduct authorised under a warrant issued under this Part must be conducted in a verifiable manner, so as to produce a chronological record of documentary evidence detailing the sequence of activities (referred to hereafter as 'the audit trail')."

See amendment 387.

Amendment 178, in clause 90, page 68, line 24, leave out subsection (1)(b).

See amendment 186.

Amendment 133, page 68, line 26, after "activity" insert

"where each person is named or otherwise identified".

See amendment 131.

Amendment 134, page 68, line 29, after "operation" insert

"where each person is named or otherwise identified".

See amendment 131.

Amendment 179, page 68, line 31, leave out subsection (1)(e).

See amendment 186.

Amendment 180, page 68, line 33, leave out subsection (1)(f).

See amendment 186.

Amendment 181, page 68, line 35, leave out subsection (1)(g).

See amendment 186.

Amendment 182, page 68, line 38, leave out subsection (1)(h).

See amendment 186.

Amendment 187, page 68, line 40, at end insert—

"(1A) A targeted equipment interference warrant may only be issued in relation to any of the matters that fall under subsection (1) if the persons, equipment, or location to which the warrant relates are named or specifically identified using a unique identifier."

This amendment would ensure that all targets of hacking are properly named or otherwise identified.

Amendment 352, page 68, line 44, leave out paragraph (b).

See amendment 357.

Amendment 135, page 68, line 45, after "activity" insert

"where each person is named or otherwise identified".

See amendment 131.

Amendment 136, page 68, line 47, after "operation" insert

"where each person is named or otherwise identified".

See amendment 131.

Amendment 353, page 69, line 1, leave out paragraph (d).

See amendment 357.

Amendment 354, page 69, line 3, leave out paragraph (e).

See amendment 357.

Amendment 188, page 69, line 4, at end insert—

"(2A) A targeted examination warrant may only be issued in relation to any of the matters that fall under subsection (2) if the persons, equipment, or location to which the warrant relates are named or specifically identified using a unique identifier."

This amendment would ensure that all targets of hacking are properly named or specifically identified.

Amendment 239, in clause 91, page 69, line 9, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 240, page 69, line 11, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 241, page 69, line 14, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 242, page 69, line 17, leave out subsection (3)(d).

Amendment 358, page 69, line 17, leave out paragraph (d) and insert—

"(d) the Judicial Commissioner has reasonable grounds for believing that the material sought is likely to be of substantial value to the investigation or operation to which the warrant relates."

See amendment 361.

Amendment 243, page 69, line 20, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 244, page 69, line 22, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 245, page 69, line 24, leave out "and".

Amendment 246, page 69, line 25, leave out subsection (2)(b).

Amendment 247, page 69, line 31, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 248, page 69, line 33, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 249, page 69, line 35, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 250, page 69, line 38, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 251, page 69, line 43, leave out subsection (3)(d).

Amendment 252, page 69, line 46, leave out subsection (4).

Amendment 359, page 70, line 8, after "crime" insert

"where there is reasonable suspicion that a serious criminal offence has been or is likely to be committed".

See amendment 361.

Amendment 360, page 70, line 11, at end insert—

'(5A) A warrant may be considered necessary only where there is a reasonable suspicion that a serious criminal offence has been or is likely to be committed in relation to the grounds falling within this section."

See amendment 361.

Amendment 361, page 70, line 25, at end insert—

"(10) A warrant may only authorise targeted equipment interference or targeted examination as far as the conduct authorised relates—

(a) to the offence as specified under (5)(b), or

(b) to some other indictable offence which is connected with or similar to the offence as specified under (5)(b)".

These amendments would require that there is reasonable suspicion of serious crime for a warrant authorising equipment interference to be issued. These amendments would introduce a requirement that warrants are only granted where there are reasonable grounds for believing material to be obtained will be of substantial value to the investigation or operation; the requirement of a threshold of reasonable suspicion that a serious criminal offence has been committed in order for a warrant to be granted; and the requirement that warrant applications contain this information.

This amendment would require that a warrant only authorises conduct in relation to the offence for which the warrant was sought, or other similar offences.

Amendment 258, page 70, line 26, leave out Clause 92.

Amendment 253, in clause 93, page 71, line 21, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 254, page 71, line 23, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 255, page 71, line 25, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 256, page 71, line 28, leave out "Secretary of State" and insert "Judicial Commissioners".

Amendment 257, page 71, line 31, leave out subsection (1)(d).

Amendment 382, page 71, line 31, leave out subsection (d) and insert—

"(d) the Judicial Commissioner has reasonable grounds for believing that the material sought is likely to be of substantial value to the investigation or operation to which the warrant relates."

See amendment 362.

Amendment 362, page 71, line 35, leave out from "include" to the end of line 36 and insert—

"(a) the requirement that other proportionate methods of obtaining the material have been tried without success or have not been tried because they were assessed to be bound to fail, and

(b) the requirement that a "Cyber-Security Impact Assessment" has been conducted by the Investigatory Powers Commissioner's technical advisors with regard to the specific equipment interference proposed, accounting for—

(i) the risk of collateral interference and intrusion, and

(ii) the risk to the integrity of communications systems and computer networks, and

the risk to public cybersecurity."

These amendments require a technical assessment of proportionality accounting for the risks of the conduct proposed. These requirements would apply when applications from the intelligence services, the Chief of Defence Intelligence and law enforcement are considered. These amendments would introduce a requirement that warrants are only granted where there are reasonable grounds for believing material to be obtained will be of substantial value to the investigation or operation; the requirement of a threshold of reasonable suspicion that a serious criminal offence has been committed in order for a warrant to be granted; and the requirement that warrant applications contain this information.

Amendment 363, page 71, line 40, leave out Clause 94.

Government amendments 88 to 91.

Amendment 259, page 72, line 18, leave out Clause 95.

Amendment 364, in clause 96, page 72, line 37, leave out

"law enforcement chief described in Part 1 or 2 of the table in Schedule 6"

and insert "Judicial Commissioner".

See amendment 383.

Amendment 365, page 72, line 38, leave out

"person who is an appropriate law enforcement officer in relation to the chief"

and insert

"law enforcement chief described in Part 1 of the table in Schedule 6".

See amendment 383.

Amendment 366, page 72, line 41, leave out "law enforcement chief" and insert "Judicial Commissioner".

See amendment 383.

Amendment 367, page 73, line 1, leave out "law enforcement chief" and insert "Judicial Commissioner".

See amendment 383.

Amendment 368, page 73, line 4, leave out "law enforcement chief" and insert "Judicial Commissioner".

See amendment 383.

Amendment 369, page 73, line 7, leave out paragraph (d).

See amendment 383.

Amendment 370, page 73, line 10, leave out

"law enforcement chief described in Part 1 of the table in Schedule 6"

and insert "Judicial Commissioner".

See amendment 383.

Amendment 371, page 73, line 11, leave out

"person who is an appropriate law enforcement officer in relation to the chief"

and insert

"law enforcement chief described in Part 1 of the table in Schedule 6"

See amendment 383.

Amendment 372, page 73, line 13, leave out "law enforcement chief" and insert "Judicial Commissioner".

See amendment 383.

Amendment 373, page 73, line 17, leave out "law enforcement chief" and insert "Judicial Commissioner".

See amendment 383.

Amendment 374, page 73, line 20, leave out "law enforcement chief" and insert "Judicial Commissioner".

See amendment 383.

Amendment 375, page 73, line 23, leave out paragraph (d).

See amendment 383.

Amendment 376, page 73, line 26, leave out subsection (3).

See amendment 383.

Amendment 261, page 73, line 26, leave out "law enforcement chief" and insert "Judicial Commissioner".

Amendment 377, page 73, line 32, leave out paragraphs (b) and (c).

Amendment 378, page 73, line 38, after "Where" insert

"an application for an equipment interference warrant is made by a law enforcement chief and".

See amendment 383.

Amendment 379, page 73, line 42, leave out subsections (6) to (10).

See amendment 383.

Government amendment 92.

Amendment 380, page 74, line 15, leave out

"whether what is sought to be achieved by the warrant could reasonably be achieved by other means"

and insert—

"(a) the requirement that other proportionate methods of obtaining the material have been tried without success or have not been tried because they were assessed to be bound to fail, and

(b) the requirement that a "Cyber-Security Impact Assessment" has been conducted by the Investigatory Powers Commissioner's technical advisors with regard to the

specific equipment interference proposed, accounting for—

(i) the risk of collateral interference and intrusion, and

(ii) the risk to the integrity of communications systems and computer networks, and

the risk to public cybersecurity."

See amendment 383.

Amendment 381, in clause 96, page 74, line 18, leave out subsections (12) and (13)

See amendment 383.

Amendment 210, in clause 97, page 74, line 40, leave out

"review the person's conclusions as to the following matters"

and insert "determine".

Amendment 211, page 75, line 1, leave out subsection (2).

Amendment 270, page 75, line 1, leave out from "must" to end of line 2, and insert

"subject a person's decision to issue a warrant under this Chapter to close scrutiny to ensure that the objective in issuing a warrant is sufficiently important to justify any limitation of a Convention right".

An amendment to clarify the role of judicial commissioners. This amendment is an alternative to amendments 210 and 211 (which are a package).

Amendment 183, in clause 101, page 78, leave out lines 21 to 27.

See amendment 186.

Amendment 184, page 79, leave out lines 3 to 7.

See amendment 186.

Amendment 185, page 79, leave out lines 8 to 12.

See amendment 186.

Amendment 186, page 79, leave out lines 13 to 18.

These amendments refine the matters to which targeted equipment interference warrants may relate by removing vague and overly broad categories including equipment interference for training purposes.

Amendment 386, page 79, line 21, leave out paragraph (b) and insert—

"(b) precisely and explicitly the method and extent of the proposed intrusion and measures taken to minimise access to irrelevant and immaterial information, and

(c) in a separate "Cyber-Security Impact Assessment",

(i) the risk of collateral interference and intrusion, and

(ii) the risk to the integrity of communications systems and computer networks, and

(iii) the risk to public cybersecurity, and how those risks and damage will be eliminated or corrected."

See amendment 387.

Amendment 387, page 79, line 23, at end insert—

"(c) the basis for the suspicion that the target is connected to a serious crime or a specific threat to national security, and

(d) in declaration with supporting evidence,

(i) the high probability that evidence of the serious crime or specific threat to national security will be obtained by the operation authorised, and

(ii) how all less intrusive methods of obtaining the information sought have been exhausted or would be futile."

These amendments require a technical assessment of proportionality accounting for the risks of the conduct proposed. These requirements would apply when applications from the intelligence services, the Chief of Defence Intelligence and law enforcement are considered. They would introduce a requirement that all equipment interference produces a verifiable audit trail. These amendments would introduce a requirement that warrants are only granted where there are reasonable grounds for believing material to be obtained will be of substantial value to the investigation or operation; the requirement of a threshold of reasonable suspicion that a serious criminal offence has been committed in order for a warrant to be granted; and the requirement that warrant applications contain this information.

Amendment 355, page 79, leave out lines 31 to 36.

See amendment 357.

Amendment 356, page 79, leave out lines 37 to 44.

See amendment 357.

Amendment 357, page 80, leave out lines 8 to 12.

These amendments would ensure that all targets of hacking are properly named or specifically identified. Warrants may still be granted where the equipment in question belongs to or is in the possession of an individual or more than one person where the warrant is for the purpose of a single investigation or operation; or for equipment in a particular location or equipment in more than one location where for the purpose of a single investigation or operation.

Amendment 388, in clause 102, page 80, line 23, leave out "6" and insert "1".

This specifies that hacking warrants may only last for one month.

Government amendments 93 to 96.

Amendment 149, page 82, line 1, leave out clause 104.

Government amendments 97 to 100.

Amendment 150, page 83, line 36, leave out clause 105.

Government amendments 101 to 113.

Amendment 151, page 84, line 34, leave out clause 106.

Government amendments 114 to 120.

Amendment 152, page 85, line 40, leave out clause 107.

Amendment 173, page 87, line 26, leave out clause 109.

Amendment 174, page 88, line 7, leave out clause 110.

Government amendments 121 and 122.

Amendment 175, page 88, line 35, leave out clause 111.

Amendment 176, in clause 114, page 92, line 6, leave out subsection (3)(e).

Amendment 177, page 92, line 8, leave out subsection (3)(f).

Government amendment 123.

Amendment 302, in clause 116, page 93, line 39, at end insert—

'(4) In proceedings against any person for an offence under this section in respect of any disclosure, it is a defence for the person to show that the disclosure was in the public interest."

An amendment to introduce a public interest defence for equipment interference disclosures.

Government amendment 124.

Amendment 383, in schedule 6, page 214, line 7, leave out part 2.

These amendments remove the power for law enforcement chiefs to issue equipment interference warrants on application from law enforcement officers and replace it with the power for Judicial Commissioners to issue equipment interference warrants on application from law enforcement chiefs. They also remove the power to issue equipment interference warrants from other officers listed in Part 2, Schedule 6. These amendments require a technical assessment of proportionality accounting for the risks of the conduct proposed. These requirements would apply when applications from the intelligence services, the Chief of Defence Intelligence and law enforcement are considered.

Government amendments 125 and 126.

Government new clause 10.

Amendment 488, page 167, line 9, leave out clause 216.

This amendment would remove the provision for national security notices.

Government amendment 78.

Amendment 196, in clause 216, page 167, line 14, after "State", insert

"and Investigatory Powers Commissioner consider".

See amendment 205.

Amendment 197, page 167, line 32, after "State", insert

"and Investigatory Powers Commissioner".

See amendment 205.

Government amendment 79.

Amendment 489, page 167, line 35, leave out clause 217.

This amendment would remove the provision for technical capability notices.

Government amendments 80 and 81.

Amendment 198, page 168, line 9 [Clause 217], after "State", insert "and Investigatory Powers Commissioner consider".

See amendment 205.

Government amendment 82.

Amendment 199, page 168, line 27 [Clause 217], after "State", insert "and Investigatory Powers Commissioner".

See amendment 205.

Government amendment 83.

Amendment 200, page 168, line 36 [Clause 217], after "State", insert "and Investigatory Powers Commissioner".

See amendment 205.

Amendment 201, page 168, line 40 [Clause 217], after "State", insert "and Investigatory Powers Commissioner".

See amendment 205.

Government amendments 84 and 85.

Amendment 490, page 169, line 2, leave out clause 218.

Consequential amendment following deletion of national security and technical capability notices.

Amendment 202, page 169, line 6 [Clause 218], after "State", insert "and Investigatory Powers Commissioner".

See amendment 205.

Amendment 203, page 169, line 8 [Clause 218], after "State", insert "and Investigatory Powers Commissioner".

See amendment 205.

Government amendment 86.

Amendment 204, page 169, line 20 [Clause 218], after "State", insert "and Investigatory Powers Commissioner".

See amendment 205.

Amendment 205, page 169, line 34 [Clause 218], after "State", insert "and Investigatory Powers Commissioner".

National Security and Technical Capability Notices should be subject to a double lock authorisation by the Secretary of State and the Investigatory Powers Commissioner.

Government amendment 87.

Amendment 491, page 170, line 10, leave out clause 219.

Consequential amendment following deletion of national security and technical capability notices.

Amendment 492, page 170, line 38, leave out clause 220.

Consequential amendment following deletion of national security and technical capability notices.

The Solicitor General: It is a pleasure to deal with the second group of amendments. It is a large group, which some hon. Members have described to me as "unprecedented". I would not be so bold as to say that, having served a mere six years in this place. I concede, however, that the group is considerable. That perhaps reflects the huge and legitimate interest of Members of all parties in these particular parts of the Bill.

Parts 2 and 5 of the Bill were debated at length in Public Bill Committee. The Government have listened to what was said in those debates and we have brought back a number of amendments in response. These changes will strengthen protections for parliamentarians; enhance the safeguards for targeted thematic warrants; and provide greater assurances in respect of the obligations that might be placed on communications service providers.

Before I come on to the detail of the Government amendments, let me say a few words about one of the most important issues that we will discuss in this group: the authorisation of warrants.

When the Government published the draft Bill in November last year, my right hon. Friend the Home Secretary announced the intention that warrants for the most sensitive powers available to the security and intelligence agencies would be authorised by the Secretary of State and approved by a senior independent judge. This would maintain democratic accountability and introduce a new element of judicial independence into the warrant authorising process. This double lock represents the most significant change in our lifetimes to the way in which the security and intelligence agencies exercise their vital powers. This is ground-breaking, innovative and important in striking a balance between the public interest in protecting our citizens and the interests of privacy. There is a range of views in the House on the question of authorisations, and I am sure that we will have a productive and weighty debate on these matters this evening.

The amendments tabled by the hon. and learned Member for Holborn and St Pancras (Keir Starmer) seek to remove the reference to judicial review principles. The House will be aware that the Joint Committee that considered the draft Bill said that it was "satisfied" with the wording of the Bill and that judicial review principles would

"afford the Judicial Commissioner a degree of flexibility."

That flexibility is important. It provides that judicial commissioners can undertake detailed scrutiny of decisions where appropriate, but it does not oblige judges to undertake forensic scrutiny of even the most straightforward warrants, because to do so would be unnecessary and would threaten the operational agility of the security and intelligence agencies.

In our debate on the first group of amendments, we had a mini-debate—we might have strayed slightly off piste—on the language that should be used in relation to the scrutiny that we want the judicial commissioners to deploy when considering their part in the double-lock mechanism. However, I believe that the manuscript amendment provides precisely the assurance that Opposition Members were seeking in Committee and in subsequent correspondence, and I am grateful to the hon. and learned Member for Holborn and St Pancras and other Opposition Members for agreeing to it. I am also grateful to the right hon. Member for Leigh (Andy Burnham)

for his involvement in these important matters. I believe that we now have an amendment that will satisfy the concerns of all hon. Members and provide the robust safeguard that we were all looking for. The wording that the parliamentary draftsmen have come up with ties in the privacy provision that we debated in the last group of amendments and puts this matter right at the heart of the Bill. We now have a robust double lock that will maintain the important distinction between the Executive and the judiciary. As I have said, this is truly ground-breaking.

I shall speak to the other Government amendments as quickly as I can, to ensure that other hon. Members can be accommodated in the debate. New clauses 9 and 13 will deliver on our commitment to strengthen the safeguards around so-called thematic warrants—that is, those targeted warrants that apply to a group of suspects rather than to an individual. They will introduce a new requirement that major modifications to warrants—adding the name of a gang member, for example—must be notified to a judicial commissioner as well as to the Secretary of State.

Amendments 97 and 54 will strictly limit the operation of modifications, making it clear that a warrant targeted at a single suspect cannot be modified to expand its scope to target several suspects. This builds on the assurances that I gave in Committee, and the provision will now be on the face of the Bill, should the amendments be accepted. New clauses 8 and 12 make it clear that modifications that engage the Wilson doctrine or legal professional privilege should be subject to the full double-lock authorisation.

Robert Neill (Bromley and Chislehurst) (Con): I am grateful to the Solicitor General for recognising the importance not only of the Wilson doctrine but of legal professional privilege. Would he accept that Government new clause 5 ought to be capable of embracing legal professional privilege within the overarching public interest in protecting privacy? Will he also continue to work with the Bar Council and the Law Society to ensure that we monitor the practical application of the protection of legal privilege in these matters?

The Solicitor General: I am extremely grateful to the Chairman of the Justice Committee, who speaks with knowledge and experience on such matters. He will be glad to know that Bar Council representatives, whom I recently met, have kindly undertaken to come up with further proposals by which the issues that took up so much time in Committee might be resolved. I will be meeting representatives of the Law Society this very week. It is perhaps a little unfortunate that those particular proposals were not crystallised prior to today's debate, but there will of course be more time. If clear proposals come forward—I am sure that they will—they can be subject to full, proper scrutiny in the other place.

Mr David Davis: Bluntly, I ask my hon. and learned Friend to ensure that proposals come forward whether or not the Law Society comes up with any. The erosion of legal professional privilege without any recourse to this House is the single biggest erosion of liberty in this country over the past decade and a half. If the Bill is to meet its requirements, it is vital that such reforms are found.

The Solicitor General: My right hon. Friend speaks with passion and sincere conviction on such matters. He will be glad to know that, unlike in RIPA 2000, legal professional privilege is on the face of the Bill, which is a significant improvement over previous legislation. I reassure him that the provisions in the Bill that already embrace the importance of legal professional privilege have in large measure been warmly welcomed. The question is one of getting the detail right with particular regard to those occurrences, albeit rare, when the iniquity exemption—when people are pursuing a crime, which is not covered by legal professional privilege—applies and which might come under the purview of any warrantry that is sought under the Bill's provisions.

However, I am certainly not leaving the proposals to other agencies. I am working as hard as I can with expert bodies that have great interest and knowledge and, like my right hon. Friend, recognise the overwhelming public importance of the preservation of legal professional privilege. I am glad to say that that dialogue will continue and will allow for meaningful scrutiny and debate in the other place.

Turning to the Wilson doctrine, clause 24 of the Bill currently requires the Prime Minister to be consulted before a targeted interception or targeted examination warrant can be issued in respect of such communications. Amendments 53 and 90 will strengthen that by making it clear that the Prime Minister must agree to the interception of the parliamentarian's communications, rather than simply be consulted.

Sir Edward Leigh (Gainsborough) (Con): Has my hon. and learned Friend noticed my amendment 1, in which I introduce the extra safeguard that the Speaker should be consulted?

The Solicitor General: My hon. Friend has tabled that amendment in the spirit of his speech on Second Reading, which referred to the role of the Speaker. I look forward to hearing any argument that he pursues on this matter. While I can see the merit in seeking to protect the privileges of parliamentarians through the office of the Speaker, my concern is that involving the Speaker in approving a particular warrantry process or not puts us at risk of confusing Executive action with the roles of this place and of the Speaker in terms of the legislature.

The Prime Minister will be accountable to hon. Members for any decision that he or she may take on warrantry through the normal process of questions, statements or being summoned to this House following an urgent question. The procedure in relation to any decision that the Speaker might make is more difficult—the mechanism might be a point of order. However, I am unsure whether that sort of challenge to the Chair would sit well with the role of the Speaker and the position of parliamentarians. There are difficulties in involving the Speaker.

Mr David Davis: Unfortunately, I am afraid that I can give my hon. and learned Friend evidence of his account of accountability not working. When the case of the hon. Member for Brighton, Pavilion (Caroline Lucas), who is a past, and no doubt future, leader of the Green party, went to the Investigatory Powers Tribunal, the Government lawyer's stance was that it was not a legally binding constraint on the agencies. When I put that

[Mr David Davis]

point to the Prime Minister, he was unable to answer. It is normally the case with the Wilson doctrine that the answer comes many years later, so an argument about accountability does not stand up here.

The Solicitor General: With respect to my right hon. Friend, I think it does, because we are putting in the Bill the Prime Minister's role in approving the warrant; what we have for the first time is a very important statutory protection. Again, let us not forget the progress we have made in getting to the position we are in today. A few years ago, some of these conventions and operations were not even avowed, although that is not the case with the Wilson doctrine. Let us pause for a moment to remember what that doctrine is all about, which is making sure that hon. Members can carry out their public functions as office holders in a free and proper way, subject to the same laws as everybody else in this country—equality before the law applies to Members of this place as much as it does to other members of the public. I am sure that debate will be developed as we hear from speakers on this group.

On technical capability notices and national security notices, we have been very clear throughout this process that we will work closely with industry to ensure that the Bill provides the strongest protections to those who may be subject to obligations under this legislation. In Committee, we heard concerns that these notices were not subject to the same strict safeguards as the authorisations of warrants. We have listened to those concerns and responded with new clause 10, which applies the full double lock to the issue of notices under part 9 of the Bill. Following further engagement with industry, we have taken steps to address further concerns, and so amendment 86 will make it clear that national security notices cannot require companies to remove encryption; amendment 87 makes it clear that national security notices will not subject companies to conflicting obligations in law; and amendments 45, 70 to 73 and 122 make it clear that warrants must be served in an appropriate manner to a person who is capable of giving effect to it. That deals with the problems that companies with an international dimension have if these things are served to an inappropriate employee—somebody who does not have the power to deal with the warrant.

We have also tabled a number of minor and technical amendments, many of which respond directly to issues raised by the Opposition and by the SNP in Committee. Others, such as amendments 92 and 126, provide important clarification on issues relating to the Independent Police Complaints Commission and the Police Investigations and Review Commissioner in Scotland.

These important changes reflect this Government's willingness to listen to suggestions that will improve this vital piece of legislation. My right hon. Friend the Minister for Security will respond to other amendments when winding up. In the meantime, I look forward to another informed and wide-ranging debate.

Andy Burnham (Leigh) (Lab): Labour has taken a responsible and pragmatic approach to this Bill. We have supported the principle of a modern legal framework governing the use of investigatory powers, recognising that as communications have migrated online, the police and security services have lost capability, but equally, we know that much stronger safeguards are needed in law to protect individuals from the abuse of state power. That is the balance we have been trying to achieve.

Following Second Reading, I wrote to the Home Secretary setting out Labour's seven substantial areas of concern, and I said that unless there was significant movement from the Government in those areas, we would be unable to support moves to put this Bill on the statute book by the December deadline. The group of amendments before us covers three of those seven issues: the double-lock process and the test to be applied by judicial commissioners; the protections for sensitive professions; and the position of trade unions with respect to this Bill. I will discuss each of those issues in turn, but I start by raising an issue that emerged in Committee.

My hon. and learned Friend the Member for Holborn and St Pancras (Keir Starmer), the shadow Immigration Minister, identified a potential loophole that allowed warrants to be modified after initial approval without proper scrutiny by judicial commissioners, thereby undermining the double lock. The Government have part-closed this loophole for sensitive professions, but we feel they need to go further and close it for everyone, to ensure that people cannot be added to thematic warrants by modification without the involvement of a judge. I hope that Ministers will listen to that concern and reassure us that they are open to further discussion.

I know that the judicial review test and the double lock have been discussed today, so I will not detain the House long. As Members on both sides of the House know, one of our earliest demands was that there should be independent judicial oversight of the approval of warrants, and we were pleased when the Home Secretary conceded that point some months ago. Labour has always believed that the judicial commissioner must be able to consider the substance of the Home Secretary's decision to issue a warrant, not just the process. Put simply, it must be a double lock, not a rubber stamp.

My hon. and learned Friend has done painstaking work on this issue in Committee and outside, and we thank in particular the Minister for Security for his willingness to listen to our concerns and for the manuscript amendment tabled today by the Home Secretary. It accepts the spirit of the proposals we tabled in Committee by ensuring that judicial commissioners will have to take into account their duties under the overarching privacy clause when reviewing the Home Secretary's decision to grant a warrant. Judicial commissioners' decisions must therefore be taken in line with human rights concerns. They must consider whether the same result could have been achieved by other means, and whether public interest concerns are met. In short, it will require much closer scrutiny of the initial decision of the Home Secretary and, significantly, bring greater clarity than the Government's initial judicial review test would have done. We believe that that does indeed amount to a real double lock and, I have to say, a real victory for the Opposition. I confirm that we will support the Government's amendment tonight.

When we talk about protections for sensitive professions —lawyers, journalists and Members of Parliament—it might sound to anyone watching this debate as though we in this House were once again seeking special status for ourselves in the eyes of the law. That is why it is important that I emphasise that these are not special

privileges or protections for Members of Parliament, but protections for members of the public. If someone seeks the help of an MP at a constituency advice surgery or of a lawyer, or blows the whistle to a journalist, they should be able to do so with a high degree of confidence that the conversation is confidential.

Robert Neill: Does the right hon. Gentleman accept that a point we need to make is that the privilege is not that of the lawyer, but that of the client? It is therefore entirely proper for us to emphasise that particular care should be taken when dealing with privilege, which is attracted to the client. It is not ourselves as lawyers or as Members of Parliament that we put in a privileged position; it is the person who comes to seek advice who has to have protection.

Andy Burnham: The hon. Gentleman makes a tremendously important point very well. This is about a basic protection for the public—a safeguard for the public. Also, on MPs and the Wilson doctrine, it is also a protection for our democracy that people can seek the advice of a Member of Parliament without fearing that someone else is listening. The hon. Gentleman is spot on, but I have to say that we do not feel that the Bill as it stands provides sufficient reassurance to the public that that confidentiality will be mostly respected. To be fair, the Government have moved on this point, but we believe that further work is needed, and that they need to continue to talk to the professional representative bodies. I will take each group in turn, starting with MPs.

We believe that the Bill is the right place to codify the thrust of the Wilson doctrine, but in our letter to the Home Secretary we expressed concern that the Bill required only that the Prime Minister be consulted before investigatory powers were used against MPs. We argued that the Prime Minister should personally be asked to approve any such action, and we are pleased that the Government have accepted this. I note that the Joint Committee on Human Rights, chaired by my right hon. and learned Friend the Member for Camberwell and Peckham (Ms Harman), has proposed a further strengthening of the doctrine and a role for the Speaker, who should be notified and able to challenge a decision on intercepting the communications of a Member of Parliament. We have not yet taken a view on that proposal. It is right to debate it as the Bill progresses to the Lords, and perhaps we can return to it later.

9 pm

Joanna Cherry: Bearing in mind that the protection is for parliamentarians across these islands, does the right hon. Gentleman agree that the Presiding Officers in the Scottish Parliament, the Northern Ireland Assembly and the Welsh Assembly would have to be involved, not just the Speaker in this House?

Andy Burnham: That is a fair point, and the amendment tabled by my right hon. and learned Friend the Member for Camberwell and Peckham seeks to ensure that. Perhaps this is an issue that the Government need to think about. Of course the provisions should apply to Members of the Scottish Parliament, the Welsh Assembly and the Northern Ireland Assembly. The point made by the hon. and learned Member for Edinburgh South West (Joanna Cherry) should be accepted.

On journalists and journalistic sources, we welcome the fact that the Government have moved to put protections originally in the codes underpinning the Bill into the measure itself. We note, however, that the National Union of Journalists believes that wider protections are still needed, and the Government should continue to work with it to get that right.

Finally, on legal privilege there has been the least progress of all. Serious concerns have been expressed by the Bar Council and the Law Society about the fact that the provisions would weaken privacy protections currently enjoyed by lawyers, but those concerns are not adequately reflected in the Bill. It is disappointing that Ministers have yet to meet the legal bodies. *[Interruption.]* I did not quite hear what the Solicitor General said. I am happy to give way if he wants to clarify the position.

The Solicitor General: I have met the Bar Council, and I am meeting the Law Society on Wednesday, so I can assure him that there is engagement.

Andy Burnham: My mistake; I did hear the Solicitor General say that he was meeting those bodies this week. It is a little disappointing—I am not making a petty point—as we wish we could have made more progress before this debate. As the right hon. Member for Haltemprice and Howden (Mr Davis) said, this is extremely important, and our debates would be improved if there had been more progress in this area. Nevertheless, it is clear that this is firmly on the Solicitor General's radar, and the excellent points made by the hon. Member for Bromley and Chislehurst (Robert Neill) show that there is concern in all parts of the House about moving further to get this right. In the absence of acceptable Government amendments, amendments 139 to 141 tabled by my right hon. and learned Friend the Member for Camberwell and Peckham are a step in the right direction. If amendments were forthcoming from the Government, we would certainly support them.

Mr David Davis: This point has just occurred to me, looking at the exchange of letters between Front-Bench spokespeople on bulk collection. What the right hon. Gentleman has been saying about privilege, whether legal, parliamentary or journalistic, applies only to targeted interception, but a great deal of bulk interception is shared with our allies, the National Security Agency, and there is no carve-out for any of the protections that he has discussed. I can think of circumstances in which lawyers might be targeted by the NSA because their clients are suspects—or, indeed, irritating Members of Parliament might be targeted; I am thinking of the right hon. Gentleman. In the discussions between the Front-Bench spokespeople, when the bulk collection inquiry is progressed, that should be picked up, so that the issue is dealt with.

Andy Burnham: I do not know whether that was a compliment, but I will take it as such. The right hon. Gentleman raises an important point. To be fair to the Government, there has been movement on thematic warrants: if an MP or a journalist was to be added to a thematic warrant, there would be a judicial oversight process. The right hon. Gentleman mentions taking that principle even further and relating it to bulk data. I think that David Anderson would need to consider how practically possible that would be, but the right hon. Gentleman's point needs to be considered.

[Andy Burnham]

Labour amendment 262 relates to trade unions and would amend clause 18 to ensure, in statute, that undertaking legitimate trade union activities is never in future a reason for the security services or police using investigatory powers. In recent times, we have been shining a light on this country's past and learning more about how we have been governed and policed. Revelations about Bloody Sunday, Hillsborough, phone hacking, child sexual exploitation and other matters have all in different ways shaken people's faith in the institutions that are there to protect us. They raise profound questions about the relationship between the state and the individual. Confronted with those uncomfortable truths about abuses of power, this House needs to provide a proper response and legislate to prevent them in the future. We need to redress the balance in favour of ordinary people and away from the Executive.

Steve Rotheram (Liverpool, Walton) (Lab): Will my right hon. Friend join me in paying tribute to Unite, the Union of Construction, Allied Trades and Technicians and the GMB, which fought a long campaign to raise the scandal of the illegal blacklisting and secret vetting of construction workers? Can he assure the House that such a gross injustice could not be perpetrated against innocent workers again, and that his amendment would provide an absolute guarantee that legitimate trade union activities would be excluded from monitoring by the security services and the police?

Andy Burnham: I will indeed pay tribute to Unite, GMB and UCATT, which, in the past couple of months, have reached out-of-court settlements on blacklisting—a major and historic victory on their part. I will come on to explain the prime concern behind the Opposition's amendment, and the case that most justifies our bringing it forward.

In the past, the actions of some in senior positions in politics and in the police have unfairly tarnished the reputation of today's services and today's policemen and women. That is precisely why it is crucial that we continue to open up on the past. Transparency is the best way of preventing lingering suspicions about past conduct from contaminating trust in today's services, and it will help us to create a modern legal framework that better protects our essential freedoms, human rights and privacy.

One such freedom essential to the health of our democracy is trade union activity. Historically, trade unions have played a crucial role in protecting ordinary people from the abuses of Governments and mighty corporations. It is that crucial role, and the freedom of every citizen in this land to benefit from that protection, that amendment 262 seeks to enshrine in law. There will be those who claim that it is unnecessary and the product of conspiracy theorists, but I have received confirmation from the security services that, in the past—under Governments of both colours, it has to be said—trade unions have indeed been monitored. In the cold war, there may well have been grounds for fears that British trade unions were being infiltrated by foreign powers trying to subvert our democracy. That helps to explain the wariness of many Labour Members about legislation of this kind. Outside the security services, it seems that some activity went way beyond that. There is clear evidence that such monitoring was used for unjustified political and commercial reasons, breaching privacy and basic human rights. I mentioned the case of the Shrewsbury 24 on Second Reading, and I remain of the view that that is an outstanding injustice that needs to be settled.

As my hon. Friend the Member for Liverpool, Walton (Steve Rotheram) anticipated, however, I want tonight to focus on the blacklisting of construction workers, which clearly illustrates the necessity of the amendment we have tabled. We have seen the settlement of claims, as I have mentioned, against companies such as Carillion, Balfour Beatty, Costain, Keir, Laing O'Rourke, Sir Robert McAlpine, Skanska UK and Vinci. It has now been proven that those companies subscribed to central lists of workers that contained information on their political views and trade union activities. Those lists were used to vet people and deny them work. That affected the livelihoods of hundreds of people, and it was an outrageous denial of their basic human rights.

By seeking an out-of-court settlement, it would seem that the companies concerned are trying to limit reputational damage, but I do not think that the matter can be allowed to rest there. We need to understand how covertly gained police information came into the hands of a shady organisation called the Consulting Association, which compiled and managed the blacklist.

Mr Alistair Carmichael: Does the right hon. Gentleman agree that the remit of the Pitchford inquiry, which has been set up to look into the use of undercover policing, really needs to be extended to cover what went on in Scotland and other parts of the United Kingdom or we will never get the full truth of this?

Andy Burnham: That is certainly one way of addressing the concerns that I am putting on record tonight, but another would be to have a separate inquiry into blacklisting per se. Not only was it outrageous, but it is still largely not known about. Most people outside trade union circles do not know that it happened. That is why, by one means or another, there needs to be a process of inquiry about it.

We would not know about the practice were it not for the outstanding work of the Blacklist Support Group and individuals such as Dave Smith who have exposed how much of the information held on individuals appeared to emanate from police sources. For instance, the files hold detailed descriptions of the movements of a number of people at the June 1999 demonstration "Carnival Against Capital". As a *Guardian* article by Dave Smith and Phil Chamberlain pointed out, it seems highly unlikely that that intelligence was the product of a site manager who just happened to be passing through London on that day.

The Blacklist Support Group referred the matter to the Independent Police Complaints Commission in 2012. I want to put on record what it found, because it is pretty shocking. Having looked into the concerns, the IPCC wrote in a letter to the Blacklist Support Group:

> "The scoping also identified that it was likely that all Special Branches were involved in providing information about potential employees who were suspected of being involved in subversive activity."

All special branches were likely to have given information that was used to compile the blacklist.

Steve Rotheram: May I expand on the point that my right hon. Friend is making? Perhaps some people outside the Chamber will not understand what subversive activities were. In those days, subversive activities included complaining about health and safety because a person was dying on a building site every single day. Does my right hon. Friend agree that that is hardly subversive activity?

Andy Burnham: My hon. Friend is absolutely right. Those were people who were trying to protect their workmates and colleagues. An individual who protested outside Fiddler's Ferry power station near us in the north-west was trying to safeguard people's safety at work, but they were subjected to this outrageous abuse of their rights.

Mr George Howarth: My right hon. Friend is making a very powerful case. I do not know whether he is aware of this, but when the issue first arose during the last Parliament, I took it up with the Metropolitan Police Commissioner to ask whether there was any involvement on the part of the Metropolitan police. I got a letter back not from the commissioner himself, but from a senior member of his staff, who now works for one of the agencies, flatly denying that there was any such involvement. Something was happening, as the excerpt my right hon. Friend has read out shows, yet even as recently as three or four years ago, the Metropolitan police utterly denied it.

9.15 pm

Andy Burnham: I agree with my right hon. Friend. It is quite clear that "all Special Branches" provided information. There it is in the letter from the IPCC in 2013. I do not think that its pretty astounding confirmation has been properly followed up. As I said in response to the right hon. Member for Orkney and Shetland (Mr Carmichael), people have a right to know what information was passed by whom in the police service, who sanctioned the passing of that information to such organisations and the policy under which passing that information was justified.

This is yet another scandal from our country's past, in which it seems that the establishment rode roughshod over the rights of ordinary people. I pay tribute to the Home Secretary for the courage she has shown in facing up to our past, but the evidence trail has not yet reached its end. This process must continue: we must continue to go wherever the evidence takes us. Such evidence is now taking us to blacklisting and, of course, to Orgreave and its aftermath. In my view, the case for inquiries into both is unanswerable. I again call on the Government to initiate those inquiries so that people can have the truth.

For tonight, we call on the Government to accept Labour's amendment to provide protection in law for legitimate trade union activity. Had that provision been in place years ago, it could have prevented the abuses that we saw with the blacklisting of workers. If it could be agreed, such an historic move would give some recognition to the long and proud campaign for fairness in the eyes of the law that has been fought by trade unionists. It would also show a real willingness on the part of the Government to create a modern law that is as much about protecting the rights of the working person as it is about keeping us safe in the 21st century.

Sir Edward Leigh: I rise to speak to my amendment 1, which is, in clause 24, page 19, line 8, at the end to insert where the subject of the snooping, frankly, is a Member of the House of Commons, that snooping must also involve a consultation with the Speaker of the House of Commons. The Member's explanatory statement helpfully says:

> "This amendment would require the Secretary of State to consult the Speaker before deciding to issue a warrant that applied to an MP's communications."

This is a small, but I believe important amendment. It is of course perfectly proper and pertinent that, as we all agree, the Secretary of State consults the Prime Minister before deciding to issue a targeted interception or examination warrant regarding an MP's communication with a constituent or somebody else. We all understand that, and it is not controversial. However, the Prime Minister is the Queen's chief Minister of Government and is, by its very nature, a political office holder. It goes without saying that we have complete confidence in the present Prime Minister that no such thing would happen, but we must not make permanent laws based on impermanent situations. Our conscientious Prime Minister, who I am sure is both aware of and respectful of parliamentary privilege, may be succeeded, somewhere down the line, by a man or woman who does not esteem the dearly won privileges of this House. They are not our privileges: they are not for us; they are for the protection of our democracy and of our constituents.

It may be that a future Prime Minister would be under intolerable pressure during a time of national crisis. It is not difficult to imagine that circumstances may come into play in which a future Prime Minister authorises a politically sensitive or even a politically motivated interception against an Opposition Member, or indeed against a Government Member if that Member of Parliament is opposed to the Prime Minister's policies. We need only think of the intense debates that took place during the Vietnam war and the Iraq war. We remember that the present Leader of the Opposition had strong views about the importance of communicating with Sinn Féin at a time when that was considered intensely controversial—indeed, some at the time would have argued that it was a threat to national security. I am not defending the actions of the present Leader of the Opposition, or making any comment on them one way or another, but one can surely imagine that there may be future situations when there is intense debate on a matter of national security and a Prime Minister may be politically motivated to intercept communications between a constituent and a Member of Parliament.

I believe that it is important to uphold the exclusive cognisance of this House to regulate its own internal affairs, apart from the Government. This House is not the Government but the scrutineer of Government. To reply directly to the point the Solicitor General made, the amendment does not put MPs above the law—far from it. Our conduct is completely within the jurisdiction of normal criminal courts, and the criminal law applies to us as to anyone else. But it is vital that communications relating to our role—only to our role and to no other part of our life—as democratically elected representatives of the people, in a free country, under the Crown, be protected from Government observation and interference, just as it is vital to remove any temptation to politicise the work of the police.

[Sir Edward Leigh]

Amendment 1 would solve that problem, by invoking the importance of the Speaker, an impartial office holder not beholden to any political party or indeed to the Government. You will be aware, Madam Deputy Speaker, that the office of Speaker is among the most important in the land. It ranks above all non-royal people in this realm, excepting the Prime Minister, the Lord Chancellor and the Lord President of the Council. The Speaker is endowed with his or her office by the trust placed in him by fellow Members of Parliament, and his impartiality is central to the proper functioning of Parliament. Once he has held the office of Speaker, never again can he re-enter politics—that is a clear convention of this House. He is utterly and completely impartial.

Dr Murrison: I have a great deal of sympathy for what my hon. Friend has to say, but does he share my concern that the Speaker might be seen as a rather in-house arbiter in these matters? In recent times we have seen where that leads us. Does my hon. Friend not have more confidence in the double-lock arrangement that the Front-Bench team has rightly instituted?

Sir Edward Leigh: I am perfectly happy—I think everyone in this House is—with the proposal that if the Secretary of State for the Home Department wishes to investigate communications with a Member of Parliament, the Prime Minister should always also be consulted. No one objects to that. But who appoints the Home Secretary? The Prime Minister does. They are both politicians—by their very nature, they are political animals—and members of the Executive. I have to ask my hon. Friends to look beyond the present situation; they may indeed have the utmost confidence in the present Secretary of State for the Home Department and the present Prime Minister, but they should always separate their view of those currently on the Front Bench from what might happen in the future.

All I am asking is that if the Government are taking the extreme step of intercepting communications between constituents and Members of Parliament, someone entirely non-political, namely the Speaker, should also be consulted. This is the point: he is no mere presiding officer. We do not call him "the presiding officer", as is the case in other Assemblies and Parliaments. He is the upholder of order and the defender of the House's privileges and immunities. I am absolutely not suggesting that he should be dragged into politics. But there is already a precedent. Have we not involved the Speaker very recently in consideration of whether amendments should be separately considered under English votes for English laws? Nobody—certainly not the Government—has suggested that that is dragging the Speaker into politics.

I am a member of the Procedure Committee, and we examined this issue in great detail. The system—I am not defending EVEL as that is not the subject of today's debate—seems to be working fairly well. Nobody is calling the Speaker to order or complaining about his decision, but there is in a sense a double lock that seems to work quite well.

The Solicitor General: My hon. Friend makes a proper point about the Speaker's role in English votes for English laws, and there are other certification procedures that he, I, and others know about. There is a difference, however, because that relates to the legislative process in this House, and it deals precisely with the point about exclusive cognisance and the privileges of this House in dealing with its own rules and regulations. There is therefore a difference between the points that my hon. Friend raises and involvement in an Executive decision.

Sir Edward Leigh: There may be a difference, but I do not think it is a substantive one. *[Interruption.]* I am delighted that you are now sitting in the Chair, Mr Speaker, because I am talking about you, which I know you always enjoy me doing.

Mr David Davis: Surely one key point is that there would be an inhibition on a Secretary of State or a Prime Minister in the process of approaching the Speaker. They may not be inhibited about talking to each other about an uncomfortable Opposition Member, or indeed an uncomfortable Government Member, but they would be inhibited about approaching the Speaker. That is not separate to what goes on in the House. The one case that we have had was that of my right hon. Friend the Member for Ashford (Damian Green), when there was an approach to the Speaker of the day, which I am afraid ended in tears.

Sir Edward Leigh: Exactly. It is an inhibition, and I presume that the Home Secretary and Prime Minister would take that extreme step only because they were convinced that this was a matter of national security. Before they took such a step, which we all agree is serious, would it do any harm to consult somebody who is obviously completely separated from politics?

Alex Chalk (Cheltenham) (Con): Is there an issue of accountability here? If the judgment is wrong, would it not be extremely regrettable for the Speaker to be dragged into the court of public opinion as someone who got that judgment wrong, as opposed to the Executive or the Prime Minister who could properly be hauled through the courts?

Sir Edward Leigh: I understand that example, but it can be taken to extremes. Every day of the week the Speaker makes decisions. He decides how we conduct our business and who should be called, and we could always argue that we should not give the Speaker more powers because he might make a mistake or be called to account. We are not talking about the Speaker being involved in whether we should pass a particular Bill or controversy; we are talking about a very narrow circumstance in which the Government of the day have decided to intercept the communications of a Member of Parliament. All I am suggesting is that before they take that step, they consult the Speaker.

Mr John Hayes: There are few Members of this House whom I hold in higher regard than I do my hon. Friend, but like it or not, his proposal would draw the Speaker into issues of national security. He is describing highly sensitive matters of a kind that Speakers have not historically been involved in. It would be a radical change.

Sir Edward Leigh: The Minister makes that point, but as Members of Parliament we should try to think outside the political box and our natural loyalties, and just for a moment think about what might happen in

future in a time of crisis. Do we really want to codify the Wilson doctrine in legislation, and say that in future any Government—it does not matter that the Prime Minister ticks a box, because he is also a member of the Government—without any independent second guessing, can intercept those communications and act on them? I understand the Minister's arguments and assure him that I am not trying to drag the Speaker into politics. I am trying only to protect the traditional privileges of the House. "Privileges" is the wrong word, because it conveys the impression that we are concerned about ourselves. We are not important in all this. What is important is people's confidence in communicating with their Member of Parliament.

9.30 pm

Mr George Howarth: The difficulty with the hon. Gentleman's argument is that he assumes that the Prime Minister of the day, regardless of which party he is in, would take such a decision in a vacuum, but it simply could not happen that way. He would have to be satisfied first with proper legal advice that it is in the interests of national security. Secondly, he would have to be satisfied that it is both necessary and proportionate. Passing all those tests requires a lot of advice, and I doubt that any Prime Minister would take the decision lightly. Bringing any Speaker into that decision-making process means that they must be linked to that legal and security advice to satisfy themselves in the same way as the Prime Minister would have to do. I therefore cannot see the difference.

Sir Edward Leigh: I can see what the difference would be in a time of national crisis. The information will be clearly set out by the Home Secretary and the Prime Minister. I do not believe that it would be beyond the abilities of any Speaker now or in future to take an informed decision and to be convinced by the Prime Minister and the Home Secretary that the interception was not a political interference but a matter of national security.

All hon. Members agree on that—that the communications can be intercepted if it is a matter of national security—and we all agree that they should not be intercepted because it is politically expedient to do so. All I am asking is that the Speaker, who by the nature of his office does not consider political expediency, can say, "Yes. This is a matter of national security." I do not believe that that is beyond his abilities. After all, he is ably assisted—is he not?—by the Clerk of the House and a band of parliamentary Clerks, most of whom have spent years accumulating knowledge, wisdom and experience of the ways of the House. They are not radicals or people who will take decisions lightly or wantonly. Together, they form a deposit of institutional memory, which the Prime Minister and No. 10, by the nature of their daily tasks of government and political management, can never be. They must always, necessarily, take a short-term view. That is not a criticism but the nature of the office.

Each of the privileges of this House, in addition to being daily fought for and won over the centuries, exists for a reason. Like many traditions and customs, we interfere with them at our peril. I appeal to the Minister of State, who is deeply aware of the importance of traditions and customs. We may wonder today why this or that one exists, but if we disregard them, we will soon find that the dangers they protect us from are very real.

We also may doubt the day will ever come when a Prime Minister would dare to authorise the monitoring of Members' communications for politicised reasons, but it is therefore better to remove even the possibility of that temptation existing by simply requiring the Secretary of State to consult the Speaker. It has been said before but it is worth saying again. Nearly 375 years ago, William Lenthall reminded the sovereign that the Speaker had

"neither eyes to see nor tongue to speak in this place but as the House is pleased to direct me, whose servant I am here."

All I am asking in amendment 1 is that that tradition be maintained. We would do well to continue to put our trust in that defender of our law and our liberties.

Joanna Cherry: The Scottish National party has tabled a significant number of amendments to parts 2 and 5, and chapter 1 of part 9, which are under discussion, but given the constraints of time I will focus my fire on only a few of them, and mainly on part 2 and the system of judicial warrantry.

The Government have put their new double-lock system of warrantry at the heart of their arguments that there are sufficient safeguards in the Bill. In the SNP, we believe that the system of warrantry is too limited in scope and seriously deficient. We have tabled extensive amendments to extend the system of judicial warrantry beyond part 2, so that it would cover warrants to obtain, retain and examine communications data and police hacking warrants. We think the nature and scope of those warrants, and the grounds on which they are granted, are very important.

Amendments 267, 268, 272 and 306 to clause 15 deal with the scope of warrants. The problem with clause 15 as currently drafted is that it permits warrants to be issued in respect of people whose names are not known or knowable when the warrant is sought. This is confirmed by clause 27, which provides that a thematic warrant must describe the relevant purpose or activity and that it must

"name or describe as many of those persons as is reasonably practicable".

Our amendments would retain the capacity of a single warrant to permit the interception of multiple individuals, but require an identifiable subject matter or premises to be provided. We have tabled associated amendments to clause 27. Taken together, they would narrow the current provisions, which effectively permit a limitless number of unidentified individuals to have their communications intercepted.

It is not just the SNP who are concerned about the scope of the thematic warrants. We heard evidence in Committee from Sir Stanley Burnton, the interception of communications commissioner, and from Lord Judge, the chief surveillance commissioner. Both expressed detailed concerns about the breadth of clause 15 as currently drafted. They said it was too wide and needed to be more focused. David Anderson QC, although in favour of thematic warrants, said that clause 15 as currently drafted is "considerably more permissive" than he had envisaged. There we have three very distinguished experts working in this field underlining the necessity of the amendments.

That is a real concern, because it takes us back to our old friend, or in our case our old enemy, bulk powers. If we create thematic warrants, communications intercepted

[Joanna Cherry]

under bulk powers can be trawled through thematically to look for groups of people sharing a common purpose or carrying out a particular activity. One difficulty with that is that it provides for an open-ended warrant that could encompass many hundreds or thousands of people. That is just not right. It is suspicionless interference. It is not targeted and it is not focused. I urge hon. Members on both sides of the House, if they are concerned about supporting an SNP amendment, to comfort themselves with the fact that it is an amendment the necessity of which has been underlined by persons as distinguished as the Interception of Communications Commissioner, the Chief Surveillance Commissioner and the independent reviewer of terrorism.

I now turn to the grounds, set out in clause 18, on which warrants may be granted, and to SNP amendments 212 and 213. The purpose of the amendments is to remove the economic wellbeing of the UK as a separate purpose for granting a warrant and to require that grounds for interception are tied to a threshold of reasonable suspicion of criminal behaviour. We have tabled similar amendments to the grounds for seeking warrants in relation to communications data under parts 3 and 4, and hacking under part 5. If these amendments are not allowed, people simply will not be able to predict when surveillance powers may be used against them, because the discretion granted to the Secretary of State is so broad as to be arbitrary.

The Joint Committee on the draft Bill recommended that the Bill include a definition of national security, which, of course, is the first ground. I call on the Government, not for the first time, to produce an amendment that defines national security. The Bill is sprinkled liberally with the phrase "national security". The Government need to tell us what they mean by that phrase, so I call on them to define it. This is not just theoretical or, as the hon. Member for North Dorset (Simon Hoare) called it, merely a law faculty debate; it is a serious issue about language being precise so that there can be some predictability. In the past, the courts have responded with considerable deference to Government claims of national security; they view them not so much as matters of law but as Executive-led policy judgments. As a legal test, therefore, "national security", on its own, is meaningless unless the Government attempt to tell us what they mean by it.

Dr Murrison: I am listening with great interest to the hon. and learned Lady. She will be aware that the Joint Committee on the National Security Strategy has long been trying to define "national security" but has failed to come up with an answer. Will she not accept that the term must necessarily remain loose?

Joanna Cherry: No, I do not accept that. As I say, the phrase is sprinkled throughout the Bill to justify very broad and intrusive powers, and it is incumbent on the Government to explain what they mean by it. We have heard powerful speeches and interventions from Labour Members about how these loose phrases can sometimes be misinterpreted to enable individuals who have done absolutely nothing wrong, such as trade unionists going about their lawful business, to have their livelihoods and communications interfered with. So if the Government want these powers, they have to define the grounds on which they can be exercised.

That takes me to economic wellbeing. The Joint Committee on the Bill said that economic wellbeing should be defined, but the Intelligence and Security Committee went further and said that it should be subsumed within the national security definition and that otherwise it was "unnecessarily confusing and complicated". It was basically saying that if economic harm to the wellbeing of the UK was so serious that it amounted to a threat to national security, it would be covered by clause 18(2)(a). That was the point the ISC made. We do not need a separate category.

Mr Grieve: I intend to touch on this briefly when I speak. It is right to point out that, after making that recommendation, the Committee had the opportunity to hear considerable further evidence provided by the Government, and as a result we were unanimously persuaded that keeping "economic wellbeing" as a separate category was justified. I will amplify my remarks when I speak later, but that was the conclusion we reached.

Joanna Cherry: I do not wish to quibble with the right hon. and learned Gentleman's conclusion, but unfortunately the rest of us have not been favoured with the basis on which he and his Committee reached it. I am yet to be convinced that the "economic wellbeing" ground is a stand-alone ground that cannot be subsumed within "national security". If the Government can convince me otherwise, or want to try, I will listen, but I have yet to be convinced, despite having sat through many days of the Bill Committee.

Another problem with the grounds relates to the lack of any "reasonable suspicion" threshold. This recurs throughout the Bill. Our amendments would insert such a requirement. At present, intrusive powers can be authorised to prevent and detect serious crime and, in the case of communications data, even just to collect tax, prevent disorder or in the interests of public safety. These general purposes, however, are left wide open to broad interpretation and abuse if one does not also require a threshold of suspicion. A requirement of reasonable suspicion, when one invokes the purpose of preventing and detecting serous crime, would have the benefit of preventing the abusive surveillance of campaigners, unionists and victims by undercover police; police surveillance of journalists' lawful activities; and surveillance by the agencies of law-abiding non-governmental organisations and MPs. This is not fanciful. We have seen law-abiding NGOs and MPs having their correspondence and activities interfered with in recent times, so these are not just theoretical examples.

The "reasonable suspicion" threshold was recently held to be necessary by the European Court of Human Rights in a case concerning the Russian interception regime, Zakharov *v.* Russia, with which many hon. Members will be familiar. The Solicitor General will try to make a distinction—if we had time, we could argue about that—but there is a widely held view that the standard set by the ECHR in that case is not met by the grounds in clause 18. I therefore urge fellow hon. Members to support our amendment to clause 18 to ensure that the United Kingdom's investigatory powers regime meets international human rights standards.

It will be clear from what I have said already that the SNP very much shares Labour's concerns about the monitoring of legitimate trade union activity. I understand

that the Home Secretary has acknowledged those concerns and given some sort of assurance to the shadow Home Secretary. However, like Labour, the SNP will require an amendment to make that absolutely clear on the face of the Bill. If Labour Members want to push their amendment to a vote this evening, we will support it.

9.45 pm

I am conscious of the time, so I want next to look briefly at judicial review. We have talked about that quite a bit already today. I accept that the Government's manuscript amendment is an improvement, but in my respectful argument it does not go far enough, and that is because of something I said earlier today. All of us in this Chamber who have practised law and advised clients about judicial review know that key to doing so is knowing what the reasons were for the original decision, and there is absolutely nothing in the Bill requiring the Secretary of State to give any reasons for her or his decision to issue a warrant. Interestingly, clause 21(4) requires the judicial commissioner to give his or her reasons, but the Secretary of State is not required to give reasons. As long as it remains a judicial review standard, I do not see what it is that the judicial commissioner is reviewing, in the absence of reasons for the original decision.

The right hon. Member for Haltemprice and Howden (Mr Davis) made the point earlier that the Home Secretary signs many of these warrants—sometimes up to 10 a day. I feel for her in that she should have to issue reasons for them, but the fact that we are talking about judicial review of a decision for which reasons are not required underlines the inadequacy of what is currently proposed.

Briefly, clause 24 relates to parliamentarians and their protection. We heard an eloquent speech from the hon. Member for Gainsborough (Sir Edward Leigh) about his suggestion that the Speaker should oversee the process in some way. I have already commented that, as envisaged under the amendments tabled by the Joint Committee on Human Rights, it should be the Presiding Officers in the case of the Scottish, Welsh and Northern Irish Parliaments. The SNP suggest, in our new clause 23, that a targeted examination warrant relating to a parliamentarian should bypass the politicians completely and be granted only by a judicial commissioner, and we have tabled similar amendments to part 5.

The reason for that is to preserve the Wilson doctrine and depoliticise the process. It is illogical to suggest that an adequate replacement to the previous, complete prohibition on surveillance of politicians is to have a clause that expressly allows surveillance of politicians, only requiring the Secretary of State to consult the Prime Minister prior to authorising interception or hacking. It completely undermines the Wilson doctrine, therefore we cannot support it and would urge the Government to look at our suggestion that it should be a judicial commissioner who authorises warrants to interfere with the communications and the equipment of parliamentarians.

Before I sit down, let me turn briefly to legal professional privilege. I add my voice to the concerns already expressed about the inadequacy of what is in the Bill. It is not just the Bar Council and the Law Society of England and Wales that are worried about this; the Law Society of Scotland and the Faculty of Advocates have also made representations. Government Members may curl their lips, but legal professional privilege is not there to protect lawyers, just as parliamentary privilege is not there to protect politicians. It is there to protect people who consult lawyers, and those people are our constituents. There is a longstanding convention in England and Scotland that legal communications are privileged, save for the iniquity exception. That is not reflected in the Bill and it needs to be.

There are many more amendments that I would like to speak to, but I am not going to, in recognition of the fact that others deserve time to speak. I would simply say again that the Scottish National party considers the time afforded to debate the many amendments tabled to this serious and far-reaching Bill to be wholly inadequate, and there are many people beyond this Chamber who also take that view.

Stephen McPartland: I shall speak to four different sets of amendments. As I said earlier, it is a difficult Bill to support, but I acknowledge the work that Ministers and the Government have done in trying to work with Government Members and Opposition Members to produce a Bill with which we can all begin to start to feel comfortable. I am not a lawyer, but amendments 147 to 152, which stand in my name, are designed to leave out clauses that provide for the modification of warrants. In my view as a non-lawyer, these changes seem, through a major modification, to have the potential to change the key components of a warrant. I wonder at what stage a new warrant should be drafted instead. How far can the warrant be modified before it needs to become a new warrant? The warrant provisions seem to be very wide ranging and very ill defined.

The next set comprises amendments 178 to 186, which try to refine the matters to which targeted equipment interference warrants may relate by removing vague and overly broad categories, including equipment interference for training purposes. People outside this place may not be aware of it, but when we talk about "equipment interference", we are basically talking about hacking devices that can hack into mobile phones, computers, e-mail systems, or the apps that people use for their banking. "Equipment interference" is a nice way of saying state-authorised hacking, which is what we are talking about here. To me, this is an incredibly intrusive power, permitting real-time surveillance, as well as access to everything we store on our digital devices, from text messages to address books, calendars and emails, along with the websites people visit, which apps they use and how they use them.

The Bill also seems to me to provide for thematic hacking warrants, which amount to general warrants to hack groups or types of individuals in the UK. Hacking is not restricted in the Bill to equipment belonging to, used by or in the possession of particular persons or organisations. Even the director of GCHQ has apparently raised concerns about the breadth of the current definitions, which could apply to the equipment of a hostile foreign intelligence service. We here might say, "So what? So be it. That's what they're there for", but what would we say if those warrants allowed all employees and family members of a particular company or the people who visit a particular religious venue or who live in a particular road to be hacked? Would we still say, "So what? Should we be bothered?" This may sound unlikely, but the draft equipment interference code of practice permits the targeting of people who are "not of intelligence interest". If that is not carte blanche, I do not know what is,

[Stephen McPartland]

because this is in effect allowing hacking the equipment of anybody anywhere in the UK or overseas, if the agencies choose to do so.

Mr Davis Davis: I am entirely in agreement with my hon. Friend on this. He says that it might not involve hacking a whole street, but it could easily involve hacking two layers of contacts. If I call 100 people, and then the people called by those 100 people are investigated, that would be a very typical intelligence exercise, pursuing the two rings of contacts. That could involve 100,000 people, most of whom have nothing to hide but could become under permanent surveillance by the state.

Stephen McPartland: I totally agree with my right hon. Friend's point. As a Master of Science and Technology, I, of course, have never hacked anything in my life and would never dream of doing so, but it is not a particularly difficult thing to do at the moment. Many people do not appreciate that the measures in the Bill are authorising the state hacking of equipment. Combined with other measures in the Bill, this is not just about hacking the equipment of somebody who may be of particular interest as part of a terrorist organisation; we are talking about every man, woman and child with an electronic device inside the UK. That is where my concerns arise.

Suella Fernandes (Fareham) (Con): I am grateful to the hon. Gentleman for that explanation of his amendment, but surely there are clear limits to the powers relating to equipment interference set out in clause 91. The action needs to be necessary, proportionate and in the interests of national security, so it is really not fair to say that this is a sweeping power to which any man, woman or child could be subjected.

Stephen McPartland: I am grateful to my hon. Friend for her intervention, but the reality is that schedule 4 to the Bill will give a range of other organisations the ability to access this power if they choose to do so. For example, the Financial Conduct Authority could do so in circumstances relating to the stability of the markets. A whole variety of organisations will be able to use these powers, not just the intelligence services. Police services up and down the country already use equipment interference to target criminals, for example. A whole range of powers such as these is already being used. I appreciate that the Bill is trying to put them on a statutory footing, and I understand the need to keep people safe, but we have to balance this with resources. Let us remember 9/11 in the United States, when many different agencies and organisations had information but were not sharing it. I believe that we are getting ourselves into a situation in which we will have so much information on so many people that it will be of no value to us whatever. It will be like the internet: you can put anything in, and you get 3,000 pages back.

We need a stronger legal framework if we are going to authorise the state hacking of equipment in the United Kingdom. My amendments 187 and 188 simply seek to ensure that all targets of hacking are properly named or specified. We need a more specific legal framework. Amendments 173 to177 would eliminate the power of the Government to compel third parties to assist in carrying out equipment interference. As the Bill stands, this compelled assistance will not be subject to any judicial authorisation process. The relevant organisations will be able to turn up at a company and say, "We have this warrant, so you now have to help us to hack your devices." The company will have no choice. Clause 114 contains strict non-disclosure provisions, which are effectively gagging orders that will prevent anyone from being able to say whether they have been involved in such procedures. The Science and Technology Committee documented widespread concerns regarding company compelled hacking and concluded that

"the industry case regarding public fear about 'equipment interference' is well founded."

The draft equipment interference code of practice indicates that no company in the United Kingdom, no matter how small, is exempt from these obligations.

My amendments 196 to 205 are, like the rest, probing amendments to try to get these issues debated and to make people aware of them. They would provide that national security and technical capability notices be subject to a double-lock authorisation by the Secretary of State and the Investigatory Powers Commissioner. I appreciate that new clause 10 and other Government amendments are moving some way towards achieving that, which might make what I am about to say obsolete. I do not fully understand those amendments yet, as I am not a lawyer, as I have said.

My understanding of the Bill as it stood this morning was that only the Secretary of State had the power to authorise a retention notice, a national security notice and a technical capability notice. That was not in keeping with the rest of the Bill, which requires a judicial commissioner to be involved in the review and approval of those areas. Those notices in effect enable the Secretary of State to demand that private companies act as a facilitator, depository and provider of people's communications. We need independent oversight, and as I have said, the Government have come some way towards establishing that, in new clause 10 and elsewhere. However, technical capability notices will have an impact on UK businesses with 10,000 or more users, in that they will require those companies to build systems to store user data for use by the intelligence agencies, the police and the Home Office. That is what is written into the code of practice.

Looking at the codes of practice, one thing that jumped out at me and which I found very difficult as a Conservative was the fact that the communications service providers—CSPs—will be subject to a technical capability notice. They will have to notify the Government of new products and services in advance of their launch in order to allow consideration of whether it is necessary and proportionate to require the CSP to provide technical capability information on a new service. So, in English, and from a Conservative point of view, that will effectively mean that UK-based companies launching new products will now have to get permission from the state before they can go to market, in order to identify whether or not the state will require an ability to hack those products. Why on earth would a small business launch a new service here in the United Kingdom if those conditions remain in the codes of practice?

10 pm

Ms Harman: The Joint Committee on Human Rights has four issues relating to this group of amendments that it would like to raise in the House and press the

Minister on. The first relates to thematic warrants, and I want to follow up on the points made by the shadow Home Secretary and the shadow Immigration Minister on my own Front Bench, as well as those made by the hon. Member for Stevenage (Stephen McPartland) and the hon. and learned Member for Edinburgh South West (Joanna Cherry).

Our starting point is that we must remember that thematic warrants give enormous powers. Those who are authorised have the wide-ranging powers to read someone's emails, which could include a report sent by a hospital about a medical condition, to listen to their phone calls, to see to whom they have been making calls, to hack their mobile phone and turn it into a listening device, and to look at all their information, including from their bank. The powers are very wide ranging. Such warrants are supposed to be targeted, so I urge the Minister to recognise the feeling across the House that powers are needed to make us safe, but that the Government have not yet sufficiently delineated and narrowed the circumstances in which they should be used. I urge the Government to talk to the Opposition Front-Bench team, their Back Benchers and the SNP to make the targeted powers more targeted.

Mr Winnick: What my right hon. and learned Friend says sums up the position. The Opposition Front-Bench team has managed to negotiate concessions from the Government. I accept their good intentions—the Opposition Front Bench—but the fact is that the powers that the Bill will give the security authorities are unacceptable despite all the concessions, which is a good reason for voting against Third Reading.

Ms Harman: Let us see whether the Minister and the Government will recognise that we are all trying to get the same thing here. We are trying not only to keep the public safe, but to protect privacy. However, we do that—my hon. Friend will recognise this—in the knowledge that the security services do get tempted to overreach their powers. As night follows day, that is what happens. There are so many examples, after which people think, "How on earth could that ever happen?" It happens because when the security services have powers they get tempted to overreach them. That is why safeguards and narrow definitions are so important. For example, I was subject to security service surveillance, not because I was subversive but because I was fighting for human rights, women's rights and workers' rights. The point is that if they can do it, they will unless there is proper delineation, so I add my voice to those who argue for a narrower definition of thematic powers.

I also highlight the concerns of the Joint Committee on Human Rights to those who query the point about major modifications. The Government have gone such a long way to ensure that warrants are properly issued, so why are they driving a coach and horses through the proposal by saying, "After the warrant has been issued, if you feel like it, you can have a major modification"? Trust me, such modifications will not narrow the scope of warrants, they will only widen them. The Government have moved to an extent and have said that major modifications will be notified to the judicial commissioners, but it is not good enough just to tell them; there needs to be a proper approval process. The Government should look again at the proposal.

As for legal professional privilege and the constitutional issues that we should bear in mind when thinking about what are described as privileges, we must be extremely careful with such areas. Lawyers are able to hold the Government to account and that is called the rule of law. We do not want to give the Executive the ability to interfere unjustifiably with the rule of the law by undermining people in the legal exercise of their rights. I agree with the Opposition Front Bench and others who have said that the Government should go back to the Bar Council and the Law Society to ensure that legal professional privilege is properly sorted out.

Turning to my main point, I am sorry that the hon. Member for Gainsborough (Sir Edward Leigh) is not currently in the Chamber because I largely agree with him, but the Joint Committee on Human Rights has a better way of dealing with the matter. What we need to remember, as MPs, is that this is not just about our constituents being able to come to talk to us confidentially, although we should absolutely defend that. Let me just give one example on that. I had MI6 in my constituency and the cleaners there were about to be privatised, and then sacked or made redundant. They lived in my constituency but they had signed the Official Secrets Act and been told that they were to talk to nobody and were not allowed to be in a union. They came to me very upset, with one of them crying. They said, "We don't know whether we can speak to you." I said, "You can speak to me." They then said, "We think that telling you what we are going to tell you is against the law." I said, "It doesn't matter what you are going to tell me. Your legal right, as my constituents, to tell me something that I need to know trumps everything." They then said that they were going to be made redundant, and so I went along to see someone—I believe it was the director general of MI6—handily taking with me the then deputy general secretary of the Transport and General Workers Union, my hon. Friend the Member for Birmingham, Erdington (Jack Dromey). We got them all redundancy payments and that was sorted out, but I do not want to digress.

I think that the right of individuals to speak to their MP is important, but we face an even bigger constitutional issue, which relates to the fact that we are here not just to listen to what our constituents say, but to hold the Government to account. They are the Executive, and so the idea that the Executive has the power to hack into the emails and listen to the phones of those who are supposed to be holding them to account—to do all of this—offers a big prospect of the Executive abusing their power and undermining the legislature's ability to hold them to account. The person in pole position to defend the importance of the legislature holding the Government to account is not the Prime Minister, who is the pinnacle of the Executive. We are here to hold the Prime Minister to account.

I appreciate that the Minister has said, "Make the Prime Minister consent to all our emails being hacked, all our phones being listened to and everything else", but that gives me no reassurance at all, because the Prime Minister is the wrong person for this. We have gone higher up the tree, but we have gone up the wrong tree, because the person who is there to protect us in doing our job of holding the Government to account, including the Prime Minister, is the Speaker. That was recognised in relation to the situation of the right hon. Member for Ashford (Damian Green) when there was

[Ms Harman]

the question of the warrant being issued, so this is not unprecedented—the recognition that it is the Speaker who has to protect our rights to hold the Executive to account, which is what we are actually here for.

My Committee discussed this issue at great length. We do not suggest that we make the Speaker an arm of the state and make him start looking at warrants for all of us, but we go further than the hon. Member for Gainsborough, who says that the Speaker should be notified. We say that the Speaker should be notified sufficiently well in advance that if he or she feels that it is right to do so, they can go to be heard by the judicial commissioner to make their views known, and so they can have an intervention in the process. I am certain that if it was known that the Speaker would be notified and have the opportunity to speak about it to the judicial commissioner, that would make the security services much more cautious before they actually went for warrants to intercept all the communications that we are having.

Mr John Hayes: I could make two points about what the right hon. and learned Lady said. She says that the Speaker should be involved but not implicated, but I do not see how the Speaker would not be implicated and become an "arm of the state"—that is not a phrase I would have used, but she used it. The Speaker would by necessity become implicated because he would have to know the grounds on which the Prime Minister or others were acting. I do not really understand how she can claim that the Speaker can be involved but not implicated.

Ms Harman: It is true that we are sending part of the process to the Speaker, but we are not giving them the power to authorise. It would be wrong to make the Speaker be part of the authorising process—someone who applies for the warrant, or someone who, like the judicial commissioner, has to authorise the warrant. What we are talking about is notifying the Speaker, but in sufficient time so that if they notice that it is becoming very widespread, they have the opportunity to go before the judicial commissioner and say, "Look, this is going on too widely."

Mr Hayes: Let me get this right. The right hon. and learned Lady is saying the Speaker would know when and who, but not what or why, because to know what or why, the Speaker would have to become implicated in the way I described.

Ms Harman: No, I think the Speaker would have to know the basis of the application if they wanted to; otherwise, how could they go before the judicial commissioner and say it was unacceptable? If people say, "Goodness me! That would be telling the Speaker information that would be useful in the hands of Daesh or al-Shabaab," we would be in trouble anyway if the Speaker were the wrong sort of person to have it. I take a slightly different approach from the hon. Member for Gainsborough. He postulated the issue as politics, which is the Government and the Prime Minister, versus non-politics, which is the Speaker. It is not politics versus non-politics; it is the legislature versus the Executive. That is how we should think about it.

Mr George Howarth: Will my right hon. and learned Friend give way?

Ms Harman: I will, but I have a feeling that, sadly, I will disagree with my right hon. Friend, because I heard his intervention earlier and think that he too is barking up the wrong tree. To find myself barking up the same tree as the hon. Member for Gainsborough is a very sorry state of affairs, but I have the hon. Member for Stevenage (Stephen McPartland) on my side.

Mr Howarth: It is typical of my right hon. and learned Friend to get her defence in before hearing the attack. She has been a Law Officer, and when she was Solicitor General I had every confidence in her to be able to sort out the legal advice she gave as Solicitor General from whatever political position she might have taken. Why would she doubt that a Prime Minister could do the same?

Ms Harman: Because the Prime Minister is the Executive, and we need the separation of powers and the balance of powers. I disagreed with the hon. Member for Gainsborough when he was talking about what a great guy the Prime Minister is, so it is not a problem with him, but it might be with the next one. I am on my fifth Prime Minister now and they all have something in common: they regard being held to account as a bit of a nuisance. They do not welcome scrutiny—it is just the nature of the beast. We have to take that into account and accept the fact that, for the rule of law, we have to protect lawyers; for freedom of speech and expression, we have to protect journalism; and for holding the Executive to account, we must protect our rights in this House.

The Solicitor General: I am grateful to one of my predecessors for allowing me to intervene. What if, in a hearing, the Speaker agreed with the application and said, "Yes, go ahead—apply for the warrant. We don't have any objection to it."? How would a Member of Parliament hold the Speaker to account for a decision that affected them?

Ms Harman: The point is that the system has accountability for the Home Secretary for issuing the warrant through the judicial commissioner. We are talking about additional protection by way of the Speaker. The Speaker would not be supporting an application; the Speaker would simply be notified, and if they had no objection, it would go through and they would have nothing to do with it—but the Speaker would have knowledge. That is true: the Speaker would have knowledge of it.

In a difficult situation, how do we make sure that we do not put all our rights as a legislature into the hands of the Executive? I appreciate that the Government have tried to work out ways to strengthen the safeguards, but the issue is not just the strength of the safeguards; it is the appropriateness of them. The Prime Minister is not an appropriate safeguard to protect the rights of us in this House to hold him to account. I simply ask the Government to look again.

I congratulate the Government, the Labour and SNP Front Benchers and Back Benchers for working constructively on this. Ultimately, we all want the same

thing: we want to be able to walk the streets safely and sleep safely in our beds, but not have the Executive tempted to abuse their power.

10.15 pm

Mr Grieve: It is a pleasure to follow the right hon. and learned Member for Camberwell and Peckham (Ms Harman). I shall resist being dragged away from the specific issues on which the ISC has tabled amendments. However, the Government have moved substantially on some key issues, providing greater protection, for which we should be grateful. On the point made by the right hon. and learned Lady, I confess that I find the idea that the Speaker could provide the necessary safeguard, when one looks at the surrounding circumstances, difficult to follow. Ultimately, the double-lock mechanism provides far greater protection. We have to accept that there are scrutiny and oversight mechanisms in place that mean that if this became a common issue, it would surface properly in our system, with both the Interception of Communications Commissioner and, ultimately, the ISC.

I understand the problem that the right hon. and learned Lady has raised. I am not unsympathetic to her anxieties, which have also been expressed by my hon. Friend the Member for Stevenage (Stephen McPartland). However, I do not see how the mechanism that has been proposed and which involves the Speaker would, in practice, provide the safeguard that the right hon. and learned Lady seeks.

Amendment 25 was tabled by members of the ISC and deals with thematic warrants, on which there has been quite a lot of discussion. I have absolutely no doubt that thematic warrants have the potential to intrude into the privacy of a great many people. In the ISC report on the draft Bill, we recommended that that greater intrusion should be balanced and constrained, and suggested that those warrants should be limited in duration to the period for which they could be authorised. We then took considerably more evidence from the agencies on thematic warrants, and they argued persuasively that if thematic warrants were issued for a shorter time, there would not be sufficient time for the operational benefits of the warrant to become apparent before they had to apply for it to be renewed. We recognised that the Secretary of State and the commissioner would therefore have insufficient information on which to assess necessity and proportionality.

We therefore accept that limiting the duration of a thematic warrant is not the most effective way to constrain it. Nevertheless, we remain of the view that clause 15 as currently worded is a very extensive power indeed. Subsection (2) makes it clear that a targeted interception warrant is turned into a thematic warrant if it can relate to

"a group of persons who share a common purpose or who carry on, or may carry on, a particular activity".

Giving that its ordinary English meaning, it immediately becomes apparent that the scope is potentially enormous. However, I want to make it quite clear that we have not seen any examples of that power being misused in any way, which presents the House with a challenge. To try to meet that challenge, the Committee's suggestion, after reflection, is that it might be possible to include an additional constraint by removing the word "or" and adding "and" after the words, "sharing a common purpose", to try to narrow the scope of the provision. That is why amendment 25 was phrased in that way.

Since then, as often happens in dialogue between the Committee and the agencies, we have received further information. I saw persuasive information this morning that suggested that if we adopted that approach, it would have the unintended consequence of making perfectly legitimate operations by the agencies impossible, and would place a great burden on them, because the use of a straight, targeted warrant based on the particular person or organisation, or a single set of premises, could not meet the necessity and proportionality test of having to do something further. I tabled this probing amendment in order to contribute to the debate, but I still take the view that there is an issue here that the Government need to consider carefully. It crossed my mind as I listened to the various submissions that one possible route might be the creation of a protocol to be used by the agencies—one that could be seen by the Intelligence and Security Committee and that would provide reassurance that the wide scope of the wording could not be open to abuse.

The point was perfectly reasonably made to me—I think by the Home Secretary—that the idea that the Interception of Communications Commissioner would tolerate an abuse that went outside the necessity and proportionality test was, in practice, rather unlikely, but the issue cannot simply be ignored. Something more is needed, because on the plain wording of the statute, the scope that "common purpose" and "a particular activity" allow seems excessive. There must be some constraint, and I leave it to the ingenuity and common sense of the Ministers to come up with a solution to this real problem.

The Solicitor General: I think my right hon. and learned Friend can see the problem: if we limit the provision too much—to "common purpose"—we might end up being able to deal only with conspiracy-type offences, as opposed to individual ones. We are trying to be very careful as to the wording, and it certainly is not the Government's intention to do anything by sleight of hand to create a definition that would be unacceptably wide—far from it.

Mr Grieve: I am grateful to the Solicitor General, and I have no reason to disagree with his analysis of the way in which this matter has been approached. I also have no reason to disagree with him about the necessity of having thematic warrants in addition to warrants targeted at premises, individuals or organisations, but the question is how that reassurance can be provided. I hope very much that the Government can go away and give this issue some thought. I suspect it will arise in the other place, when these provisions are debated there. It is important, and I think that a solution can be found, but I accept that, although the amendment we have tabled would provide one, it would also place the agencies in difficulty.

Mr John Hayes: Since my right hon. and learned Friend is inviting me to employ my ingenuity, I will try to do so. This is, in essence, about proportionality. We had quite a lot of debate earlier about necessity, but proportionality matters too. In determining what is reasonable—

Mr Speaker: Order. I wish to listen to the mellifluous tones of the right hon. Gentleman, as some Members do, and people listening elsewhere might conceivably wish to hear his sonorous tones. We would be assisted if he faced the House.

Mr Hayes: I think this is about proportionality. The answer to my right hon. and learned Friend the Member for Beaconsfield (Mr Grieve) is that yes, of course, in establishing the character of the proportionality and therefore the range he described, we may need to think about the sort of protocol he set out.

Mr Grieve: I am grateful to the Minister, and I leave the matter there.

I turn now to amendments 19, 20 and 21, which deal with the renewal of warrants. They may appear somewhat complicated, but they deal with a very simple issue. Warrants for interception last for up to six months. Under clause 29, the warrant can be extended by a further six months at any time before the original warrant expires. That creates a loophole because it would theoretically allow for a warrant to be renewed immediately after it was issued, thereby permitting interception for 12 months. That is clearly not what the Bill intends. The Secretary of State might well argue—logically—that the commissioner would never approve such a renewal, and that she would not either, but this is nevertheless a loophole that can and should be closed, and these amendments would ensure that it is. I hope very much that the Government can accept them.

I should mention that the amendments in my name relate only to warrants for interception and bulk interception. I would be grateful if the Minister could assure the House that, if the Government accept my amendments, that acceptance will be extended to other consequential amendments of a like character, to ensure that the power cannot be abused elsewhere.

Amendment 16 relates to clause 45 and interception in accordance with overseas requests. The clause gives effect to the European Union's convention on mutual assistance on criminal matters and permits an overseas authority to request the support of the United Kingdom in undertaking the interception of communications. Curiously, and probably accidentally, it does not repeat the protection that exists in the Regulation of Investigatory Powers Act 2000, which ensures that requests can be made only where a person being intercepted will be outside the United Kingdom. That seems to us be another loophole that ought to be dealt with. Although the Government had indicated that it could be dealt with in secondary legislation, the Intelligence and Security Committee do not consider that to be satisfactory. It is far too important an issue to be left to secondary legislation; it should be dealt with in the Bill. If our amendment is accepted, the matter can be resolved without more ado.

Finally, may I touch on an issue that has been raised by the hon. and learned Member for Edinburgh South West (Joanna Cherry) and others, namely economic wellbeing? When the Intelligence and Security Committee first came to consider the issue as a subset of national security in our initial evidence-taking sittings, we came to the conclusion that it ought to be possible to remove economic wellbeing as a criterion altogether. That is why we made the initial recommendation that economic wellbeing, so far as it is relevant to national security and relates to people outside the British islands, be removed from the Bill as grounds for interception. We took the view that it could all be safely contained in the subset of national security. After we published our report, the Government provided us, through the agencies, with additional evidence regarding their reasoning for including it as a separate ground. They also provided us with a number of examples of where it was being or might be used, which illustrated areas where it was useful to have it as a separate category.

Mr George Howarth: Although I am conscious that the right hon. and learned Gentleman will not, for obvious reasons, be able to go into detail on all of the examples that were given, one thing that can be avowed under this particular rubric is critical national infrastructure, which is an obvious area where the public and the state need to be protected.

Mr Grieve: The right hon. Gentleman is absolutely right. The consequence of damaging national infrastructure would be to cause a severe economic shock to the United Kingdom. At the end of the day, the most persuasive argument of the lot was that listing economic wellbeing separately added transparency as to the purposes for which an investigatory power was being sought. We came to the conclusion that it would probably assist the judicial commissioners in their consideration of the necessity and proportionality of the warrant, precisely because it highlighted that it fell within a category in which economic wellbeing was present; it was therefore in practice likely to be subject to very detailed scrutiny. For all those reasons, we did not table a further amendment on that point.

Mr Alistair Carmichael: Given the lateness of the hour and the number of right hon. and hon. Members still wishing to catch your eye, Mr Speaker, I hope to confine my remarks principally to those amendments that stand in my name, but I would also like to pick up on one or two more general points.

10.30 pm

With regard to the intervention that I made on the shadow Home Secretary concerning the extension of the Pitchford inquiry to Scotland, the House may wish to consider the case reported in the *Sunday Herald* recently of Dr Nicholas McKerrell, a lecturer in law at Glasgow Caledonian University. Dr McKerrell discovered recently that he is among those who have been blacklisted from working in the construction industry. That was something of a shock, because Dr McKerrell—I do not think he will mind me saying so—is perhaps more accustomed to labouring in law libraries than on building sites. I know a little bit about him. He may not thank me for broadcasting this, but he is a distant cousin of mine, and he comes from the more left-wing branch of the family, if I may say so. He has been involved over a number of years in a variety of different protests, particularly and perhaps most pertinently those surrounding the extension of the M74 motorway around Glasgow in the 1990s.

I bring the case to the House's attention because Dr McKerrell's inclusion on the list of those blacklisted from working in the construction industry could have

happened only as a result of information provided to those compiling the blacklists by undercover police officers. That is why it is necessary and important that the work of the Pitchford inquiry should extend to parts of the United Kingdom beyond England, and that the Home Secretary should make it clear at the earliest available opportunity that that is her intention. Otherwise, the Pitchford inquiry will never get to the bottom of the range of enterprises undertaken by undercover police officers. I suggest to the shadow Home Secretary that such investigation into the use of undercover police officers in blacklisting does not exclude the possibility of having the wider inquiry that he seeks into the use of blacklisting more generally.

On the protection of legal privilege, I am enormously concerned that even at this stage of the Bill—after a draft Bill, and after the Bill has been through Committee—various professional bodies, including the Faculty of Advocates and the Law Society of Scotland, remain unpersuaded that the Government's efforts have been sufficiently robust. I think that their judgment is correct, and I look forward to seeing something a bit more substantial.

On the authorisation of warrants relating to Members of Parliament, the right hon. and learned Member for Camberwell and Peckham (Ms Harman) and the Joint Committee on Human Rights, which she chairs, have come up with probably the least bad option. I do not think that there is a perfect solution to this somewhat knotty problem, but I think that, as she said, removing the final act of authorisation from the Prime Minister and the Executive and putting it in the hands of some judicial authority is at the heart of it. She is right to say that you, Mr Speaker, representing Parliament, would be the most obvious check or balance to the acts of the Executive. Although there is no perfect solution, the solution proposed by the Joint Committee is probably as close as we are going to get. I commend her and the Committee for that.

A variety of amendments relating to single-step judicial authorisation of warrants stand in my name. If some of those amendments appear familiar to the House, it is probably because they are. They were tabled in Committee by the Opposition Front-Bench team, and I confess that I do not understand why the Opposition have not tabled them again tonight. The accommodation that appears to have been reached on the matter by the Government and Opposition Front-Bench teams looks all too cosy, and I do not think that we have been particularly well served by it, so I make no apology for bringing these amendments back to the Floor of the House.

Essentially, the amendments remain true to the observation made by David Anderson, QC, in exploring a double-authorisation process:

> "There was some resistance on the part of intercepting authorities to the idea of double authorisation, which was conceived as unnecessarily time-consuming."

In essence, the deal that has been struck between the two Front Benches will leave us with the worst of all possible worlds. We have a double-lock or a double-step authorisation, as it were, that will be cumbersome—it will not meet the requirements of those who legitimately need speedy action—and will still leave the authorisation of warrants in the hands of the Home Secretary, which remains, to my mind, completely inappropriate.

The notion that the Home Secretary can somehow authorise such warrants because she is accountable to the House is, frankly, bogus. Liberty has described that notion as "misconceived and misplaced". It is worth observing that for the Home Secretary to account in Parliament for the warrants she has signed might put her in a position of criminality as it will be a criminal act, under clause 49 and similar provisions in the Bill, to disclose the existence of a warrant.

On the previous group of amendments, the Solicitor General said it was unfair or unhelpful to look at the facts in other jurisdictions, and he made a reasonable point about the difference between jurisdictions that have inquisitorial processes rather than the adversarial ones with which we are familiar. I gently point out to him that if he looks at other common law jurisdictions—America, Australia, Canada—he will find that the process of warrant authorisations in all those jurisdictions is done by judges, and that there is no precedent for a common law jurisdiction such as ours to embark on the procedure that the Government would have us follow tonight.

Mr David Davis: It is a pleasure to follow the right hon. Member for Orkney and Shetland (Mr Carmichael).

The Bill is undoubtedly necessary, in that it was preceded by interception and surveillance based on something like 66 different legal bases, and that was incomprehensible to almost anybody. I had hoped that the Bill would cover all the previous legal bases, but it does not do so. There are still matters that are not covered by the Bill. For example, the Intelligence Services Act 1994 is still avowed in the Bill, and is used as a mechanism for which it was not intended. I know that because I took that Bill through the House. I know what it was intended to do, and it was nothing like what it is now used for.

Since I have a very limited time, I will press on, but let me say this. Listening to most of the speeches on this group of amendments, I agreed with virtually all of them, particularly the points about modification. The right hon. and learned Member for Camberwell and Peckham (Ms Harman) and my hon. Friend the Member for Gainsborough (Sir Edward Leigh) made a very good point—whatever the mechanism—about the flaws in the current Wilson doctrine, as now laid down in the Bill. There are therefore many changes yet to come, and I imagine they will come in the Lords, or indeed in the law courts.

In the next few minutes, I will focus on the amendments in my name, principally amendments 208 to 211, which deal with the issue of the so-called double lock. Until the change proposed today, it was more like a double latchkey because it was not really as strong as it was represented to be.

Before I go into that matter, I should tell the House that I take the view that the whole interception strategy used by this country is, in any event, flawed. We are virtually the only serious country in the world that does not use intercept evidence in court. The arguments made by the Government and the agencies are ones that could equally be made anywhere in the world. No other authority follows that. The fact that interception evidence is not used in court is one of the reasons why rather sloppy legal disciplines apply to the use of interception, particularly relying on the Home Secretary to authorise interceptions.

[Mr David Davis]

Now, there are practical, principled and political reasons, as well as reasons of accountability, for that being wrong, full stop. The practical reason is that the Home Secretary has admitted to authorising about 2,500 of these things a year. That is 10 a day—not at most, but on average. On Second Reading, I asked her to tell us how long she took over any of them, but she refused and sidestepped the question. When this situation became public, after the Anderson report, I had letters from policemen who were involved in the creation of warrants who said that it was simply impossible and that 10 a day could not be done—a judge could not do 10 a day. That is the first problem.

The second problem is that we take our judgment from the current Home Secretary. She is very unusual. She has been in office for six years. That is incredibly unusual, and a great reflection on her. But a typical Home Secretary is not there for six years. I was shadow Home Secretary for five years and faced four different Home Secretaries—one and a half years apiece, roughly. What are we looking at, then? We will have someone who has typically been in office for a year or so making really serious judgments in a real hurry. That is not the way to make the sort of balanced judgments that we expect when we are balancing the privacy of our citizens on the one hand and their life and security on the other.

The second reason is one of principle. I take the view, as did David Anderson, that it is perfectly proper for Ministers of the Crown to approve anything that would involve a foreign intercept, let us say, that would create a political problem for the country. I see no argument whatever, other than the vestiges of royal prerogative, why Ministers should make judgments about warrants brought against citizens of this country. I can see nothing that justifies that. Our greatest ally, America, views it with horror. It causes us problems with American companies when those warrants are presented. America uses a solely legal process, which would be my preference.

The arguments on accountability are frankly laughable. I know of no Minister who has stood at that Dispatch Box and defended the issue or non-issue of a warrant—not one—and it is arguably not legal. The argument put in Committee, I think by the Minister of State, was that Ministers are accountable to the Intelligence and Security Committee. The current members of that Committee include some of my oldest and dearest political friends, but I have to tell the House that I would not trust a Committee that had to be nominated by the Prime Minister, that met in secret and whose reports were redacted to hold the Executive to account. I could go into the history. It missed the dodgy dossier, the torture and the mass surveillance, and got 7/7 wrong. It is not a Committee we can rely on for accountability until it has proved itself over many more years.

A politician should not sign these warrants off. We are not going to win that argument today, so what is the next best step? It is that a judicial process, based on the evidence—always, not optionally—be the check on the issue of these warrants. My preference is that that should happen before the Home Secretary sees them, not after. That might cut 2,500 down to 2,000, and make things a little more practical. The simple truth is it would be a better way in any well-designed system.

My amendments aim to improve the Bill in that regard. The Government have come up with a manuscript amendment that the former DPP, the hon. and learned Member for Holborn and St Pancras (Keir Starmer), says he thinks is acceptable. Until I have taken advice I cannot make a judgment on that, but for that reason, I will not press my amendments today. But I say to Members on the Front Bench that if their arguments on this issue do not stand up they will either collapse in the Lords or they will collapse in the law courts—one or the other. That is pretty certain.

A number of other issues have been raised today. Those include legal privilege, which as I say I think is the most important corrosion that is going on. We have heard about the Wilson doctrine, and about journalists and trade unions. It is now a wider issue. One thing that has come up in the past few years has been the misbehaviour of police forces and agencies with respect to demonstrators—the legitimate, proper and democratic operations of the Green movement, for example; there is also the blacklisting that the right hon. Member for Leigh (Andy Burnham) referred to. All those things need to be dealt with, and if the privacy guidance and clauses that are effectively built into the Bill do not do that, we must find a way to ensure that we do not just solve the problems of history, but that we solve problems for the future.

10.45 pm

Mr Geoffrey Cox (Torridge and West Devon) (Con) *rose—*

Mr Speaker: I will call Mr Cox briefly, but I wish to call the Minister no later than 10.50 pm.

10.45 pm

Mr Cox: I shall be very brief, Mr Speaker, and I am grateful to you for calling me at this late hour. I wish to address clause 25 and legal professional privilege. In what circumstances, other than the iniquity exception, will legal professional privilege be overridden? In introducing his remarks, the Minister said, I think, that there was some margin where legal professional privilege could be overridden, even where the iniquity exception did not apply. That would be a radical and fundamental change to the legal protection given to the privilege of those conversing and confiding in their lawyers. It would be unprecedented, and contrary to the decisions of the highest courts in this country. Where does the distinction lie in the Minister's mind, and how would that square with current legal authority on the subject?

Mr Hayes: I only hope that your earlier remarks about my style, Mr Speaker, can be matched by my substance.

Let me deal with the last contribution first. My hon. and learned Friend the Solicitor General made it clear that these are matters of continuing consideration, and further discussions are to be held. My hon. and learned Friend the Member for Torridge and West Devon (Mr Cox) is right to say that we have not yet got to where we want to be, but I understand the weight and significance of his remark about limits on privilege, which will certainly be included in any consideration that we make following those discussions. I do not want to anticipate those

discussions tonight, but, as the shadow Secretary of State recommended, we will engage in them without delay, and conclude them on the basis of adding to the Bill in a way that is sufficient to protect legal privilege.

A number of Members on both sides of the House emphasised the importance of the Bill per se. It is important because it provides law enforcement and security and intelligence agencies with the powers they need to keep us safe, and it does so in a way that makes those powers transparent, while also adding to the checks and balances that are vital in the defence of private interest. It therefore radically overhauls the way in which such powers are authorised and overseen, in particular through the introduction of the double lock for the most sensitive powers. This is a radical change—perhaps the most radical change of modern times in these matters.

The Bill also ensures that these powers are fit for the digital age. As the Chair of the ISC, and others, have said, much of what is done now arises as a result of a series of pieces of legislation that I suppose one could call reactive. They were consequent on the need to provide those who are missioned to protect us with what they require to do so. The Bill draws those powers together and makes them more comprehensible and transparent, which adds to the oversight and safeguards that make up the checks and balances I have described. This is an important Bill, and it is therefore important that we get it right.

That brings me to my second substantial point, which is about the spirit of our consideration. This debate has been conducted in a way that I think does credit to this House, and that is largely—it is unusual to hear a Minister say this, so I wish to emphasise it in the style that you recommended earlier, Mr Speaker—due to the Opposition. The Opposition make choices about how they scrutinise the Government, how they hold the Government to account, and how they deal with legislation on the Floor of the House and in Committee. Those judgments are fundamentally important, not only for the health of the House and our democracy, but for the interests of our people. The Opposition and the Government have worked together on the Bill. If that causes pain to the right hon. Member for Orkney and Shetland (Mr Carmichael), so be it, because if we end up with a Bill that is better than it started—and I believe we will end up with a Bill that is considerably better—I take the view that we have done our job as well as we could reasonably be expected to do it.

To that end, as we have said a number of times this evening, we continue to look at these matters. Clearly, the House of Lords will want its say—it is right that it should—and will contribute to further scrutiny, but the spirit that has imbued all we have done until now is important in a Bill that, frankly, any Government of any colour would have introduced, not just because there is a sunset clause on previous legislation, but because the Government know that it is necessary for the powers to be updated so that they are fit for purpose, and for the safeguards to be updated in accordance with that.

Let me deal with some of the specifics—I want to save sufficient time to deal with the salient issue of trade unions, which the shadow Secretary of State spoke about with such passion. Modifications were mentioned by both Opposition and Government Members. It is important to emphasise that the Government have considered the concerns raised in Committee—that point was made by my hon. Friend the Member for Stevenage (Stephen McPartland), Opposition Front Benchers and others.

As a result, we have introduced a number of significant amendments to make it clear that a warrant against a single person cannot be modified into a thematic warrant; to require all major modifications to be notified to a judicial commissioner; and to ensure that the Wilson doctrine and legal professional practice safeguards apply to urgent modifications, so that the double lock, with all that that suggests, applies too.

Those amendments are responses to matters raised in Committee, to ensure that the warranting system is consistent. I entirely accept the point that it would be completely unacceptable to have a robust system for issuing warrants and a less robust system for modifying them. Warranting has to be consistent throughout, and there can be no back-door way of weakening the process. That is not what the Government intend and not what we would allow. We have made those changes but, as I have said, we are happy to consider those matters carefully—I have heard what has been said tonight by Members on both sides of the House about what more might be done.

The hon. and learned Member for Holborn and St Pancras (Keir Starmer) and others have made the argument repeatedly that more should be stated on the face of the Bill. That is what the manuscript amendment does. On that basis, I am grateful for the comments made by the shadow Secretary of State and the shadow Minister in welcoming the amendment.

My right hon. and learned Friend the Member for Beaconsfield (Mr Grieve) tabled amendments on behalf of the Intelligence and Security Committee. Amendments 15 to 17 would add another condition to clause 45, which provides for circumstances in which a telecommunications operator may intercept communications in response to a request made by the international agreement. The additional condition would require that interception must be for the purpose of obtaining information about the communications of people who are known or believed to be outside the United Kingdom. That amendment would replicate the current position in RIPA and, I agree, would provide valuable assurances. As drafted, the amendment contains minor, technical deficiencies, and for that reason, as my right hon. and learned Friend will understand, we will not accept it.

Mr Speaker: Order. I know the Minister of State is greatly enjoying his oration, but I am conscious of the fact that the clock in front of him is not functioning, and I want him to know two things: first, that he should face the House, as we continually exhort him to do; and, secondly, that he has a further seven minutes in which to excite the House.

Mr Hayes: Seven minutes of pure joy, Mr Speaker.

The Government will bring back further amendments to do what my right hon. and learned Friend intends.

Amendments 19 to 23, also tabled on behalf of the Intelligence and Security Committee, seek to prohibit a targeted or bulk interception warrant being renewed for more than 30 days. I do not foresee any circumstance

[Mr John Hayes]

where such a renewal application would be approved by the Secretary of State or judicial commissioner, but this is another matter that I agree could be clearer in the Bill. As with the previous amendment, we will revisit this and table an amendment in the other place.

I am less convinced by the argument my right hon. and learned Friend makes on amendment 25. The amendment would prohibit warrants being sought against suspects who are carrying out the same activity but who may not share a common purpose. In my judgment, a restriction of this kind would have a material impact on current operations. It would, for example, prohibit the targeting of an online forum that is used predominantly—but not exclusively—by child abusers, because the agency could not be certain that everyone accessing the forum was doing so for a common purpose. I have profound reservations about that amendment. I understand the sense of it and I understand why it has been tabled, but I do not think the Government can accept it. I do not want to give the impression that the Government accept any amendment, regardless of what we think about it. That is not our style, however conciliatory we might be.

Mr Grieve: I did not quite follow what my right hon. Friend meant by that. I exhorted him to give the matter a little further thought and suggested there might be some ways in which it could be dealt with. I very much hope his answer was not suggesting that he was ruling that out, because that might place me in the position of wanting to put the amendment to the House.

Mr Hayes: "Very much thought" is my middle name. Actually, that is several middle names, isn't it, Mr Speaker? I will of course do that. Indeed, I thought the point my right hon. and learned Friend made about ways in which we could achieve what he sets out to do was well made, as I said in an earlier intervention.

Power is legitimised only by the means by which those who exercise it are held to account. The health of our open society relies on the acceptance that those with whom we differ should be free to make their case, campaign or crusade. The Labour Opposition tabled an amendment on trade unions, and I want to be crystal clear about our response to it: it would neither be proportionate nor lawful for the security or intelligence agencies to investigate legitimate trade union activity. However, there are good reasons for seeking to put the matter beyond doubt. That is what amendment 262 seeks to do.

I know that this is a matter of profound concern to the Labour party, but again let me be crystal clear: it is a matter of profound concern to me, too. Trade unions make a vital contribution to the free society I mentioned a moment ago. Working people would be considerably worse off if it were not for the activities of trade unions through the ages. My father was a shop steward, my grandfather was the chairman of his union branch and I am proud to be a member of a trade union myself.

Let me do something else that is rarely done in this House. I have already praised the Opposition and commended the way they have gone about their scrutiny of the Government's proposals; now I am going to accept the amendment that stands in the name of the Opposition.

Gavin Robinson: I am concerned about the terminology used in amendment 262. It refers to the British Islands, which include the Isle of Man and the Channel Islands. If the Minister accepts the amendment, are we legislating outwith our jurisdiction?

11 pm

Mr Hayes: Notwithstanding that technical point, which I will happily deal with after the debate—I am grateful to the hon. Gentleman for making it—I will certainly accept what the Opposition have proposed as a matter of principle. It seems absolutely right that they have brought it to the House's attention, and they can perfectly properly claim it as a victory, because I am persuaded of the need to do this. It was not in the original Bill, but it will be in the Bill as it goes forward. In that spirit and that mood, it is vital to understand that the Bill is in our national interest and there to promote and preserve the common good. It is therefore right that it make further progress.

Andy Burnham: The Minister's comments at the Dispatch Box will have given hope to thousands of trade unionists in this country. Their legitimate role has been properly recognised by him at the Dispatch Box—long may that spirit continue from the Government Benches!

Mr Hayes: I cannot add to that, so I had better just sit down. Thank you very much.

Question put and agreed to.

New clause 7 accordingly read a Second time, and added to the Bill.

11.1 pm

Six hours having elapsed since the commencement of proceedings on consideration, the proceedings were interrupted (Programme Order, this day).

The Speaker put forthwith the Questions necessary for the disposal of the business to be concluded at that time (Standing Order No. 83E).

New Clause 8

FURTHER PROVISION ABOUT MODIFICATIONS

'(1) A person may make a modification within subsection (2) only if the person considers—

(a) that the modification is necessary on any relevant grounds (see subsection (3)), and

(b) that the conduct authorised by the modification is proportionate to what is sought to be achieved by that conduct.

(2) The modifications within this subsection are—

(a) a major modification adding the name or description of a person, organisation or set of premises to which the warrant relates, and

(b) a minor modification adding any factor specified in the warrant in accordance with section27(8).

(3) In subsection (1)(a) "relevant grounds" means—

(a) in the case of a warrant issued by the Secretary of State, grounds falling within section18;

(b) in the case of a warrant issued by the Scottish Ministers, grounds falling within section19(4);

and for the purposes of subsection (1) any reference to the Secretary of State in section18(3)(b) or the Scottish Ministers in section19(4)(b) is to be read as a reference to the person making the modification.

(4) Sections 24 (Members of Parliament etc.) and 25 (items subject to legal privilege) apply in relation to the making of a major modification within subsection (2)(a) above as they apply in relation to the issuing of a warrant.

(5) Where section 24 applies in relation to the making of a major modification—

(a) the modification must be made by the Secretary of State, and

(b) the modification has effect only if the decision to make the modification has been approved by a Judicial Commissioner.

(6) Where section 25 applies in relation to the making of a major modification—

(a) the modification must be made by—

(i) the Secretary of State or (in the case of a warrant issued by the Scottish Ministers) a member of the Scottish Government, or

(ii) if a senior official acting on behalf of a person within sub-paragraph (i) considers that there is an urgent need to make the modification, that senior official, and

(b) except where the person making the modification considers that there is an urgent need to make it, the modification has effect only if the decision to make the modification has been approved by a Judicial Commissioner.

(7) In a case where section 24 or 25 applies in relation to the making of a major modification, section 21 (approval of warrants by Judicial Commissioners) applies in relation to the decision to make the modification as it applies in relation to a decision to issue a warrant, but as if—

(a) the references in subsection (1)(a) and (b) of that section to the warrant were references to the warrant as modified,

(b) any reference to the person who decided to issue the warrant were a reference to the person who decided to make the modification, and

(c) "relevant grounds" in that section had the meaning given by subsection (3) above.

Section31 contains provision about the approval of major modifications made in urgent cases.

(8) If, in a case where section 24 or 25 applies in relation to the making of a major modification, it is not reasonably practicable for the instrument making the modification to be signed by the Secretary of State or (as the case may be) a member of the Scottish Government in accordance with section 30(3), the instrument may be signed by a senior official designated by the Secretary of State or (as the case may be) the Scottish Ministers for that purpose.

(9) In such a case, the instrument making the modification must contain a statement that—

(a) it is not reasonably practicable for the instrument to be signed by the person who took the decision to make the modification, and

(b) the Secretary of State or (as the case may be) a member of the Scottish Government has personally and expressly authorised the making of the modification.

(10) If at any time a person mentioned in section (Persons who may make modifications)(2) considers that any factor specified in a warrant in accordance with section27(8) is no longer relevant for identifying communications which, in the case of that warrant, are likely to be, or to include, communications falling within section27(9)(a) or (b), the person must modify the warrant by removing that factor.

(11) In this section "senior official" has the same meaning as in section (Persons who may make modifications)."—*(Mr John Hayes.)*

The new clause reproduces (with some changes) clause 30(9) to (11) and (13). It requires Judicial Commissioner approval for major modifications in cases where clause 24 or 25 applies, and restricts who may make such modifications. It also provides that a modification adding a new address, number etc to a warrant under Chapter 1 of Part 2 may be made only if the necessity and proportionality tests in subsection (1) are met.

Brought up, and added to the Bill.

New Clause 9

NOTIFICATION OF MAJOR MODIFICATIONS

'(1) As soon as is reasonably practicable after a person makes a major modification of a warrant under this Chapter, a Judicial Commissioner must be notified of the modification and the reasons for making it.

(2) But subsection (1) does not apply where—

(a) the modification is made by virtue of section (Persons who may make modifications)(3), or

(b) section 24 or 25 applies in relation to the making of the modification.

(3) Where a major modification is made by a senior official in accordance with section (Persons who may make modifications)(1) or section (Further provision about modifications)(6)(a)(ii), the Secretary of State or (in the case of a warrant issued by the Scottish Ministers) a member of the Scottish Government must be notified personally of the modification and the reasons for making it.

(4) In this section "senior official" has the same meaning as in section (Persons who may make modifications)."—*(Mr John Hayes.)*

The new clause provides that a Judicial Commissioner must be notified whenever a major modification of a warrant under Chapter 1 of Part 2 is made. This requirement does not apply in a case where the modification needs to be approved under clause 31. The clause also reproduces what was clause 30(12) and extends it to apply to cases where a senior official makes an urgent major modification in relation to which clause 25 applies.

Brought up, and added to the Bill.

Clause 15

SUBJECT-MATTER OF WARRANTS

Amendment proposed: 267, page 12, line 3, leave out "or organisation"—*(Joanna Cherry.)*

These amendments would retain the capacity of a single warrant to permit the interception of multiple individuals but would require an identifiable subject matter or premises to be provided. This narrows the current provisions which would effectively permit a limitless number of unidentified individuals to have their communications intercepted.

Question put, That the amendment be made.

The House divided: Ayes 67, Noes 271.

Division No. 8] **[11.01 pm**

AYES

Ahmed-Sheikh, Ms Tasmina	Cowan, Ronnie
Arkless, Richard	Crawley, Angela
Bardell, Hannah	Davis, rh Mr David
Black, Mhairi	Day, Martyn
Blackford, Ian	Docherty-Hughes, Martin
Blackman, Kirsty	Donaldson, Stuart Blair
Boswell, Philip	Durkan, Mark
Brake, rh Tom	Edwards, Jonathan
Brock, Deidre	Farron, Tim
Brown, Alan	Ferrier, Margaret
Cameron, Dr Lisa	Gethins, Stephen
Carmichael, rh Mr Alistair	Gibson, Patricia
Chapman, Douglas	Grady, Patrick
Cherry, Joanna	Grant, Peter
Clegg, rh Mr Nick	Gray, Neil

Hendry, Drew
Hosie, Stewart
Kerevan, George
Kerr, Calum
Lamb, rh Norman
Law, Chris
Lucas, Caroline
MacNeil, Mr Angus Brendan
Mc Nally, John
McCaig, Callum
McDonald, Stewart Malcolm
McDonald, Stuart C.
McLaughlin, Anne
Monaghan, Carol
Monaghan, Dr Paul
Mulholland, Greg
Mullin, Roger
Newlands, Gavin
Nicolson, John
O'Hara, Brendan
Oswald, Kirsten
Paterson, Steven
Ritchie, Ms Margaret
Robertson, rh Angus
Saville Roberts, Liz
Sheppard, Tommy
Skinner, Mr Dennis
Stephens, Chris
Thewliss, Alison
Thomson, Michelle
Weir, Mike
Whiteford, Dr Eilidh
Whitford, Dr Philippa
Williams, Hywel
Williams, Mr Mark
Wilson, Corri
Winnick, Mr David

Tellers for the Ayes:
Marion Fellows and
Owen Thompson

NOES

Adams, Nigel
Afriyie, Adam
Aldous, Peter
Allan, Lucy
Allen, Heidi
Amess, Sir David
Andrew, Stuart
Ansell, Caroline
Argar, Edward
Atkins, Victoria
Bacon, Mr Richard
Baldwin, Harriett
Barclay, Stephen
Baron, Mr John
Barwell, Gavin
Bebb, Guto
Bellingham, Sir Henry
Benyon, Richard
Beresford, Sir Paul
Berry, Jake
Berry, James
Bingham, Andrew
Blackman, Bob
Bradley, Karen
Brady, Mr Graham
Brazier, Mr Julian
Bridgen, Andrew
Brine, Steve
Brokenshire, rh James
Bruce, Fiona
Buckland, Robert
Burns, Conor
Burns, rh Sir Simon
Burrowes, Mr David
Burt, rh Alistair
Campbell, Mr Gregory
Carmichael, Neil
Cartlidge, James
Cash, Sir William
Caulfield, Maria
Chalk, Alex
Chishti, Rehman
Chope, Mr Christopher
Churchill, Jo
Clark, rh Greg
Clarke, rh Mr Kenneth
Cleverly, James
Clifton-Brown, Geoffrey
Collins, Damian
Colvile, Oliver
Costa, Alberto
Cox, Mr Geoffrey
Crabb, rh Stephen
Davies, Byron
Davies, Chris
Davies, David T. C.
Davies, Mims
Dinenage, Caroline
Djanogly, Mr Jonathan
Dodds, rh Mr Nigel
Donelan, Michelle
Dowden, Oliver
Drax, Richard
Drummond, Mrs Flick
Duncan, rh Sir Alan
Duncan Smith, rh Mr Iain
Elliott, Tom
Ellis, Michael
Ellison, Jane
Elphicke, Charlie
Eustice, George
Evans, Graham
Evans, Mr Nigel
Fabricant, Michael
Fallon, rh Michael
Fernandes, Suella
Field, rh Mark
Fox, rh Dr Liam
Francois, rh Mr Mark
Frazer, Lucy
Freeman, George
Fuller, Richard
Fysh, Marcus
Gale, Sir Roger
Garnier, rh Sir Edward
Garnier, Mark
Ghani, Nusrat
Gibb, Mr Nick
Gillan, rh Mrs Cheryl
Glen, John
Goldsmith, Zac
Grant, Mrs Helen
Gray, Mr James
Grayling, rh Chris
Green, Chris
Green, rh Damian
Grieve, rh Mr Dominic
Griffiths, Andrew
Gyimah, Mr Sam
Halfon, rh Robert
Hall, Luke
Hammond, rh Mr Philip
Hammond, Stephen
Hancock, rh Matthew
Hands, rh Greg
Harper, rh Mr Mark
Harrington, Richard
Harris, Rebecca
Hart, Simon
Haselhurst, rh Sir Alan
Hayes, rh Mr John
Heald, Sir Oliver
Heappey, James
Heaton-Harris, Chris
Heaton-Jones, Peter
Henderson, Gordon
Hinds, Damian
Hoare, Simon
Hollinrake, Kevin
Hollobone, Mr Philip
Holloway, Mr Adam
Hopkins, Kris
Howell, John
Howlett, Ben
Huddleston, Nigel
Hunt, rh Mr Jeremy
Hurd, Mr Nick
Javid, rh Sajid
Jayawardena, Mr Ranil
Jenkin, Mr Bernard
Jenkyns, Andrea
Jenrick, Robert
Johnson, Boris
Johnson, Joseph
Jones, Andrew
Jones, rh Mr David
Jones, Mr Marcus
Kawczynski, Daniel
Kinahan, Danny
Kirby, Simon
Knight, Julian
Kwarteng, Kwasi
Lancaster, Mark
Latham, Pauline
Lee, Dr Phillip
Leigh, Sir Edward
Leslie, Charlotte
Letwin, rh Mr Oliver
Lewis, Brandon
Liddell-Grainger, Mr Ian
Lidington, rh Mr David
Lopresti, Jack
Lord, Jonathan
Loughton, Tim
Lumley, Karen
Mackinlay, Craig
Mackintosh, David
Mak, Mr Alan
Malthouse, Kit
Mann, Scott
Mathias, Dr Tania
May, rh Mrs Theresa
Maynard, Paul
McCartney, Jason
McCartney, Karl
Menzies, Mark
Mercer, Johnny
Merriman, Huw
Metcalfe, Stephen
Miller, rh Mrs Maria
Milling, Amanda
Mills, Nigel
Milton, rh Anne
Mordaunt, Penny
Morgan, rh Nicky
Morris, Anne Marie
Morris, David
Morris, James
Morton, Wendy
Mowat, David
Murray, Mrs Sheryll
Murrison, Dr Andrew
Neill, Robert
Newton, Sarah
Nokes, Caroline
Norman, Jesse
Nuttall, Mr David
Offord, Dr Matthew
Opperman, Guy
Paisley, Ian
Parish, Neil
Paterson, rh Mr Owen
Pawsey, Mark
Penning, rh Mike
Penrose, John
Percy, Andrew
Perry, Claire
Phillips, Stephen
Philp, Chris
Pincher, Christopher
Poulter, Dr Daniel
Pow, Rebecca
Prentis, Victoria
Quin, Jeremy
Quince, Will
Redwood, rh John
Rees-Mogg, Mr Jacob
Robertson, Mr Laurence
Robinson, Gavin
Robinson, Mary
Rosindell, Andrew
Rudd, rh Amber
Rutley, David
Sandbach, Antoinette
Scully, Paul
Selous, Andrew
Shannon, Jim
Shapps, rh Grant
Shelbrooke, Alec
Simpson, David
Simpson, rh Mr Keith
Skidmore, Chris
Smith, Chloe
Smith, Henry
Smith, Julian
Smith, Royston
Soames, rh Sir Nicholas
Solloway, Amanda
Soubry, rh Anna
Spencer, Mark
Stewart, Bob
Stewart, Iain
Stewart, Rory
Streeter, Mr Gary
Stride, Mel
Sturdy, Julian
Sunak, Rishi
Swayne, rh Mr Desmond
Swire, rh Mr Hugo
Syms, Mr Robert
Thomas, Derek
Throup, Maggie

Tolhurst, Kelly
Tomlinson, Justin
Tomlinson, Michael
Tracey, Craig
Tredinnick, David
Trevelyan, Mrs Anne-Marie
Tugendhat, Tom
Turner, Mr Andrew
Vara, Mr Shailesh
Vickers, Martin
Villiers, rh Mrs Theresa
Walker, Mr Robin
Wallace, Mr Ben
Warburton, David
Warman, Matt
Wharton, James
Whately, Helen
Wheeler, Heather
White, Chris
Whittaker, Craig
Wiggin, Bill
Williams, Craig
Williamson, rh Gavin
Wilson, Mr Rob
Wollaston, Dr Sarah
Wood, Mike
Wragg, William
Wright, rh Jeremy
Zahawi, Nadhim

Tellers for the Noes:
George Hollingbery and Margot James

Question accordingly negatived.

Clause 17

POWER OF SECRETARY OF STATE TO ISSUE WARRANTS

Amendment made: 36, page 14, line 1 , leave out subsection (4) .*—(Mr John Hayes.)*

This amendment is consequential on new clause 5.

Clause 18

GROUNDS ON WHICH WARRANTS MAY BE ISSUED BY SECRETARY OF STATE

Amendment proposed: 312, page 14, line 22, leave out paragraph (c). *—(Joanna Cherry.)*

See amendment 313.

Question put, That the amendment be made.

The House divided: Ayes 66, Noes 272.

Division No. 9] [11.14 pm

AYES

Ahmed-Sheikh, Ms Tasmina
Arkless, Richard
Bardell, Hannah
Black, Mhairi
Blackford, Ian
Blackman, Kirsty
Boswell, Philip
Brake, rh Tom
Brock, Deidre
Brown, Alan
Cameron, Dr Lisa
Carmichael, rh Mr Alistair
Chapman, Douglas
Cherry, Joanna
Clegg, rh Mr Nick
Cowan, Ronnie
Crawley, Angela
Day, Martyn
Docherty-Hughes, Martin
Donaldson, Stuart Blair
Durkan, Mark
Edwards, Jonathan
Farron, Tim
Ferrier, Margaret
Gethins, Stephen
Gibson, Patricia
Grady, Patrick
Grant, Peter
Gray, Neil
Hendry, Drew
Hosie, Stewart
Kerevan, George
Kerr, Calum
Lamb, rh Norman
Law, Chris
Lucas, Caroline
MacNeil, Mr Angus Brendan
Mc Nally, John
McCaig, Callum
McDonald, Stewart Malcolm
McDonald, Stuart C.
McLaughlin, Anne
Monaghan, Carol
Monaghan, Dr Paul
Mulholland, Greg
Mullin, Roger
Newlands, Gavin
Nicolson, John
O'Hara, Brendan
Oswald, Kirsten
Paterson, Steven
Ritchie, Ms Margaret
Robertson, rh Angus
Saville Roberts, Liz
Sheppard, Tommy
Skinner, Mr Dennis
Stephens, Chris
Thewliss, Alison
Thomson, Michelle
Weir, Mike
Whiteford, Dr Eilidh
Whitford, Dr Philippa
Williams, Hywel
Williams, Mr Mark
Wilson, Corri
Winnick, Mr David

Tellers for the Ayes:
Marion Fellows and Owen Thompson

NOES

Adams, Nigel
Afriyie, Adam
Aldous, Peter
Allan, Lucy
Allen, Heidi
Amess, Sir David
Andrew, Stuart
Ansell, Caroline
Argar, Edward
Atkins, Victoria
Bacon, Mr Richard
Baldwin, Harriett
Barclay, Stephen
Barwell, Gavin
Bebb, Guto
Bellingham, Sir Henry
Benyon, Richard
Beresford, Sir Paul
Berry, Jake
Berry, James
Bingham, Andrew
Blackman, Bob
Bradley, Karen
Brady, Mr Graham
Brazier, Mr Julian
Bridgen, Andrew
Brine, Steve
Brokenshire, rh James
Bruce, Fiona
Buckland, Robert
Burns, Conor
Burns, rh Sir Simon
Burrowes, Mr David
Burt, rh Alistair
Campbell, Mr Gregory
Carmichael, Neil
Cartlidge, James
Cash, Sir William
Caulfield, Maria
Chalk, Alex
Chishti, Rehman
Chope, Mr Christopher
Churchill, Jo
Clark, rh Greg
Clarke, rh Mr Kenneth
Cleverly, James
Clifton-Brown, Geoffrey
Collins, Damian
Colvile, Oliver
Costa, Alberto
Cox, Mr Geoffrey
Crabb, rh Stephen
Davies, Byron
Davies, Chris
Davies, David T. C.
Davies, Mims
Davis, rh Mr David
Dinenage, Caroline
Djanogly, Mr Jonathan
Dodds, rh Mr Nigel
Donelan, Michelle
Dowden, Oliver
Drax, Richard
Drummond, Mrs Flick
Duncan, rh Sir Alan
Duncan Smith, rh Mr Iain
Dunne, Mr Philip
Elliott, Tom
Ellis, Michael
Ellison, Jane
Elphicke, Charlie
Eustice, George
Evans, Chris
Evans, Graham
Fabricant, Michael
Fallon, rh Michael
Fernandes, Suella
Field, rh Mark
Fox, rh Dr Liam
Francois, rh Mr Mark
Frazer, Lucy
Freeman, George
Fuller, Richard
Fysh, Marcus
Gale, Sir Roger
Garnier, rh Sir Edward
Garnier, Mark
Ghani, Nusrat
Gibb, Mr Nick
Gillan, rh Mrs Cheryl
Glen, John
Goldsmith, Zac
Grant, Mrs Helen
Gray, Mr James
Grayling, rh Chris
Green, Chris
Green, rh Damian
Grieve, rh Mr Dominic
Griffiths, Andrew
Gyimah, Mr Sam
Halfon, rh Robert
Hall, Luke
Hammond, rh Mr Philip
Hammond, Stephen
Hancock, rh Matthew
Hands, rh Greg
Harper, rh Mr Mark
Harrington, Richard
Harris, Rebecca
Hart, Simon
Haselhurst, rh Sir Alan
Hayes, rh Mr John
Heald, Sir Oliver
Heappey, James
Heaton-Harris, Chris
Heaton-Jones, Peter
Henderson, Gordon
Hinds, Damian
Hoare, Simon
Hollinrake, Kevin
Hollobone, Mr Philip
Holloway, Mr Adam
Hopkins, Kris
Howell, John

Howlett, Ben
Huddleston, Nigel
Hunt, rh Mr Jeremy
Hurd, Mr Nick
Javid, rh Sajid
Jayawardena, Mr Ranil
Jenkin, Mr Bernard
Jenkyns, Andrea
Jenrick, Robert
Johnson, Boris
Johnson, Joseph
Jones, Andrew
Jones, rh Mr David
Jones, Mr Marcus
Kawczynski, Daniel
Kinahan, Danny
Kirby, Simon
Knight, Julian
Kwarteng, Kwasi
Lancaster, Mark
Latham, Pauline
Lee, Dr Phillip
Leigh, Sir Edward
Leslie, Charlotte
Letwin, rh Mr Oliver
Lewis, Brandon
Liddell-Grainger, Mr Ian
Lidington, rh Mr David
Lopresti, Jack
Lord, Jonathan
Loughton, Tim
Lumley, Karen
Mackinlay, Craig
Mackintosh, David
Mak, Mr Alan
Malthouse, Kit
Mann, Scott
Mathias, Dr Tania
May, rh Mrs Theresa
Maynard, Paul
McCartney, Jason
McCartney, Karl
Menzies, Mark
Mercer, Johnny
Merriman, Huw
Metcalfe, Stephen
Miller, rh Mrs Maria
Milling, Amanda
Mills, Nigel
Milton, rh Anne
Mordaunt, Penny
Morgan, rh Nicky
Morris, Anne Marie
Morris, David
Morris, James
Morton, Wendy
Mowat, David
Murray, Mrs Sheryll
Murrison, Dr Andrew
Neill, Robert
Newton, Sarah
Nokes, Caroline
Norman, Jesse
Nuttall, Mr David
Offord, Dr Matthew
Opperman, Guy
Paisley, Ian
Parish, Neil
Paterson, rh Mr Owen
Pawsey, Mark
Penning, rh Mike
Penrose, John
Percy, Andrew
Perry, Claire
Phillips, Stephen
Philp, Chris
Pincher, Christopher
Poulter, Dr Daniel
Pow, Rebecca
Prentis, Victoria
Quin, Jeremy
Quince, Will
Redwood, rh John
Rees-Mogg, Mr Jacob
Robertson, Mr Laurence
Robinson, Gavin
Robinson, Mary
Rosindell, Andrew
Rudd, rh Amber
Rutley, David
Sandbach, Antoinette
Scully, Paul
Selous, Andrew
Shannon, Jim
Shapps, rh Grant
Shelbrooke, Alec
Simpson, David
Simpson, rh Mr Keith
Skidmore, Chris
Smith, Chloe
Smith, Henry
Smith, Julian
Smith, Royston
Soames, rh Sir Nicholas
Solloway, Amanda
Soubry, rh Anna
Spencer, Mark
Stewart, Bob
Stewart, Iain
Stewart, Rory
Streeter, Mr Gary
Stride, Mel
Sturdy, Julian
Sunak, Rishi
Swayne, rh Mr Desmond
Swire, rh Mr Hugo
Syms, Mr Robert
Thomas, Derek
Throup, Maggie
Tolhurst, Kelly
Tomlinson, Justin
Tomlinson, Michael
Tracey, Craig
Tredinnick, David
Trevelyan, Mrs Anne-Marie
Tugendhat, Tom
Turner, Mr Andrew
Vara, Mr Shailesh
Vickers, Martin
Villiers, rh Mrs Theresa
Walker, Mr Robin
Wallace, Mr Ben
Warburton, David
Warman, Matt
Wharton, James
Whately, Helen
Wheeler, Heather
White, Chris
Whittaker, Craig
Wiggin, Bill
Williams, Craig
Williamson, rh Gavin
Wilson, Mr Rob
Wollaston, Dr Sarah
Wood, Mike
Wragg, William
Wright, rh Jeremy
Zahawi, Nadhim

Tellers for the Noes:
George Hollingbery and Margot James

Question accordingly negatived.

Clause 18

GROUNDS ON WHICH WARRANTS MAY BE ISSUED BY SECRETARY OF STATE

Amendment made: 262, page 14, line 38, at end insert—

'(6) The fact that the information which would be obtained under a warrant relates to the activities in the British Islands of a trade union is not, of itself, sufficient to establish that the warrant is necessary on grounds falling within this section." *—(Andy Burnham.)*

This amendment restricts the application of warrants in relation to trade union activity.

Clause 19

POWER OF SCOTTISH MINISTERS TO ISSUE WARRANTS

Amendment made: 37, page 16, line 4, leave out subsection (6)

This amendment is consequential on new clause 5.—(Mr John Hayes.)

Clause 21

APPROVAL OF WARRANTS BY JUDICIAL COMMISSIONERS

Manuscript amendments made: 497, page 17, line 10, after "must" insert "—

(a)"

This amendment is consequential on amendment 498.

Amendment 498, page 17, line 11, at end insert", and

() consider the matters referred to in subsection (1) with a sufficient degree of care as to ensure that the Judicial Commissioner complies with the duties imposed by section (*General duties in relation to privacy*)."*—(Mr John Hayes.)*

This amendment makes it clear that a Judicial Commissioner must, when carrying out a review under clause 21(1), exercise sufficient care to comply with the general privacy duties contained in NC5.

Clause 24

MEMBERS OF PARLIAMENT ETC.

Amendment made: 53, page 19, line 7, leave out subsection (2) and insert—

'( ) The Secretary of State may not issue the warrant without the approval of the Prime Minister."*—(Mr John Hayes.)*

In cases where clause 24 applies, the amendment requires the Prime Minister to approve the warrant.

Clause 30

MODIFICATION OF WARRANTS

Amendments made: 54, page 23, line 26, at end insert—

'( ) But a warrant may not be modified as mentioned in subsection (2)(a) if it relates only to a particular person or organisation, or to a single set of premises, as mentioned in section 15(1)."

The amendment prevents the modification of a warrant under Chapter 1 of Part 2 that relates only to a particular person or organisation or to a single set of premises.

Amendment 55, page 23, line 29, at end insert—

"This is subject to section (Further provision about modifications)(8)."

This amendment is consequential on NC8.

Amendment 56, page 23, line 30, leave out "section" and insert "Chapter"

This amendment is consequential on NC7, NC8 and NC9.

Amendment 57, page 23, line 36, leave out subsections (5) to (14)

This amendment is consequential on NC7 and NC8.

Amendment 58, page 25, line 21, at end insert—

'( ) Sections (Persons who may make modifications), (Further provision about modifications), (Notification of major modifications) and31 contain further provision about making modifications under this section." *—(Mr John Hayes.)*

This amendment is consequential on NC7, NC8 and NC9.

Clause 31

APPROVAL OF MAJOR MODIFICATIONS MADE IN URGENT CASES

Amendments made: 59, page 25, line 24, leave out "30(7)" and insert

"(Persons who may make modifications)(3)"

This amendment is consequential on NC7.

Amendment 60, page 25, line 24, at end insert—

'( ) This section also applies where—

(a) section25 applies in relation to the making of a major modification of a warrant under this Chapter,

(b) the person makes the modification without the approval of a Judicial Commissioner, and

(c) the person considered that there was an urgent need to make the modification."

This amendment extends clause 31 to provide for the approval by Judicial Commissioners of certain major modifications made in urgent cases.

Amendment 61, page 25, line 25, leave out "a designated senior official" and insert "the appropriate person"

See the explanatory statement for amendment 60.

Amendment 62, page 25, line 27, at end insert—

""the appropriate person" is—

(a) in a case falling within subsection (1), a designated senior official, and

(b) in a case falling within subsection (2), a Judicial Commissioner,"

See the explanatory statement for amendment 60.

Amendment 63, page 25, line 32, leave out "30" and insert "(Persons who may make modifications)"

This amendment is consequential on NC7.

Amendment 64, page 25, line 33, leave out subsection (4)

This amendment is consequential on amendment 67.

Amendment 65, page 25, line 36, leave out "designated senior official" and insert "appropriate person"

See the explanatory statement for amendment 60.

Amendment 66, page 25, line 38, leave out "senior official's" and insert "appropriate person's"

See the explanatory statement for amendment 60.

Amendment 67, page 25, line 40, at end insert—

'( ) As soon as is reasonably practicable after a designated senior official makes a decision under subsection (5)—

(a) a Judicial Commissioner must be notified of—

(i) the decision, and

(ii) if the senior official has decided to approve the decision to make the modification, the modification in question, and

(b) the Secretary of State or (in the case of a warrant issued by the Scottish Ministers) a member of the Scottish Government must be notified personally of the matters mentioned in paragraph (a)(i) and (ii)."

This amendment provides that, where a designated senior official has decided whether to approve a modification, a Judicial Commissioner, and the person who issued the warrant, must be notified of the decision.

Amendment 68, page 25, line 41, leave out "designated senior official" and insert "appropriate person"

See the explanatory statement for amendment 60.

Amendment 69, page 25, line 43, leave out paragraph (a) *—(Mr John Hayes.)*

This amendment is consequential on amendment 67.

Clause 35

SERVICE OF WARRANTS OUTSIDE THE UNITED KINGDOM

Amendments made: 70, page 29, line 4, leave out "on a person outside the United Kingdom"

This amendment is consequential on amendment 71.

Amendment 71, page 29, line 5, at end insert—

'( ) A copy of the warrant must be served in such a way as to bring the contents of the warrant to the attention of the person who the intercepting authority considers may be able to provide assistance in relation to it."

The amendment makes it clear that, where a person is required under clause 34 to provide assistance in relation to a warrant, a copy of the warrant must be served in such a way that the person is aware of the contents of the warrant and so can provide that assistance.

Amendment 72, page 29, line 6, leave out "the person" and insert

"a person outside the United Kingdom"

This amendment is consequential on amendment 71.

Amendment 73, page 29, line 19, after "person" insert "outside the United Kingdom" *—(Mr John Hayes.)*

This amendment is consequential on amendment 71.

Clause 50

SECTION 49: MEANING OF "EXCEPTED DISCLOSURE"

Amendments made: 75, page 40, line 7, at end insert—

"() a disclosure made to the Intelligence and Security Committee of Parliament for the purposes of facilitating the carrying out of any of its functions."

This amendment makes it clear that disclosure may be made to the Intelligence and Security Committee without breaching clause 49.

Amendment 76, page 40, line 35, after "Part" insert "or under Chapter 1 of Part 1 of RIPA"

This amendment enables a disclosure of information to be made that relates to interception warrants under Chapter 1 of Part 1 of the Regulation of Investigatory Powers Act 2000 in general.

Amendment 77, page 40, line 35, after "to" insert "any" *—(Mr John Hayes.)*

This amendment is consequential on amendment 76.

Schedule 3

EXCEPTIONS TO SECTION 48

Amendment made: 74, page 204, line 44, leave out sub-paragraph (3) and insert—

'( ) In a case where a person who is not a nominated person is or has been conducting an investigation under Part 1 of the Coroners and Justice Act 2009 into a person's death, nothing in section 48(1) prohibits—

(a) a disclosure to the person that there is intercepted material in existence which is, or may be, relevant to the investigation;

(b) a disclosure to a person appointed as legal adviser to an inquest forming part of the investigation which is made for the purposes of determining—

(i) whether any intercepted material is, or may be, relevant to the investigation, and

(ii) if so, whether it is necessary for the material to be disclosed to the person conducting the investigation." .—*(Mr John Hayes.)*

This amendment creates a further exception to clause 48 to enable intercepted material to be disclosed to the legal adviser to an inquest in order to determine whether it is or may be relevant.

New Clause 11

PERSONS WHO MAY MAKE MODIFICATIONS UNDER SECTION 104

'(1) The persons who may make modifications under section 104 of a warrant are (subject to subsection (2))—

(a) in the case of a warrant issued by the Secretary of State under section91 or93—

(i) the Secretary of State,

(ii) a senior official acting on behalf of the Secretary of State;

(b) in the case of a warrant issued by the Scottish Ministers under section92—

(i) a member of the Scottish Government, or

(ii) a senior official acting on behalf of the Scottish Ministers.

(2) Any of the following persons may also make modifications under section 104 of a warrant, but only where the person considers that there is an urgent need to make the modification—

(a) the person to whom the warrant is addressed;

(b) a person who holds a senior position in the same public authority as the person mentioned in paragraph (a).

Section105 contains provision about the approval of modifications made in urgent cases.

(3) Subsection (2) is subject to section (Further provision about modifications under section104)(4) and (5) (special rules where sections94 and100 apply in relation to the making of a modification under section104).

(4) For the purposes of subsection (2)(b), a person holds a senior position in a public authority if—

(a) in the case of any of the intelligence services—

(i) the person is a member of the Senior Civil Service or a member of the Senior Management Structure of Her Majesty's Diplomatic Service, or

(ii) the person holds a position in the intelligence service of equivalent seniority to such a person;

(b) in the case of the Ministry of Defence—

(i) the person is a member of the Senior Civil Service, or

(ii) the person is of or above the rank of brigadier, commodore or air commodore."—*(Mr John Hayes.)*

This new clause reproduces clause 104(6) to (8) and also includes provision consequential on NC12.

Brought up, and added to the Bill.

New Clause 12

FURTHER PROVISION ABOUT MODIFICATIONS UNDER SECTION104

'(1) A modification, other than a modification removing any matter, name or description, may be made under section 104 only if the person making the modification considers—

(a) that the modification is necessary on any relevant grounds (see subsection (2)), and

(b) that the conduct authorised by the modification is proportionate to what is sought to be achieved by that conduct.

(2) In subsection (1)(a), "relevant grounds" means—

(a) in the case of a warrant issued under section91, grounds falling within section91(5);

(b) in the case of a warrant issued under section92, the purpose of preventing or detecting serious crime;

(c) in the case of a warrant issued under section93, the interests of national security.

(3) Sections 94 (Members of Parliament etc.) and 100 (items subject to legal privilege) apply in relation to the making of a modification to a warrant under section 104, other than a modification removing any matter, name or description, as they apply in relation to the issuing of a warrant.

(4) Where section 94 applies in relation to the making of a modification—

(a) the modification must be made by the Secretary of State, and

(b) the modification has effect only if the decision to make the modification has been approved by a Judicial Commissioner.

(5) Where section 100 applies in relation to the making of a modification—

(a) the modification must be made by —

(i) the Secretary of State or (in the case of a warrant issued by the Scottish Ministers) a member of the Scottish Government, or

(ii) if a senior official acting on behalf of a person within sub-paragraph (i) considers that there is an urgent need to make the modification, that senior official, and

(b) except where the person making the modification considers that there is an urgent need to make it, the modification has effect only if the decision to make the modification has been approved by a Judicial Commissioner.

(6) In a case where section 94 or 100 applies in relation to the making of a modification, section 97 (approval of warrants by Judicial Commissioners) applies in relation to the decision to make the modification as it applies in relation to a decision to issue a warrant, but as if—

(a) the references in subsection (1)(a) and (b) of that section to the warrant were references to the modification, and

(b) any reference to the person who decided to issue the warrant were a reference to the person who decided to make the modification.

Section105 contains provision about the approval of modifications made in urgent cases.

(7) If, in a case where section 94 or 100 applies in relation to the making of a modification, it is not reasonably practicable for the instrument making the modification to be signed by the Secretary of State or (as the case may be) a member of the Scottish Government in accordance with section 104(3), the instrument may be signed by a senior official designated by the Secretary of State or (as the case may be) the Scottish Ministers for that purpose.

(8) In such a case, the instrument making the modification must contain a statement that—

(a) it is not reasonably practicable for the instrument to be signed by the person who took the decision to make the modification, and

(b) the Secretary of State or (as the case may be) a member of the Scottish Government has personally and expressly authorised the making of the modification." *—(Mr John Hayes.*

This new clause reproduces (with some changes) clause 104(4), (5), (9) and (10). It requires Judicial Commissioner approval for modifications where clause 94 or 100 applies, and restricts who may make such modifications.

Brought up, and added to the Bill.

New Clause 13

NOTIFICATION OF MODIFICATIONS

'(1) As soon as is reasonably practicable after a person makes a modification of a warrant under section 104, a Judicial Commissioner must be notified of the modification and the reasons for making it.

(2) But subsection (1) does not apply where—

(a) the modification is to remove any matter, name or description included in the warrant in accordance with section101(3) to (5),

(b) the modification is made by virtue of section (Persons who may make modifications under section104)(2), or

(c) section94 or100 applies in relation to the making of the modification.

(3) Where a modification is made by a senior official in accordance with section (Persons who may make modifications under section104)(1) or section (Further provision about modifications under section104)(5)(a)(ii), the Secretary of State or (in the case of a warrant issued by the Scottish Ministers) a member of the Scottish Government must be notified personally of the modification and the reasons for making it." *—(Mr John Hayes.)*

This new clause provides that a Judicial Commissioner must be notified whenever a modification of a warrant is made under clause 104. This requirement does not apply in certain cases set out in subsection (2). It also reproduces what is currently clause 104(11) and (12) and extends it to cases where a senior official makes an urgent modification in relation to which clause 100 applies.

Brought up, and added to the Bill.

Clause 91

POWER TO ISSUE WARRANTS TO INTELLIGENCE SERVICES

Amendment made: 38, page 70, line 17, leave out subsection (7)*—(Mr John Hayes.)*

This amendment is consequential on new clause 5.

Clause 92

POWER TO ISSUE WARRANTS TO INTELLIGENCE SERVICES: THE SCOTTISH MINISTERS

Amendment made: 39, page 71, line 14, leave out subsection (3)*—(Mr John Hayes.)*

This amendment is consequential on new clause 5.

Clause 93

POWER TO ISSUE WARRANTS TO THE CHIEF OF DEFENCE INTELLIGENCE

Amendment made: 40, page 71, line 34, leave out subsection (2)*—(Mr John Hayes.)*

This amendment is consequential on new clause 5.

Clause 94

MEMBERS OF PARLIAMENT ETC.

Amendments made: 88, page 71, line 41, leave out "This section" and insert "Subsection (3)"

This amendment is consequential on amendment 91.

Amendment 89, page 72, line 2, leave out "This section" and insert "Subsection (3)"

This amendment is consequential on amendment 91.

Amendment 90, page 72, line 10, leave out subsection (3) and insert—

'( ) The Secretary of State may not issue the warrant without the approval of the Prime Minister."

In cases where clause 94 applies, this amendment requires the Prime Minister to approve the warrant.

Amendment 91, page 72, line 11, at end insert—

'(3A) Subsection (3B) applies where—

(a) an application is made under section96 to a law enforcement chief for a targeted equipment interference warrant, and

(b) the purpose of the warrant is to obtain—

(i) communications sent by, or intended for, a person who is a member of a relevant legislature, or

(ii) a member of a relevant legislature's private information.

(3B) The law enforcement chief may not issue the warrant without the approval of the Secretary of State unless the law enforcement chief believes that the warrant (if issued) would authorise interference only with equipment which would be in Scotland at the time of the issue of the warrant or which the law enforcement chief believes would be in Scotland at that time.

(3C) The Secretary of State may give approval for the purposes of subsection (3B) only with the approval of the Prime Minister.

(3D) In a case where the decision whether to issue a targeted equipment interference warrant is to be taken by an appropriate delegate in relation to a law enforcement chief under section 96(3), the reference in subsection (3B) to the law enforcement chief is to be read as a reference to the appropriate delegate." *.—(Mr John Hayes.)*

Clause 94, as amended by amendment 90, requires the Secretary of State to obtain the approval of the Prime Minister before a targeted equipment interference warrant is issued by the Secretary of State in circumstances where the purpose of the warrant is one set out in subsection (1)(b) of the clause. This amendment deals with the case where a law enforcement chief has power to decide to issue a targeted equipment interference warrant under clause 96. In similar circumstances, the law enforcement chief requires the approval of the Secretary of State before issuing a targeted equipment interference warrant. The approval of the Secretary of State may in turn only be given with the approval of the Prime Minister. There is an exception for the case where the warrant would authorise interference only with equipment which would be in Scotland at the time of the issue of the warrant (or which is believed to be in Scotland).

Clause 96

POWER TO ISSUE WARRANTS TO LAW ENFORCEMENT OFFICERS

Amendments made: 92, page 74, line 8, at end insert—

'( ) A law enforcement chief who is the chairman, or a deputy chairman, of the Independent Police Complaints Commission may consider that the condition in subsection (1)(a) is satisfied only if the offence, or all of the offences, to which the serious crime relates are offences that are being investigated as part of an investigation by the Commission under Schedule 3 to the Police Reform Act 2002."

This amendment is related to amendment 125. It makes special provision about how clause 96(1)(a) applies where the law enforcement chief is the chairman, or a deputy chairman, of the Independent Police Complaints Commission.

Amendment 41, page 74, line 14, leave out subsection (11) —*(Mr John Hayes.)*

This amendment is consequential on new clause 5.

Clause 103

RENEWAL OF WARRANTS

Amendments made: 93, page 81, line 35, leave out subsection (8)

This amendment is consequential on amendment 91.

Amendment 94, page 81, line 43, leave out "Section" and insert

"Sections94 (Members of Parliament etc.) and"

This amendment is consequential on amendment 91.

Amendment 95, page 81, line 43, leave out "applies" and insert "apply"

This amendment is consequential on amendment 91.

Amendment 96, page 81, line 44, leave out "it applies" and insert "they apply" .—*(Mr John Hayes.)*

This amendment is consequential on amendment 91

Clause 104

MODIFICATION OF WARRANTS ISSUED BY THE SECRETARY OF STATE OR SCOTTISH MINISTERS

Amendments made: 97, page 82, line 19, at end insert—

'( ) But—

(a) where a targeted equipment interference warrant relates only to a matter specified in section90(1)(a), only to a matter specified in section90(1)(d), or only to both such matters, the details included in the warrant in accordance with section101(3) may not be modified;

(b) where a targeted examination warrant relates only to a matter specified in section90(2)(a), the details included in the warrant in accordance with section101(5) may not be modified."

Where a targeted equipment interference warrant relates only to a particular person or organisation or to a particular location (or to both), this amendment prevents the details included in the warrant in accordance with clause 101(3) from being modified (so, for example, names cannot be added). It also provides for a comparable restriction on the modification of targeted examination warrants.

Amendment 98, page 82, line 22, at end insert—

"This is subject to section (Further provision about modifications under section104)(7)."

This amendment is consequential on NC12.

Amendment 99, page 82, line 23, leave out subsections (4) to (12)

This amendment is consequential on NC11, NC12 and NC13.

Amendment 100, page 83, line 35, at end insert—

'( ) Sections (Persons who may make modifications under section104), (Further provision about modifications under section104), (Notification of modifications) and105 contain further provision about making modifications under this section." —*(Mr John Hayes.)*

This amendment is consequential on NC11, NC12 and NC13.

Clause 105

APPROVAL OF MODIFICATIONS UNDER SECTION 104 MADE IN URGENT CASES

Amendments made: 101, page 83, line 38, leave out "104(7)" and insert "(Persons who may make modifications under section104)(2)"

This amendment is consequential on NC11.

Amendment 102, page 83, line 38, at end insert—

'(1A) This section also applies where—

(a) section100 applies in relation to the making of a modification under section104,

(b) the person making the modification does so without the approval of a Judicial Commissioner, and

(c) that person considered that there was an urgent need to make the modification."

This amendment extends clause 105 to provide for the approval by a Judicial Commissioner of certain modifications made in urgent cases.

Amendment 103, page 83, line 39, leave out "a designated senior official" and insert "the appropriate person"

See the explanatory statement for amendment 102.

Amendment 104, page 83, line 41, leave out from "section," to end of line 43 and insert ""the appropriate person" is—

"(a) in a case falling within subsection (1), a designated senior official, and

(b) in a case falling within subsection (1A), a Judicial Commissioner."

See the explanatory statement for amendment 102.

Amendment 105, page 83, line 44, leave out subsection (4)

This amendment is consequential on amendment 108.

Amendment 106, page 84, line 1, leave out "designated senior official" and insert "appropriate person"

See the explanatory statement for amendment 102.

Amendment 107, page 84, line 3, leave out "senior official's" and insert "appropriate person's"

See the explanatory statement for amendment 102.

Amendment 108, page 84, line 5 , at end insert—

'( ) As soon as is reasonably practicable after a designated senior official makes a decision under subsection (5)—

(a) a Judicial Commissioner must be notified of—

(i) the decision, and

(ii) if the senior official has decided to approve the decision to make the modification, the modification in question, and

(b) the Secretary of State or (in the case of a warrant issued by the Scottish Ministers) a member of the Scottish Government must be notified personally of the matters mentioned in paragraph (a)(i) and (ii)."

This amendment provides that, where a designated senior official has decided whether to approve a modification, a Judicial Commissioner, and the person who issued the warrant, must be notified of the decision.

Amendment 109, page 84, line 6, leave out "designated senior official" and insert "appropriate person"

See the explanatory statement for amendment 102.

Amendment 110, page 84, line 8, leave out paragraph (a)

This amendment is consequential on amendment 108.

Amendment 111, page 84, line 17, leave out "a designated senior official" and insert "an appropriate person"

See the explanatory statement for amendment 102.

Amendment 112, page 84, line 19, leave out "designated senior official" and insert "appropriate person"

See the explanatory statement for amendment 102.

Amendment 113, page 84, line 23, leave out "designated senior official" and insert "appropriate person".—*(Mr John Hayes.)*

See the explanatory statement for amendment 102

Clause 106

MODIFICATION OF WARRANTS ISSUED BY LAW ENFORCEMENT CHIEFS

Amendments made: 114, page 85, line 7, at end insert—

'( ) But where a warrant relates only to a matter specified in section 90(1)(a), only to a matter specified in section 90(1)(d), or only to both such matters, the details included in the warrant in accordance with section 101(3) may not be modified."

Where a warrant issued by a law enforcement chief under Part 5 relates only to a particular person or organisation or to a particular location (or to both), this amendment prevents the details included in the warrant in accordance with clause 101(3) from being modified (so, for example, names cannot be added).

Amendment 115, page 85, line 9, at the beginning insert

"except in the case of a modification removing any matter, name or description,"

This amendment provides that there is no requirement to satisfy a necessity or proportionality test where a modification is simply removing a matter, name or description from a warrant.

Amendment 116, page 85, line 10, leave out

"warrant as modified continues to be"

and insert "modification is"

This amendment alters the test that applies to the modification of a warrant issued under Part 5 by a law enforcement chief so that the person deciding whether to make the modification has to consider whether the modification itself (rather than the warrant as modified) satisfies the test of necessity.

Amendment 117, page 85, line 12, leave out "warrant as so modified" and insert "modification"

This amendment alters the test that applies to the modification of a warrant issued under Part 5 by a law enforcement chief so that the person deciding whether to make the modification has to consider whether the modification itself (rather than the warrant as modified) satisfies the proportionality test.

Amendment 118, page 85, line 30, leave out "warrant as modified" and insert "modification"

This amendment is consequential on amendments 116 and 117.

Amendment 119, page 85, line 33, leave out subsection (7) and insert—

'(7) Sections 94 (Members of Parliament etc.) and 100 (items subject to legal privilege) apply in relation to the making of a modification to a warrant under section 106, other than a modification removing any matter, name or description, as they apply in relation to the issuing of a warrant."

This amendment is related to amendment 91 and provides for the special safeguards in clause 94 (as well as those in clause 100) to apply in relation to modifications of warrants issued by law enforcement chiefs (other than modifications removing a matter, name or description).

Amendment 120, page 85, line 36, at end insert—

'( ) In the application of section 94 in accordance with subsection (7), subsection (3B) is to be read as if for the words from "unless" to the end of the subsection there were substituted "unless the law enforcement chief believes that the warrant (as modified) would authorise interference only with equipment which would be in Scotland at the time of the making of the modification or which the law enforcement chief believes would be in Scotland at that time".

( ) Where section 94 applies in relation to the making of a modification to a warrant under section 106, subsection (3)(b) of this section has effect in relation to the making of the modification as if the words "except where the person making the modification considers that there is an urgent need to make it" were omitted." —*(Mr John Hayes.)*

This amendment is consequential on amendment 119.

Clause 110

SERVICE OF WARRANTS OUTSIDE THE UNITED KINGDOM

Amendments made: 121, page 88, line 8, leave out "on a person outside the United Kingdom"

This amendment is consequential on amendment 122.

Amendment 122, page 88, line 9, at end insert—

'( ) A copy of the warrant must be served in such a way as to bring the contents of the warrant to the attention of the person who the implementing authority considers may be able to provide assistance in relation to it." .—*(Mr John Hayes.)*

This amendment makes it clear that, where a person is required under clause 109 to provide assistance in relation to a warrant, a copy of the warrant must be served in such a way that the person is aware of the contents of the warrant and so can provide assistance

Clause 115

SECTION 114: MEANING OF "EXCEPTED DISCLOSURE"

Amendment made: 123, page 92, line 37, at end insert—

"() a disclosure made to the Intelligence and Security Committee of Parliament for the purposes of facilitating the carrying out of any of its functions." —*(Mr John Hayes.)*

This amendment enables disclosure to be made to the Intelligence and Security Committee without breaching clause 114.

Clause 117

RESTRICTION ON ISSUE OF WARRANTS TO CERTAIN LAW ENFORCEMENT OFFICERS

Amendment made: 124, page 94, line 10, at end insert—

"() the chairman, or a deputy chairman, of the Independent Police Complaints Commission;" .—*(Mr John Hayes.)*

This amendment is consequential on amendment 92

Schedule 6

ISSUE OF WARRANTS UNDER SECTION 96 ETC: TABLE

Amendments made: 125, page 214, line 37, at end insert—

"The chairman, or a deputy chairman of the Independent Police Complaints Commission	A member (other than the chair or a deputy chairman) of the Independent Police Complaints Commission who is designated by the chairman for the purpose.	A person designated under paragraph 19(2) of the Schedule 3 to the Police Reform Act 2002 to take charge of, or to assist with, the investigation to which the warrant under section 96(1) relates (or would relate if issued)."

This amendment adds to the list of those who are law enforcement chiefs for the purposes of clause 96 so that the chairman, or a deputy chairman, of the Independent Police Complaints Commission may issue a targeted equipment interference warrant. The amendment also sets who is an appropriate delegate, and who is an appropriate law enforcement officer, in relation the chairman (or a deputy chairman).

Amendment 126, page 215, line 29, at end insert—

"2A For the purpose of the fifth entry in Part 2 of the table, the reference to a staff officer of the Police Investigations and Review Commissioner is a reference to any person who—

(a) is a member of the Commissioner's staff appointed under paragraph 7A of schedule 4 to the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), or

(b) is a member of the Commissioner's staff appointed under paragraph 7 of that schedule to whom paragraph 7B(2) of that schedule applies." *—(Mr John Hayes.)*

This amendment amends Schedule 6 to provide a definition of "staff officer of the Police Investigations and Review Commissioner".

New Clause 10

"Approval of notices by Judicial Commissioners

'(1) In this section "relevant notice" means—

(a) a national security notice under section216, or

(b) a technical capability notice under section217.

(2) In deciding whether to approve a decision to give a relevant notice, a Judicial Commissioner must review the Secretary of State's conclusions as to the following matters—

(a) whether the notice is necessary as mentioned in section216(1)(a) or (as the case may be) section217(1)(a), and

(b) whether the conduct that would be required by the notice is proportionate to what is sought to be achieved by that conduct.

(3) In doing so, the Judicial Commissioner must apply the same principles as would be applied by a court on an application for judicial review.

(4) Where a Judicial Commissioner refuses to approve a decision to give a relevant notice, the Judicial Commissioner must give the Secretary of State written reasons for the refusal.

(5) Where a Judicial Commissioner, other than the Investigatory Powers Commissioner, refuses to approve a decision to give a relevant notice, the Secretary of State may ask the Investigatory Powers Commissioner to decide whether to approve the decision to give the notice." *—(Mr John Hayes.)*

The new clause makes provision about the approval of national security and technical capability notices by Judicial Commissioners.

Brought up, and added to the Bill.

Clause 216

National security notices

Amendments made: 78, page 167, line 11, leave out from first "a" to end of line 16 and insert "national security notice under this section if—

(a) the Secretary of State considers that the notice is necessary in the interests of national security,

(b) the Secretary of State considers that the conduct required by the notice is proportionate to what is sought to be achieved by that conduct, and

(c) the decision to give the notice has been approved by a Judicial Commissioner.

'( ) A "national security notice" is a notice requiring the operator to take such specified steps as the Secretary of State considers necessary in the interests of national security."

The effect of the amendment is that the approval of a Judicial Commissioner is required for the giving of national security notices.

Amendment 79, page 167, line 34, after "Sections" insert "(Approval of notices under section216 or 217 by Judicial Commissioners) and" *—(Mr John Hayes.)*

This amendment is consequential on amendment NC10.

Clause 217

Maintenance of technical capability

Amendments made: 80, page 167, line 36, leave out from second "a" to end of line 37 and insert "technical capability notice under this section if—

(a) the Secretary of State considers that the notice is necessary for securing that the operator has the capability to provide any assistance which the operator may be required to provide in relation to any relevant authorisation,

(b) the Secretary of State considers that the conduct required by the notice is proportionate to what is sought to be achieved by that conduct, and

(c) the decision to give the notice has been approved by a Judicial Commissioner.

'( ) A "technical capability notice" is a notice—"

The effect of the amendment is that the Secretary of State may give a technical capability notice only if the necessity and proportionality tests set out in the amendment are met and a Judicial Commissioner has approved the decision to give the notice.

Amendment 81, page 168, line 2, at end insert—

""relevant authorisation" means—

(a) any warrant issued under Part 2, 5 or 6, or

(b) any authorisation or notice given under Part 3;"

This amendment is consequential on amendment 80.

Amendment 82, page 168, line 13, leave out "(see subsection (9))"

This amendment is consequential on amendment 80.

Amendment 83, page 168, line 35, leave out subsection (6)

This amendment is consequential on amendment 80.

Amendment 84, page 168, line 45, leave out subsection (9)

This amendment is consequential on amendment 80.

Amendment 85, page 169, line 1, after "Sections" insert "(Approval of notices under section 216 or 217 by Judicial Commissioners) and"*—(Mr John Hayes.)*

This amendment is consequential on amendment NC10.

Clause 218

FURTHER PROVISION ABOUT NOTICES UNDER SECTION 216 OR 217

Amendments made: 86, page 169, line 17, leave out "Where the relevant notice" and insert "In the case of a technical capability notice that"

This amendment clarifies that clause 218(4) is relevant only in relation to technical capability notices under clause 217.

Amendment 87, page 170, line 9, at end insert—

'( ) Subsection (9) applies to a person to whom a national security notice is given despite any other duty imposed on the person by or under Part 1, or Chapter 1 of Part 2, of the Communications Act 2003." —*(Mr John Hayes.*

The amendment makes it clear that a telecommunications operator that is given a national security notice must comply with it even if that would potentially conflict with any requirements imposed on the operator under Part 1 or Chapter 1 of Part 2 of the Communications Act 2003, which make provision about the functions of OFCOM and the regulation of electronic communications networks and services.)

Bill to be further considered tomorrow.

Business without Debate

DELEGATED LEGISLATION (COMMITTEES)

Ordered,

That the Motion in the name of Chris Grayling relating to the Electoral Commission shall be treated as if it related to an instrument subject to the provisions of Standing Order No. 118 (Delegated Legislation Committees) in respect of which notice has been given that the instrument be approved.—*(Guy Opperman.)*

Mr Speaker: Sadly, I say to the Minister for Security that no oration on that matter was required.

Excess Winter Deaths

Motion made, and Question proposed, That this House do now adjourn.—*(Guy Opperman.)*

Mr Speaker: I am sure that colleagues who—unaccountably—are leaving the Chamber will do so quickly and quietly, so that the hon. Gentleman who has the Adjournment debate can make his case and be heard with courtesy and attentiveness.

11.30 pm

Dan Jarvis (Barnsley Central) (Lab): I am grateful to have secured this opportunity to raise the important subject of excess winter deaths again in this House. I first raised the issue with the Prime Minister some four years ago. Since then, tragically, 117,000 people have died unnecessarily because of the cold—43,000 in the winter of 2014-15 alone. I think we can all agree that it is simply unacceptable that each year tens of thousands of people are dying unnecessarily. I am not going to pretend that this is an easy problem to solve or that any one Government are to blame. Tonight I intend to outline where I believe the Government's approach can be improved and, in a constructive manner, offer suggestions of steps that I believe should be taken to address this national scandal, because while today was a very warm day, now—during the summer months—is precisely the time when we should be preparing for the winter.

The majority of those who are dying are elderly. We know that the demographic group most affected by excess winter deaths is women aged over 85, yet we also know from the evidence across Europe that more people are dying unnecessarily here than is the case elsewhere. Scandinavian countries including Norway, Denmark, Finland and Sweden all have significantly lower rates of excess winter deaths than the UK, despite all of those countries being considerably colder. One of the reasons for that is that, in policy terms, Scandinavian countries tend to be better prepared. As former director general of Age UK Michelle Mitchell put it,

"excess winter deaths are much lower because they take staying warm seriously and prepare for the cold weather."

We know that that preparation is key, and I will outline several areas where preparation in our country could be improved.

The first is public health. The Office for National Statistics analysis of the most recent excess winter deaths figures highlights flu as an important factor in mortality levels, so I have to say to the Minister that I was concerned to be left waiting this spring for the Government's flu plan for the upcoming winter. It was published just before recess, but that was some two months later than last year. Will the Minister say why the Government's flu preparations are behind compared with a year ago?

Secondly, we know that cold homes are a major cause of excess winter deaths. They are also a burden on our public finances. Former chief medical officer Liam Donaldson has estimated that cold homes cost the NHS £850 million each year. Unfortunately, many elderly people live in fuel poverty—people like Lynne from Cumbria, who to keep warm in winter has to put on several layers of clothing and heat a hot water bottle, because she cannot afford to have the heating on when she needs to. For people like Lynne energy prices are a big issue. I welcome the fact that energy prices are

[Dan Jarvis]

falling, but they are not falling in line with wholesale prices, and too many energy customers find themselves on tariffs that lead to them paying more than they should. What discussions has the Minister had with her colleagues at the Department of Energy and Climate Change about alleviating fuel poverty to help to prevent excess winter deaths?

In addition, more can and should be done about home insulation. Although neither programme was perfect, I thought the green deal and energy company obligation were steps in the right direction. However, the green deal has now expired and the energy company obligation expires next year. We have been told that it will be reformed and renewed but, as yet, no timeline has been set out by the Government for doing so. May I ask the Minister what discussions she has had with fellow Ministers at the Department of Energy and Climate Change about ensuring that home insulation is increased?

Jim Shannon (Strangford) (DUP): I thank the hon. Gentleman for bringing an important issue to the House in this Adjournment debate. In the period from July 2014 to August 2015, there were 370 excess winter deaths in Northern Ireland—the highest figure since 2009-10. It is unbelievable that the figure is so high in a developed nation such as ours. Does he agree that we need to do more to eradicate winter deaths, not just reduce them? In other words, it should be target zero.

Dan Jarvis: I am grateful to the hon. Gentleman for his intervention. He is absolutely right to draw attention to the heavy costs that his part of the world has borne. He is right to point out that in a prosperous, wealthy nation—yes, of course we have challenges—it is simply unacceptable that anyone should die as a result of the cold. The numbers that he has outlined in Northern Ireland and the national numbers that I outlined are simply unacceptable. As I said, this not the fault of any single Government—this is an issue that has challenged successive Governments. The Prime Minister recently said to me that these figures act as a standing rebuke to all Governments. The issue for us in the House tonight is what practical measures and action the Government can take to reduce the numbers and get to the point, as the hon. Gentleman suggested, where no one dies in this country as a result of the cold.

I was outlining some of those practical measures and was asking the Minister about the conversations that I hoped she would have with her colleagues at DECC on home insulation. Any measures that the Government seek to take should be targeted at those groups such as the elderly who are the most vulnerable to the cold. That brings me to a crucial point about the importance of cross-government working. Excess winter deaths are clearly an issue that requires a cross-government approach, but despite the fact that nearly 44,000 people died unnecessarily in the most recent winter for which we have figures, there is not a joined-up cross-government plan to reduce excess winter deaths.

A number of Departments, including the Department of Health, the Department of Energy and Climate Change, the Department for Work and Pensions, the Cabinet Office and the Department for Communities and Local Government, have policies which could contribute to reducing excess winter deaths. As yet, there is no overarching cross-government strategy to join up those policies and ensure that they contribute in the best possible way to reducing excess winter deaths. It is often left to local authorities to develop their own approach to reducing excess winter deaths. In Barnsley, we are fortunate that our local authority takes this issue very seriously. The council is making a concerted effort to ensure that vulnerable and elderly people live in heated homes.

Alex Chalk (Cheltenham) (Con): The hon. Gentleman is making a powerful speech. Does he agree that is not just about the responsibility of Government or of local authorities? Fuel companies have a duty to ensure that as wholesale prices come down so too do the bills that people, including the most vulnerable people in our society, pay.

Dan Jarvis: I agree, and it is important that we seek to have a debate with the energy companies about what practical measures they would be prepared to take to reduce fuel poverty, particularly for the most elderly and vulnerable members of the community. I recently had the great privilege of engaging in a webchat on Mumsnet, and this was an issue that many people raised. What practical measures are energy and utility companies prepared to take? That is partly a matter for the regulator, and it is partly a matter for Government, but it is also, as the hon. Gentleman pointed out, a matter for the energy companies. I hope that they will look and listen carefully to the content of our debate. It is not in their interests for elderly people to freeze to death, and I look forward to having a constructive dialogue with them ahead of the winter months to see what measures can be taken to reduce the number of deaths this winter.

I was talking about the work that is taking place locally. My local authority is making a concerted effort to ensure that the vulnerable and the elderly live in warmer homes. The most recent practical example was the council securing funding for a warm homes programme, which offers free central heating replacements for people on low incomes who have no gas central heating system. I recently met one of my constituents, John Key, who had benefited from the scheme. At 84 years old, he had never had gas central heating and had never been able to heat the top floor of his home. Now, thanks to Barnsley Council, he is able to do that.

However, as I frequently say, not everyone is lucky enough to live in Barnsley, and I fear that what we have developing across the country is a patchwork approach to preventing excess winter deaths. That may well explain why there is substantial regional variation in the national figures, with the excess winter death rate in the south-west almost 20% higher than the rate in Yorkshire and the Humber.

Tonight, therefore, I am calling for the Government to bring forward a national strategy to reduce excess winter deaths. The strategy should be cross-government and should incorporate the following elements: a clear plan for reducing the number of excess winter deaths, with regular assessments to review the plan's success; an independent assessment of what additional policies would help to reduce excess winter deaths; and a cross-departmental working group to co-ordinate current policy efforts to reduce excess winter deaths.

Jim Shannon: The hon. Gentleman is outlining a plan of action. Does he feel that there is a role that the Salvation Army and church groups, whose congregations are normally elderly people, could play in the Government's strategy?

Dan Jarvis: I absolutely do believe that there is a role for the charitable sector and for a range of organisations that make hugely significant contributions. However, the point I am trying to make concerns the means by which we draw those contributions together—the practical co-ordination measures that can be taken at a local level, led by directors of public health, to ensure that we have the most effective response and bring together all the different agencies locally, including the local authority, the clinical commissioning group, the local hospital, the GPs practices and the organisations the hon. Gentleman rightly referred to.

Before drawing to a conclusion, I want to take the opportunity to tell the House that I have started a petition today on Parliament's petition website so that people across the country can join me in calling for a national strategy. I am pleased to say that, despite the fact that the petition launched only a few hours ago, it has already received a signature from one of the Minister's own constituents—I hope she will welcome that contribution.

To conclude, the way in which a society cares for the most vulnerable is an important metric by which any society should seek to be judged. At the moment, given the numbers of people who are dying each year, we as a country are failing that test. Reducing excess winter deaths is an issue Members on both sides of the House can work together on. I look forward to the Minister's response. I know she treats these matters with the concern they rightly deserve. I hope that tonight will not be the end of the discussion but the beginning and that she will go away and consult colleagues across the Government to see what more can be done so that, this winter and in winters to come, we can prevent people from dying unnecessarily.

11.44 pm

The Parliamentary Under-Secretary of State for Health (Jane Ellison): I congratulate the hon. Member for Barnsley Central (Dan Jarvis) on securing the debate. As he says, this is an important issue, and I appreciate his consistent interest in it. I hope I have responses to some of the points he made, but equally, I am happy at the outset to accept his challenge and give the issue more thought, and to make this an ongoing dialogue, because, as he said, this is an important issue.

The causes of excess winter deaths are complex; I will try to draw out a little bit of that complexity in my remarks. They are linked to various factors, including, as the hon. Gentleman said, the impact of cold temperatures on the body leading to issues such as heart attacks. Circulating infections such as the flu are also significant, particularly in winter. I will look at that in a bit more detail. The Government have put in place a range of measures to address those issues and ensure that we protect the most vulnerable, including by providing financial support to keep homes warm and by working to keep people well and out of hospital.

The hon. Gentleman made a good point about the need for more cross-Government work on the issue. I agree that there is always room for closer working between Departments. He also rightly draws on the fact that there is often close working between departments at a local government level. In fact, just this evening, as I was preparing for this debate, one of my colleagues from Cornwall, my hon. Friend the Member for Truro and Falmouth (Sarah Newton), told me that the very bodies that the hon. Gentleman has listed—all the different health bodies and initiatives—are brought together in her local area to form that combined plan. *[Interruption.]* My hon. Friend the Member for Hexham (Guy Opperman) says from a sedentary position that the same thing is happening in Northumberland. There is some excellent local practice. As we head towards even more local powers and devolution, it is important to say that, for those local areas that can do that really well, it is probably the single most important thing that they can do.

As a Health Minister, I will focus a little bit more on the health points, but I give the hon. Member for Barnsley Central an undertaking that we will take up those questions of his that it would be more appropriate for the Department of Energy and Climate Change to answer, and we will make sure that he gets a response.

Let me return to the flu. I want to address the hon. Gentleman's point about the high number of excess winter deaths in 2014-15. The principal reason that excess mortality was higher that winter than in previous seasons is that the main strain of flu circulating in 2014-15, which was AH3N2, was one to which older people were particularly vulnerable. Flu affects different groups of people in different years. For example, the strain circulating in the season just gone, namely 2015-16, had more impact on children and younger people. The impact of the 2014-15 strain on older people unfortunately resulted in a large number of flu outbreaks in care homes, and higher than expected numbers of admissions to hospital and intensive care for flu. Cold snaps and other respiratory infections may also have contributed to an increase in excess mortality. The situation was not unique to the UK; 14 other European countries also reported an increase in excess mortality due to the same circulating strain of flu.

The hon. Gentleman will recall, I am sure, media reports on the effectiveness of the 2014-15 flu vaccine. There is a complex system behind understanding what goes into the vaccine, and there is a long lead time in preparing it in the required quantities. It is based on the World Health Organisation's analysis of the circulating strains, but occasionally, for technical reasons, we do not get the match we are looking for. Although the interim mid-season figures caused concern, I am pleased to report that the final findings showed that the vaccine provided some protection against the primary strain, and good protection against the B strain that circulated later in the season. Nevertheless, it was a very difficult strain of the flu that affected older people in particular. Initial findings indicate that the vaccine for the season just gone, namely 2015-16, was well matched to the predominant circulating strain.

Vaccination remains the best protection against flu. The seasonal flu vaccination is offered free of charge to those people in whom flu can be more serious and even fatal. I urge those Members present to encourage their constituents—I am sure that the hon. Gentleman does this—to get the free vaccines. Despite the fact that they are free and that a lot of effort goes into promoting

[Jane Ellison]

people's eligibility, it is surprising that there is still a large number of people who do not take advantage of them. It is something with which we ask constituency Members to assist. I have always felt that our surgeries, where we may see some of the most vulnerable members of our community, give us an opportunity to do that. I am always looking for ways to promote this through Members of the House.

In September 2013, we rolled out a new programme offering children flu vaccination. This programme aims to protect children and reduce the transmission of infection in the wider population. We know that the programme works, because it reduced flu levels among children who received the vaccine and among the wider community. It is important to explain that this is why we focus on children so much. In 2014-15, GP consultations for flu-like illnesses were 59% lower in the pilot areas where the vaccine was offered to primary school children than in other areas. Those results are important, and they demonstrate why the child flu programme is essential to protect not only children but the whole community. Some commissioners refer to small children as "super-spreaders"; older members of their family and of the community are especially vulnerable.

I turn to the cold weather plan, which is at the core of what the hon. Gentleman called for. As he is aware, in addition to the flu programme, Public Health England annually publishes a cold weather plan for England, which is a collaboration between the Department of Health, NHS England and the Local Government Association. That plan provides guidance on how to keep warm in the winter and information on where support is available. That is underpinned by a cold weather alert service provided by the Met Office. The plan is aligned with additional guidance from the National Institute for Health and Care Excellence on reducing excess winter mortality and morbidity and the health risks associated with cold homes. We are trying to draw together all the key strands of the health system and local government.

Those most at risk of excess deaths include the elderly, those with long-term and severe illness and young children. To protect those who are most vulnerable, NHS England and PHE last winter ran an integrated marketing campaign, "Stay Well This Winter". The campaign encouraged people particularly at risk of being admitted to hospital during the winter to take actions to help them stay well. Those actions included: getting a flu jab, keeping houses warm, seeking advice from a pharmacist at the first sign of feeling unwell, getting prescriptions before the Christmas period and taking prescribed medicine as directed.

We targeted the campaign at helping those with long-term health conditions. Last year, we enlisted charities that cater for people with particular conditions, because a lot of people with long-term health conditions do not realise that they are eligible for that free support. We also targeted those aged 65 or over, pregnant women and parents of under-fives. We had very positive feedback from the campaign, in the light of which we are planning to run it again this winter for a longer period.

I turn to the issue of cold homes, which the hon. Gentleman focused on to a large extent, and to the Government's work to reduce the number of cold homes, as he rightly challenges us to do. There must be more that we can do, and it is vital to keep asking ourselves what more can be done. There has been significant progress, although too many homes are cold in the winter months, and excess winter deaths in the coldest quarter of homes are almost three times as high as in the warmest quarter. To address this, the Department of Energy and Climate Change has published a fuel poverty strategy for England with clear targets to improve housing. The Government have also made grants and sources of advice available to help people to make their homes more energy-efficient, which can improve home heating as well as helping with bills. For example, the warm home discount provides a one-off £140 discount on electricity bills for 2 million households, including 1.3 million of the poorest pensioners. The extension of the warm home discount to 2020-21 will help households who are at most risk of fuel poverty with their energy bills.

The Government also dedicate £2 billion a year to helping pensioners with their energy bills, which means that some of the most vulnerable in our society each receive up to £300 every winter. On top of that, we are ensuring that the poorest in our society get £140 off their energy bills every year, and we are requiring energy companies to help us to make 1 million homes warmer by 2020. I heard the challenge from my hon. Friend the Member for Cheltenham (Alex Chalk) to energy companies to do more, and he is quite right to make that challenge. There is more that can be done all round on this.

Last year, we invested £1 million in nine existing local schemes through the fuel poverty and health booster fund. That is about ensuring that people who are ill as a result of living in a cold home can get something done about the root cause of their illness. In addition, the Department of Health has introduced indicators for excess winter deaths and fuel poverty in the public health outcomes framework. That is what brings all those strands together at local government level to make sure that local authorities have a view of the whole system, and they are judged on that plan.

The hon. Member for Barnsley Central was right to praise his constituency for some of its initiatives. I am always happy to praise Barnsley. He may know that I stood for election in Barnsley twice, in 1996 and 1997, and I have extremely fond memories of it. He drew attention to the issues facing people in his constituency. I know that the council, together with local partners, has a range of programmes in place to help improve home energy efficiency and reduce fuel poverty. For example, a consortium that includes the district council—he referred to the consortium in his speech—received a Government central heating fund grant totalling £1,763,775. As he said, the money will be used to provide first-time central heating systems for up to 150 properties that are in fuel poverty. Barnsley Council is also running a warm homes campaign, which provides energy efficiency and fuel poverty training for front-line staff who are in contact with vulnerable people.

I know from work in my constituency that the most vulnerable people are often those who really need somebody to talk to them and guide them through the process. None of us, whether we are Ministers or Members of the House, would say that dealing with complex energy matters is the easiest thing to do. The Government want to make it easier, but there is no doubt that training to

enable front-line staff to hand-hold people through the process, particularly if they are vulnerable, is really important.

I hope that I have given the hon. Gentleman some sense of the things that are going on. We are continuing to invest time and effort in learning, through an iterative process, about what has worked previously. I stress the fact that we were particularly affected by that strain of flu and the nature of the vaccine's match to it, and it was not only the UK that was affected in that way. Nevertheless, I take his central point that we must all look at what more we can do to bear down on this problem. I am very happy to take away the points that he raised, and to bring them up with ministerial colleagues with responsibility for energy. I am sure that he will return to this subject, and I am happy to discuss it further with him outside the House and, no doubt, at some point in the future, on the Floor of the House again. I thank him for bringing this vital topic to the House's attention this evening, and I thank all colleagues who have stayed for this late but important debate.

Question put and agreed to.

11.57 pm

House adjourned.

Westminster Hall

Monday 6 June 2016

[Valerie Vaz *in the Chair*]

Fireworks

4.30 pm

David Mackintosh (Northampton South) (Con): I beg to move,

That this House has considered e-petition 109702 relating to restricting the use of fireworks.

It is a pleasure to serve under your chairmanship, Ms Vaz. I am pleased to introduce this important debate on fireworks and animal welfare based on the petition that was signed by more than 100,000 people. I thank my hon. Friend the Minister for attending and look forward to hearing his views and valued input into what I am sure will be an important debate.

I am sure that all hon. Members receive regular letters from pet and animal owners or elderly people who are worried about the increase in the use of fireworks throughout the year. Although everyone enjoys them for big celebrations, it is important that from time to time we debate the restrictions on them. This debate will not lead to a change in the law, but will give the Government the chance to outline to hon. Members the current regulations and to listen to concerns for when they do consider any changes in the future.

For many of us, fireworks are a source of great enjoyment and are used to celebrate many great occasions throughout the year. However, for animals, fireworks can be a source of fear and distress. In particular, the sudden loud noises that many fireworks make can cause fear.

Nick Thomas-Symonds (Torfaen) (Lab): It is a pleasure to serve under your chairmanship, Ms Vaz. I am delighted that we are having this very important debate. A number of constituents have contacted me about the distress that animals experience. Does the hon. Gentleman agree that this is about balance—the balance between enjoyment of fireworks on the one hand and protecting animals from distress on the other?

David Mackintosh: I am grateful to the hon. Gentleman for raising those concerns. It is estimated by the Royal Society for the Prevention of Cruelty to Animals, for example, that 45% of dogs show signs of fear when they hear fireworks. The animals affected not only suffer psychological distress, but can cause themselves injuries—sometimes very serious ones—as they attempt to run or hide from the noise.

Scott Mann (North Cornwall) (Con): Having grown up in a household full of dog owners and dog lovers, I have witnessed at first hand the problems that occur on bonfire night. Does my hon. Friend agree that pet owners have had a much bigger problem in recent years because of firework displays taking place over a longer period, and may I add my support for a more regulated period for firework displays?

David Mackintosh: I am grateful to my hon. Friend for raising those points, which I will come on to in more detail later.

The use of fireworks has become a central part of the public celebration of many religious and cultural events in the UK, as this petition notes. There are, of course, those who would argue for a blanket ban, but most people, I think, would agree that a balance should be struck between the right to use fireworks in a safe and responsible way and the need to prevent unnecessary suffering and harm to animals.

Although most reports of welfare problems caused by fireworks relate to domestic pets, other animals can of course also experience fear, distress or injury as a result of their use. Livestock are easily frightened by loud noises and sudden bright lights, and can be at risk of injuring themselves on farm equipment or fencing if startled. The debris produced by fireworks can also pose a hazard to livestock if found on the land, as it can be many days later. Although there is limited direct evidence, it is also likely that fireworks and their debris will cause disturbance to wildlife, including waterfowl, and will cause suffering or distress, depending on the distance from the explosive and the noise level.

There is widespread concern among the public about the effect that fireworks can have on animals. I am sure that we all receive letters about that, particularly in November. The RSPCA receives hundreds of calls about fireworks every year. For example, in 2015, it received 386 calls from people concerned about fireworks, and it says that the figure has been increasing in recent years.

Before the debate, I was contacted by various animal welfare charities, as, I am sure, were many other hon. Members. The charities understandably have concerns about the effects that fireworks can have on animals and what they see as an increase in the number of animals affected and the prevalence of fireworks each year.

Mims Davies (Eastleigh) (Con): On the point about fear, distress and injury, my constituents have raised with me the fact that Chinese lanterns can also cause harm to the livestock in my community. The use of fireworks is much more prevalent, as we have heard, and it is not always advertised so that people in the locality can take precautions with their pets. Certainly that would be one way of being more thoughtful to other members of the community.

David Mackintosh: I am grateful for that intervention and I am sure that the Minister will have noted it. On that point, the British Veterinary Association has put together a list of measures that it would like the Government to consider, including changes to the design and classification of fireworks to reduce noise levels and better information for pet owners to help to reduce stress in their animals. I am sure, on the point raised by my hon. Friend the Member for Eastleigh (Mims Davies), that that would include guidance for people using fireworks and Chinese lanterns.

Joan Ryan (Enfield North) (Lab): In my constituency in 2001, a young boy died while playing with fireworks. He was not under the supervision of his parents and he was with a number of other young people. We had debates very like the one that we are having now in the run-up to the 2004 legislation, and I said at the time—

[Joan Ryan]

although I was loth to say it—that I could see no long-term solution other than banning the sale of fireworks to the public and allowing public and private displays but only if supervised and managed by a properly qualified individual. I am still of the same opinion, and we could be here again in 10 or 12 years' time with the same debate. What is the hon. Gentleman's opinion?

David Mackintosh: I am grateful to the right hon. Lady for raising such an important and, clearly, tragic case. As I will outline, there is a debate to be had about that issue, and I am pleased that we are having the start of that debate here today.

Animal welfare charities such as Battersea Dogs and Cats Home, the Blue Cross and Cats Protection suggest that tougher enforcement of existing rules, better advance warning of organised events and animal welfare information for pet owners would help to improve the situation. Importantly, on some of these points, there is agreement between animal welfare organisations and the fireworks industry, which would support tougher enforcement of existing rules; I will ask the Minister to consider that in the future.

We all know that events using fireworks should be well planned, and that is of course the case at a vast number of events to mark significant occasions such as new year's eve and Diwali, and other special events and religious festivals such as Chinese new year. The biggest firework displays are of course very relevant to Members of this House, as the Guy Fawkes plot was thwarted in this very building on 5 November 1605 and is of course marked every autumn. I am sure that hon. Members will all agree that those events are managed responsibly and bring enjoyment to many people. Indeed, the bonfire night display in my constituency of Northampton every November attracts thousands of people, and the new year's eve fireworks in London, as I am sure hon. Members will agree—perhaps not all of them—are the best in the world.

The Minister will, I am sure, say that all fireworks on sale to the public are required to comply with essential safety requirements that govern how they are made, tested and labelled.

Kirsten Oswald (East Renfrewshire) (SNP): I appreciate what the hon. Gentleman is saying about the safety requirements that are in place for fireworks, but those requirements are not necessarily followed by those who use fireworks. Does he share my concern that as well as the dangers for domestic pets and farm animals, there are significant dangers for members of the public, and that is really where our focus should be?

David Mackintosh: I am grateful for that intervention because I feel that we are getting consensus, both from the animal welfare organisations and from the hon. Members raising points here today, that the issue is enforcement of the existing rules as much as any review in the future.

There are already strict guidelines in place for the private use of fireworks, and legal penalties for individuals who use them irresponsibly. The existing legislation limits the sale of fireworks, provides specific curfews for their use, sets maximum allowable noise levels and sets strict penalties, including possible imprisonment, for those in breach of the rules.

Philip Boswell (Coatbridge, Chryston and Bellshill) (SNP): Does the hon. Gentleman agree with the recommendation on fireworks and animal welfare in the British Veterinary Association report that he quoted? The association recommends that better legislation and enforcement is put in place, particularly regarding the noise control of fireworks given that virtually silent fireworks are available.

David Mackintosh: The hon. Gentleman raises an important point and I look forward to hearing the Minister's response. The British Fireworks Association observes that the industry is responsible and is already heavily and effectively regulated—a point that I will put to the Minister later. The association also points out, for balance, that the industry employs thousands of people, and it is understandably concerned about the impact that the measures outlined in the petition might have on the industry.

The British Fireworks Association is opposed to tighter regulations, believing that they could introduce or lead to an increase in illegal sales and create a black market trade, and worrying that they could create additional problems for the enforcement agencies. The association believes that extra regulations could prevent thousands of people across the UK from celebrating weddings, birthdays and other occasions with a firework display and could force legitimate importers and retailers out of business, costing hundreds of jobs.

Clearly, the vast majority of people who use fireworks do so responsibly and in accordance with the law. When distress is caused to animals—domestic pets, wildlife or livestock—it is most likely the result of a lack of understanding of the issue, as opposed to irresponsible or inappropriate use. However, we need more effective enforcement of the current rules. The most effective way to reduce the suffering of affected animals may be through education instead of legislation. Estimates seem to vary as to the percentage of pets and other animals that are distressed by fireworks, but it is generally accepted by animal welfare organisations that the figures are significant, and that concern among animal owners is increasing.

Given the level of concern, we need to consider several questions in this debate. For instance, do the existing laws, regulations and guidelines reasonably provide for animal welfare? Are enforcement measures adequate? Are the public sufficiently aware of their responsibilities when using fireworks and of the possible unintended consequences? To what extent could firework manufacturers and retailers reasonably help to mitigate the impact on animals and wildlife? Can more be done to support the owners of pets and livestock to lessen the possibility of distress and injury suffered by those animals?

More than 100,000 people have added their signatures to the petition, calling on the issue to be looked at again. I look forward to hon. Members' contributions and, of course, to hearing the Government's response.

4.42 pm

Jim Shannon (Strangford) (DUP): I was not expecting to be called to speak so soon, but it is a pleasure contribute. Back home, some of my constituents have been on to me about the issue and I did an interview with Radio Ulster when the petition came about, so I have some knowledge of the subject. I wish to contribute

from a Northern Ireland perspective, as always, and I hope to add some helpful points to the debate. I congratulate the hon. Member for Northampton South (David Mackintosh) on the way in which he presented the case, as well as the 104,000 people who took the time to sign the e-petition, bringing forward something that they feel is constructive. I want to say, at the outset, that I will put forward a balanced point of view.

My boys are all grown up now—they are young men—but when they were young we had lots of cats, dogs and animals, as we live on a farm. The one thing that we could always enjoy together was the fireworks, and there were usually plenty going off in the middle of countryside. We had very few neighbours so, as well as having spectacular lights in the sky, the noise did not really affect many other houses round about, as they were spaced far apart.

When it came to my dogs and cats, I made sure that they were in the house and away from the fireworks. For the other animals and the stock, I made sure that the barns were noise-proofed as much as possible. The dogs that we had at that time were quite nervous and, although they were shooting dogs, the noise of the fireworks upset them. It is important for us all to be accountable and respectful, and there should be a balance. That balance should be between the enjoyment of fireworks by children and others, and ensuring that there are controls in place for those who do not have the respect that any of us in this room have. Every one of us here, including those in the audience, has respect for others.

We have all experienced fireworks and we take great pleasure in them. When used properly and safely, fireworks have been part of the greatest spectacles and moments not only in our personal lives, but in marking world events and truly historic moments. The hon. Member for Northampton South mentioned Guy Fawkes night. In Northern Ireland we have had our own fireworks of different degrees. When we were small and much younger, perhaps the things that we did with fireworks were not acceptable. We probably all went through that process of learning, but we always made sure that there was a level of enjoyment as well.

We now live in a world where, almost seamlessly, the use of fireworks has expanded to be a commonplace occurrence. They are used at all times of the day and of the year. That said, when fireworks go wrong, they can be devastating, and we all know of examples of that. In extreme circumstances, there can be significant casualties and injuries, and of course—this is why we are here today—animals are too often the innocent victims of fireworks.

We do not seek to be the fun police or to extend Big Brother into people's lives further, but the facts make it clear that there needs to be a change in how we regulate fireworks so that everyone can continue not only to enjoy them, but to enjoy them safely. When we think of the potential risk, we automatically think about the potential for maiming and physical injury. It is far too easy to forget that, for animals especially, fireworks can have a psychological and mental impact. We have to do something about that and we have to get it right.

I was a councillor for 26 years before I came here, and I was a Member of the Northern Ireland Assembly for 12 years; I was doing so concurrently at the end. I remember the old restrictions on fireworks in Northern Ireland, and then the new legislation came in. The legislation came in directly but we had, at least, a consultative role and an input into it, although perhaps we did not have a direction on how it was finally agreed. However, the changes we brought in in Northern Ireland were for the best.

There are already restrictions in place across the UK regarding the domestic use of fireworks. In Northern Ireland, that process has constantly changed, adapted and moved forward with the times, and it continues to be manageable. We are looking at how we can improve the process again by preserving the enjoyment while ensuring that animals are not hurt in any way. Restrictions are in place to ensure that illegal fireworks are well and truly on the way out, and it takes a lot of legislative clout to make that happen.

In Northern Ireland, we have had years to look at such matters—for instance, the Explosives Act (Northern Ireland) 1970. Maybe that has helped us a wee bit better to come up with legislation that makes the right important changes. It is important to educate people from the outset. It is good to see the Minister in his place, and I know he will respond to that point clearly. Educational programmes in schools are important. Starting at that very early stage is about teaching children to have fun, but to do so in a controlled, legislative and regulated way.

In Northern Ireland, the number of incidents involving fireworks have consistently fallen. We have done something that might enable us all to move forward. Although the importance of taking animals into account has been impressed upon us, it is clear that more needs to be done, especially through education and awareness about the impact of fireworks on animals.

The issue is most common in the private home, which makes it difficult, and potentially invasive, to monitor. We know that there is an issue and that, more often than not, harm to animals is completely unintentional, but some unintended consequences have repercussions. In the past, people would have considered sedating the animal—we have heard of people doing that—to reduce the stress caused by the sudden explosive bangs of fireworks, but such actions were few and far between. When people are educated about alternative ways of calming their pets, they can and will use them. Currently, there is not enough information out there, and the information that is out there is not easily accessible or widely available. It is about re-educating people on how they use fireworks, but it is also about re-educating people on how they look after their animals as best they can.

Kirsten Oswald: Does the hon. Gentleman agree that there are many and varied ways in which people can help their pets to deal with the situation, which can cause pets such distress, but that if people are not aware that fireworks will be let off in their area, it is wholly impossible for them to do so?

Jim Shannon: The hon. Lady is right, and I agree with her wholeheartedly. We need the regulation that we have in Northern Ireland, where fireworks are controlled. If something will be taking place, the police and the council have to be notified, and councils have the authority to respond. On re-education, she is right that people have to know that fireworks will be let off, which is an issue.

Jason McCartney (Colne Valley) (Con): The hon. Gentleman has hit the nail on the head. I do not know whether he is as old as I am, but when I was growing up it was all about the firework code and safety for human beings. We are here now thinking about distress and the safety of animals, too. It is about education and making firework users think about their environment, their neighbours and their animals. We should let people know about the time limits and the regulations so that they can be more thoughtful not only about people but about pets in their environment.

Jim Shannon: I cannot answer whether I am older than the hon. Gentleman—I just had a harder paper round—but I thank him for his wise words. On re-education, things have been done to reduce the effects of noise, such as by raising the volume of CDs, MP3s or Spotify so that animals do not get shocked, upset or panicked when the big bang comes at the end. Products are also available through vets. I am not a vet—far from it—but I love animals and have had animals all my life. Vets tell me that there are products available that act like air fresheners and, instead of just making the house smell like flowers, release a calming hormone into the air. Does it work? I cannot say.

Margaret Ferrier (Rutherglen and Hamilton West) (SNP): Can we have one in the Chamber?

Jim Shannon: I am not sure whether that is possible. If the product works, and there is some indication that it does, it means that there are other things we can do for our animals. There are options out there to help reduce the stress that fireworks cause animals, and as access to such methods, and knowledge of them, becomes widespread, there will be an opportunity to ensure that our response to animals and fireworks is firmly going in the right direction and that we are doing the right things. We do not need to be the fun police or to reduce the positive aspects of fireworks, and it can be tempting to go straight down the road of regulation, but it is always good to have regulation with balance. Yes, protect the animals, but let us have fun with fireworks for our children, as we had when we were wee kids, and as the hon. Member for Colne Valley (Jason McCartney) said, so that my grandchildren will also have that opportunity. Let us do it responsibly and safely. Furthermore, there are alternative means of reducing stress in animals to a negligible level.

Animals have no voice, and we, as their owners, have a responsibility to look after them responsibly in a way that also gives us enjoyment. When people pet their dog, it responds; when people give their cat a pat on the head, it will purr and lift its tail. Those things happen because our pets respond to us. We have to respond to them, too, and ensure that our animals are not scared of fireworks. This Westminster Hall debate has been another useful opportunity for Members to give voice to those with no voice, which is welcome.

4.54 pm

Angela Smith (Penistone and Stocksbridge) (Lab): It is a pleasure to serve under your chairmanship, Ms Vaz, especially as we are fellow members of the Select Committee on Environment, Food and Rural Affairs. I congratulate the hon. Member for Northampton South (David Mackintosh) on opening the debate, which has resulted from a huge petition. This issue does not get enough of a public airing or the debate it needs in Parliament.

I start by emphasising that I am not a killjoy—I am sure everyone will say that today for fear of being labelled a killjoy—and I am fully aware that many people enjoy fireworks. Indeed, it is estimated that each year, more than 10 million people across the UK enjoy a firework display. I have attended the new year's eve fireworks here in London and the spectacular display that happens every new year's eve in Madeira—I will not say which one I enjoyed the most, as that would be dangerous. All I will say is that displays such as the one we enjoy in London, and those held in great cities across the world, every new year's eve are joyous occasions, and everyone here will agree that they play an important part in every culture.

History tells us that people across the UK have enjoyed firework displays since the 16th century, with the first being at the coronation of Queen Elizabeth I in 1559, so this cultural activity has a long history. I recognise that large numbers of people in the UK enjoy fireworks and want to make use of them in their gardens and outside their properties. Although I instinctively agree with my right hon. Friend the Member for Enfield North (Joan Ryan), who is no longer in her place, that ideally we would end the use of fireworks in back gardens—I would prefer to see people going along to their local public display—I understand the difficulty of delivering that policy. Let us remember that, as a society, we have introduced severe restrictions on the use of tobacco. People cannot smoke in public places, and now they cannot smoke in a car if a child is present. We have gone a great way towards restricting the public's freedom to enjoy certain products, primarily on the ground that we want to protect children's health. Children's health, and the health and safety of the public in general, should always be paramount in policy, and we should not be frightened if evidence presents itself showing that we need to legislate for a rules-based system protecting society from the abuse of what are, ultimately, very dangerous explosive devices.

The terrible effect of firework use on animals, especially pets, has been the driver behind the petition, which gained more than 100,000 signatures. I congratulate the originators of the petition, Jill Cutsforth from Beverley and Julie Doorne from Sleaford, on gaining so much support and getting the issue debated today. Mrs Cutsforth's explanation for starting the petition is typical of why further restrictions on the use of fireworks are needed. Her pet dog had to be sedated with diazepam when it became frightened by a firework that had been set off close by. Battersea Dogs and Cats Home has made it clear that it is forced to do all it can to keep its dogs and cats calm and safe by blacking out the windows, playing music, sitting with the most anxious residents and providing plenty of hiding places and distractions. With the restrictions that the petitioners ask for having the backing of such a powerful and well respected charity, we should think twice before dismissing the petition's demands. They include, of course, a change in the law to restrict the use of fireworks—not their sale; we already have that restriction—to traditional days such as bonfire night, new year's eve, Chinese new year and Diwali. I think that many of us here would agree with that demand.

Dr Phillip Lee (Bracknell) (Con): Does the hon. Lady agree that any policy response in this area hinges on proportionality and requires a realistic understanding of what the Government can do? I am a passionate animal lover; I have recently been traumatised by the loss of my 20-year-old cat. However, would it not be disproportionate, and indeed counterproductive, to propose any policy change that would potentially cause the closure of successful and responsible fireworks display businesses such as Star Fireworks in Bracknell?

Angela Smith: I have absolutely no interest in banning public displays. The Fireworks Regulations 2004 require those organising public fireworks displays to be trained in delivering such events and in fireworks safety. That is exactly why I think that ultimately, we as a society will move towards more support for publicly organised and regulated fireworks displays rather than events that go on in people's back gardens, which are where the real problems are.

Dr Lee: My point is that if we restricted sales to only a few days a year, there is a limited likelihood that a business would be successful purveying only on those days. I agree that restricting fireworks to organised public events would be a step in the right direction, but restricting the number of days would restrict businesses' viability.

Angela Smith: If one's policy position is to move towards public displays only, restrictions on the domestic use of fireworks would be a good starting point. The safety of the public—particularly of children—and the welfare of animals are far too important for us to compromise on that. However, the hon. Gentleman makes an important point. The 2004 regulations allow for penalties to be levied for antisocial behaviour involving fireworks, but enforcement of that power is poor. I hope that the Minister will comment on that. Over and above the demands in the petition, which I support, enforcement of the current regulations would help. A response to a parliamentary question in 2011 indicated that in the previous five years, fewer than 50 people a year had faced prosecution.

It is not only household pets who suffer as a result of the inappropriate use of fireworks but livestock and wildlife. Poultry are especially at risk of a smother, where birds huddle closely together, which can result in overheating and occasionally death. In addition, of course, fireworks can pose a fire risk if used irresponsibly or if hot embers land on buildings or in fields of standing crops, particularly during the summer. For much of our wildlife, sudden noises and flashes can be frightening and confusing.

I ask for assurances from the Minister that he will look again at the enforcement of the 2004 regulations and review them to test whether they are strong enough, or whether tighter restrictions along the lines recommended by the petition should be considered. I also ask him to consider the important recommendations made by the British Veterinary Association about adjusting the noise levels applying to firework categories 1 to 4.

We must also consider whether we need a more robust approach to regulating the use of fireworks by members of the public, notwithstanding the point made by the hon. Member for Bracknell (Dr Lee), and to restricting the occasions on which fireworks can be used in domestic circumstances. Never mind education and the fireworks code; can it be right that there is very little regulation governing how people use fireworks in their back gardens? There is advice, but nothing else. It is crazy. People cannot smoke in a car with a child present—they can be prosecuted for it—but they can use fireworks in a back garden without any real regard for all the advice about how to do so safely. Something must be done about that.

Sir Alan Meale (Mansfield) (Lab): Does my hon. Friend agree that there is another problem involving the sale of fireworks? People buy imported goods that do not fall under the protections normally afforded in the European Union and in this country. They import a lot of illicit goods and sell them at certain times of the year to the public, who do not know how dangerous they are. That adds to the problems at those times of year.

Angela Smith: My hon. Friend makes an important point. New European regulations are now in force on safety marks and the traceability of such devices, but again, there may well be an issue with the enforcement of the regulations on sales.

For the sake of animals, wildlife and our children, we should at least consider what else we need to do to eradicate the abuse of what are, ultimately, explosive devices that are extremely dangerous in the wrong hands. In Sheffield last November, we had to deal with serious incidents involving the abuse of those devices, when young hooligans hurled fireworks at police patrol vehicles. That is totally unacceptable, and something must be done. I know that such activity is already illegal, but we must deal with it. People need to understand that fireworks are potentially very dangerous; they are explosive devices. I hope that the Minister will be sympathetic to the case being made today.

5.7 pm

Margaret Ferrier (Rutherglen and Hamilton West) (SNP): It is an honour, as always, to serve under your chairship, Ms Vaz. I congratulate the hon. Member for Northampton South (David Mackintosh) on introducing this important debate on the back of the very successful e-petition.

I know that many people here might think it slightly off that I am talking about perhaps restricting the sale of fireworks, given that in Scotland we are world-famous for our use of them. Never mind the spectacular displays at the Burj Khalifa in Dubai or over Sydney harbour on new year's eve; we in Scotland do it far better than anywhere else. The scenes in the skies over Edinburgh on Hogmanay are the envy of the world, and we certainly show everyone how fireworks displays should be organised.

I admit that we in Scotland are a nation of firework lovers, but we are also a nation of animal lovers. I wish to discuss in particular the balance between firework use for celebrations and their impact on animals. Any legislation pertaining to fireworks must take into account the fact that people have the right to mark celebrations with fireworks, whether they be concerts, weddings or religious festivals. However, legislation must also protect those who do not have a voice and who need our support. Just as a balance must be struck between the rights of animals when it comes to slaughter and religious

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and cultural beliefs, the same fine balance must be made here too. If we can change something without necessarily legislating for it, that would almost certainly be my preferred option every time.

Julian Knight (Solihull) (Con): The hon. Lady is making a telling contribution to this important debate. Does she join me in agreeing with the Dogs Trust's position on the issue? It is interesting that she talks about a collaborative approach. The Dogs Trust recommends that local authorities take into consideration the location of public displays when granting a licence and require that it be well publicised in the surrounding area. Does she agree with such a course of action?

Margaret Ferrier: Definitely. I will come to that point, and to some statistics from the Dogs Trust. The hon. Member for Bracknell (Dr Lee), who is not in his place, mentioned that it is important for people to have advance notice. I know that that is not always easy when people buy fireworks and have a display in their garden; they do not let the general public know. That is an issue. It is about knowing the time that an event will take place, which is why the hon. Member for Penistone and Stocksbridge (Angela Smith) made a good point in saying that general fireworks displays are better; everyone knows about them because they are well publicised.

I thank the hon. Member for Solihull (Julian Knight) for his intervention, but he stole my next sentence: I was about to say that one way to solve the problem is by having and promoting public fireworks displays. In Glasgow, the council holds fireworks shows every bonfire night, which attract as many as 50,000 people. The consequence of such a large number of people attending these gatherings is that far fewer people buy their own fireworks, and fewer fireworks at home mean less disturbance for our pets. If a major display is well publicised, people who have pets are made aware of it and can easily draw up contingency plans to avoid it if necessary, because they have plenty of advance warning. A Dogs Trust survey of 3,750 people found that 93% of pet owners alter their plans during fireworks celebrations to try to minimise their pets' trauma. No matter how annoying or inconvenient it can be for people to change their routine, they can do it.

Of course, I am not naive enough to think that having more public displays will magically solve the problem, because, as we know, fireworks are not exclusively used on 5 November. People's plans cannot be changed when their next door neighbour holds an impromptu fireworks display at 10.30 pm on a random Tuesday. Several of my constituents say that it is the lead-up to and aftermath of both Guy Fawkes night and new year's eve that cause the most problems for their dogs. Scamp, the dog belonging to my office manager Derec, is absolutely petrified of fireworks, as is Fluffy, my constituent Carol's Lhasa Apso. Both dogs show signs of distress and completely change their behaviour, which has a negative effect on their owners. Fluffy is a small, petite dog, while Scamp is a larger Border collie, showing that all sizes and breeds of dog are affected by fireworks. As we are all aware, across the country thousands of dogs are affected by fireworks and many show the same symptoms of fear, including freezing on the spot. People can imagine how hard it is to carry a Border collie back home: because Scamp will not move at all at such times, it is no mean feat to carry him. Affected dogs can also bark or panic.

Another of my constituents, Lynne, is actually a dog trainer and trainee behaviourist. She has managed to teach her dog, Cal, a coping strategy; when he hears fireworks, he runs into a "safe" room and stays in there until the noise ends. Lynne is one of the lucky ones who is talented enough to provide such training. Sadly, however, most dogs have to suffer, with many of them actually requiring veterinary assistance.

To tackle this issue, I certainly do not wish to bring down the fireworks industry. Fireworks are enjoyed by some 10 million people in the UK every year and banning them completely would change many of our celebrations for the worse. None the less, we must take a pragmatic approach. The British Fireworks Association says that current legislation must be correctly enforced and it has also called for an increase in fines—from £1,000 to £5,000—for those found guilty of breaking the law. If the association is calling for such steps, it shows that something has to be done.

Philip Boswell: Current legislation and—critically—enforcement of it restricts the periods within which fireworks are sold by unlicensed traders. However, fireworks are often stockpiled for later use by members of the public when prices are slashed after Guy Fawkes night, and fireworks are readily available online. Does my hon. Friend agree that these sources also need more effective regulation and enforcement?

Margaret Ferrier: I do indeed and I thank my hon. Friend for making that point about the bigger issue of online sales and—as the hon. Member for Mansfield (Sir Alan Meale) said—fireworks being imported from other countries that perhaps do not adhere to EU law. Such imports should not be used or even brought into the country. We need to find a way round that issue as well, because such fireworks will be dangerous not only to animals, but to the humans who end up using them.

Dogs Trust says it is important that owners take preventive measures to prepare their dogs for the noise of fireworks, and the Kennel Club argues that existing legislation should be properly and rigorously enforced. I agree with both those points. In the lead-up to this year's fireworks season, I will do all I can locally to ensure that everyone acts in a socially responsible manner with fireworks and I urge all Members present today to do the same. To reduce the disruption to animals, it is incumbent on everyone to play their part to guarantee that fireworks are used with minimal problems, and that is true for both the owners of shops that sell fireworks and the owners of pets. I look forward to hearing the Minister's responses to all the points that have been made by Members in this important debate.

5.15 pm

Jim Fitzpatrick (Poplar and Limehouse) (Lab): It is a pleasure to see you in the Chair this afternoon, Ms Vaz. I congratulate the hon. Member for Northampton South (David Mackintosh) on introducing the debate on the back of the e-petition.

I am pleased to follow the hon. Member for Rutherglen and Hamilton West (Margaret Ferrier); I always enjoy listening to her contributions. I do not want to get into

a squabble with her about which fireworks display is better, London or Edinburgh. If she had said Glasgow's display was better than London's, I might have faced a little conflict of interest, but London against Edinburgh? Come on; that is just too much of a stretch.

A number of colleagues will know that I spent 23 years in the London fire brigade before becoming the MP for Poplar and Limehouse. I was an operational firefighter for 13 years. For 364 days of the year, people young and old would be knocking on the doors of the fire station because they wanted to come in and look at the fire engines and talk to the firemen, as they were in those days—now we have both male and female firefighters. However, on bonfire night, things were entirely different. I have a quote here from the Chief Fire Officers Association, stating:

"Emergency service workers are more likely to be the victim of violence and hostility whilst carrying out their duties on November the 5th than most other nights of the year. Organised displays are generally safer and people are less likely to be injured."

That is because 5 November is the night of the year when firefighters literally pour cold water on a lot of people's fun—fires get out of control, and firefighters try to make sure that their community is safe.

The Minister will know that we have nearly 7,000 fewer firefighters today than we had in 2010, which means that there are not so many targets for people to aim at on 5 November. Maybe he would like to take that up with his colleague at the Home Office who is in charge of the fire service, because the cuts to the fire service across the country have gone too far and we are now endangering the public, as a variety of recent statistics have demonstrated.

Of course, the situation now is very different from when I was in the fire service. It is no longer just on 5 November that fireworks are used; people enjoy fireworks at parties, birthday events, cultural festivals and weddings. As my hon. Friend the Member for Mansfield (Sir Alan Meale) pointed out, fireworks are bigger and noisier, and many of them are a lot more dangerous because they are illegal imports. Furthermore, as my hon. Friend the Member for Penistone and Stocksbridge (Angela Smith) said, the misuse of fireworks as weapons by the antisocial means that they are dangerous to ordinary people as well as to emergency service workers, let alone the damage that they do to animals.

I confess to having been very interested when I read the House of Commons Library briefing for this debate, for which I thank the Library. I am interested in hearing the Minister's response to the debate, and especially hearing why the Government regard things as having improved, which is the essence of their comments in the briefing pack.

The Government say that current regulations outline the times of the year when fireworks are on sale, but colleagues have already made the point about fireworks being stockpiled at the end of those periods to be used at other times of the year. The Government say that

"the availability and use of fireworks outside the traditional periods has been greatly reduced"

and that the regulations regarding curfews are working really well. I would be very interested to hear the Minister's statistical defence of those comments. I am not saying that they are not true, but I would be happy to hear the statistics supporting them. It will be good news if they are true, but anecdotally that does not seem to be the situation. The Library briefing further quotes the Government's response:

"Although there is some use of fireworks outside the traditional periods, we believe that the majority of people who use fireworks do so at the appropriate times of year and have a sensible and responsible attitude towards them. There are no plans at the moment to place further limitations on their use."

The message that has come across from virtually every speaker in the debate so far is that we should ask the Government whether the balance is right, and how vigilance can be maintained to ensure that people who abuse the privilege of fireworks or misuse the materials are taken to task. I will come back to that point in a moment, and I will also turn to animal welfare issues.

First, however, I want to refer to the briefing and factsheet that the British Fireworks Association sent us—these points have already been made by one or two colleagues. The BFA urges us

"not to support the proposals outlined in the petition",

because they would

"increase illegal sales and create a black market trade, creating an additional problem for law enforcement agencies"

and

"force legitimate importers and retailers out of business, costing hundreds of jobs".

It says that the industry is "responsible" and "puts safety first", that its products are

"enjoyed by 10 million people every year"

and that if they are enjoyed responsibly there ought not to be a problem. The association suggests that the penalty for those found guilty of misuse should be increased from £1,000 to £5,000, so even the industry accepts that there needs to be some adjustment of the regulations controlling the sale, use and misuse of fireworks.

The association helpfully draws attention to another fact:

"In 2014/15 there were 114 people admitted to hospital as a result of firework related incidents. During the same period there were over 7,000 people admitted to hospital as a result of dog bites."

A lot of Members have been campaigning about responsible dog ownership for many years, and excusing one issue does not excuse the other. We should be doing more on both.

The Chief Fire Officers Association largely supports the BFA. In a quote it supplied to us it states that it

"supports the need for maintaining effective controls…However, the legislation in place following the review"

of the 2014 regulations

"we believe is proportionate to the risk and any proposals to shorten sales periods could have an opposite impact with the potential to increase illegal firework sales, black market and rogue traders",

which we obviously need to be wary of.

We have received briefings from other organisations, including Battersea Dogs and Cats Home, the British Veterinary Association and the National Farmers Union, some of which have already been quoted from. My hon. Friend the Member for Penistone and Stocksbridge referred to the lengths to which Battersea has to go to look after its animals. The home also gives us an interesting statistic: in an average week in October it takes in 88 animals, but in the week of bonfire night there is

[Jim Fitzpatrick]

a 20% increase in the number. Animals are frightened—they panic and scatter—and then are handed over because their owners are not able to control them indoors, are worried about their behaviour and are looking to offload them.

Helpfully, Battersea Dogs and Cats Home draws attention to its 10-point plan, which I will come back to when I speak about Government advice for people who use fireworks and for those who have to suffer them. The points include looking after animals indoors, escape-proofing the house to protect animals from stampedes, creating a hiding place, drawing the curtains, putting on music and avoiding taking the animals out. They do not include the air freshener that was mentioned earlier, but whatever works has to be of assistance. The home goes on to say that it

"would be supportive of…more effective enforcement of curfews, which would be of benefit as an anti-social behaviour measure for communities in a wider context than just animals."

People who do not observe the regulations on time, noise or location of fireworks are straightforwardly being inconsiderate, selfish and antisocial. It has been commented that the concept of personal space seems to be diminishing in our society, and that is just another example.

On the British Veterinary Association's briefing, I should declare that I found my BVA honorary membership card this afternoon, and I know that my hon. Friend the Member for Penistone and Stocksbridge is also an honorary member, as are other colleagues here. We obviously have to take due note of the BVA's briefing, otherwise our membership might be revoked. Its points have already been referred to, and they are straightforward. They are about the impact of firework noise on animal welfare. As my hon. Friend said, the association is calling for a revision of the levels of noise allowed, including through the setting of different levels for different types of firework. It is also calling on the Government to help ensure that information and advice on the prevention and management of noise is available to pet owners and others in the community. I would be interested to hear the Minister's comments on that.

The National Farmers Union has also made some comments on the issue, stating:

"Fireworks…have the possibility to frighten livestock, which can lead to lower production and even stock loss. Poultry especially are at risk of a 'smother', where birds huddle closely together which can result in overheating and occasionally death. In addition fireworks can pose a fire risk if hot embers land on buildings or in fields of standing crops. This is particularly an issue during the summer when crops are more likely to be dry. While the NFU does not have a position on when it is appropriate for fireworks to be let off we would call on everyone using fireworks to consider the safety and wellbeing of their neighbours and neighbours' animals."

The hon. Member for Strangford (Jim Shannon), who is a farmer himself, made that point, and the point about the impact on the community.

Making fireworks illegal is just not sensible. It is a non-starter, notwithstanding the fantastic petition. Everyone who has spoken so far, and I suspect everyone who will speak, has sympathy for animal owners and the animals that have stress as a result of fireworks, but I do not think that banning fireworks will happen. The industry is regulated, but the regulations need to be kept under review. For me, as I said earlier, enforcement and information are key.

Organised displays are clearly preferably to amateur ones, whether in back gardens or on commons and whether organised by individual families or communities. They are safer for individuals, families and communities and are better for managing animal stress. The BVA's point about noise levels is worth examining. We need more support for the police and trading standards in prosecuting antisocial behaviour and, worse, criminal behaviour, as well as in clamping down on dangerous products. We need common sense from the public about using fireworks at times when they are less likely to disturb neighbours and their pets, as well as wildlife. It is not rocket science—excuse the pun, Ms Vaz; I wrote that earlier and just had to get it in—it is basic common sense and civic responsibility.

I come back to my point about the Government's response, in which they are positive about the progress that has been made. I do not deny that, and I look forward to the Minister elaborating on it. Most importantly, the existing regulations need to be enforced, as the hon. Member for Northampton South said when he opened the debate. I look forward to hearing the contributions of the Opposition spokespeople, especially that of my hon. Friend the Member for Makerfield (Yvonne Fovargue), as well as those of other colleagues, but I particularly look forward to hearing from the Minister about how the Government see the situation.

5.28 pm

Susan Elan Jones (Clwyd South) (Lab): It is a great pleasure to serve under your chairmanship, Ms Vaz. I would like to place on record my thanks to the hon. Member for Northampton South (David Mackintosh) for his thoughtful introduction to the debate.

Such debates are interesting, because we never know what we will learn. I am grateful to my hon. Friend the Member for Penistone and Stocksbridge (Angela Smith) for informing us that fireworks were first used early in Queen Elizabeth I's reign. I am afraid that those of us who thought that the problem was caused by that continental European immigrant Guy Fawkes cannot use that one any more, which makes a nice change.

I think most of us rather like fireworks: the Roman candle, the Catherine wheel, the snowflake—or is it the snowstorm?—the sparkler, the traffic light and all the rest. As children, most of us enjoyed fireworks every year, but part of the problem is that fireworks now happen in a random way. That is fine for those enjoying the fireworks, but less fine for owners of animals living in the vicinity. I will quote what one of my constituents, who lives in one of the industrial villages a couple of miles outside Wrexham, had to say on the subject:

"I myself have 2 dogs that get extremely distressed every year and the onus is naturally upon myself to protect them. However having to stay indoors without being able to safely let them outside…keeping them inside with high volume music on in order to drown out the noise outside every night from mid-October to mid-January is ridiculous. Many anti-social people will set fireworks off at all hours in my area…and the police are powerless to do anything about it as it's impossible to identify who is responsible, and more often than not they're also setting them off before the curfew (regardless of the time of year), so the police won't do anything about it anyway because these people are currently within their legal right to set off fireworks at these times."

That, in a nutshell, is the problem, but how do we deal with it? Most of us do not want to stop fireworks displays, but we have to recognise that there is a real problem. In addition to some of the solutions that other Members have suggested, I propose one possibility, which is for at least some form of advance notification to have to be given.

As a representative of a constituency that is very rural in part, I very much accept what the National Farmers Union and others, including the hon. Member for Strangford (Jim Shannon), have said about the impact on livestock in certain communities, but there is an additional problem in densely populated areas: people just do not know where some of these fireworks will be going off. I suggest that we have a solution similar to that for street parties. Imagine if a group of friends decided spontaneously at 7 o'clock one evening, or perhaps a bit later, to have a street party in the middle of their street with no licence and no permission. It would probably be a bit of a nuisance if one was trying to get one's car out and could not do so without disturbing the street party. Could practical solutions such as advance notice be looked at? Through that, owners of animals and pets would at least have prior notification of fireworks dos.

There is an important issue of balance in all this. The problem does not merely affect those with pets. Many of us like fireworks—we really like fireworks—but I suspect that it is different for a family with young children trying to get the children to sleep to the accompanying cacophony of bangers and Catherine wheels and some of the other louder fireworks. It would be all right if it was just the quiet little sparklers, but usually it is not. How we sort this issue out in terms of balance is important. I am sure that the Minister will listen to the points that we have all made in our speeches, and I am sure that he will take on board the real concerns of animal owners across the country. We do not want to be killjoys, because many of us really like fireworks, but we recognise the practical problems and that we have to have some balance.

5.34 pm

Mr Philip Hollobone (Kettering) (Con): I congratulate those who signed the petition, because it raises an issue that is of genuine concern up and down the country—not least in Kettering. I am disappointed that I was not able to hear the opening speech of my hon. Friend the Member for Northampton South (David Mackintosh), but I know it will have been outstanding, and I promise to read it tomorrow in *Hansard*.

There is strong merit in going the whole hog and banning fireworks, and the Government should look seriously at doing that. At the very least, I would expect them to produce a proper paper outlining the pros and cons of such a ban. If we put the issue to people in a referendum—I am not advocating that, but were we to do that, we might surprisingly find a majority in favour of banning fireworks, largely because of the nuisance and distress that they cause to pets, but also because of the nuisance and disturbance they cause to schoolchildren. It is outrageous that anyone could let fireworks off in a built-up area on a school evening, when children are meant to be asleep, ready for the next school day.

Things have of course moved on from the time of my grandfather. He was an orphan growing up in south London. On bonfire night, the superintendent went around the orphanage with a bucket containing a series of fireworks, and each child was told to pick one out and to go and light it. That was in the late 1800s and I know it is not like that now, but individual fireworks are extremely dangerous. They are a type of explosive, and it is not safe to have mini-displays in back gardens. I think there is great merit in saying that all fireworks displays need to be licensed with a licensed operator.

The other issue to consider is that, frankly, amateur family-organised fireworks displays in people's back gardens are basically rubbish. They have only a few fireworks, which do not go very high. They last a couple of minutes, and that is it, whereas an organised display has super-duper fireworks that do everything one could possibly imagine in all the colours of the rainbow and in all sorts of different patterns. They go extremely high, make fantastic noises and it is great fun. It lasts 20 to 25 minutes with a well-organised display. That is how fireworks should be displayed and appreciated. It should not just be a handful of fireworks launched by an enthusiastic dad to impress the kids in his back garden.

We have heard that 114 people go to hospital each year as a result of fireworks-related accidents. I am surprised by that, and I question the veracity of that figure. I am sure that the hon. Member for Poplar and Limehouse (Jim Fitzpatrick), who is a former fireman, agrees that that number is probably a lot higher. We have all read of very distressing cases where very small children have lost eyes or been caused serious burns and injuries because a fireworks display went wrong at home. Accidents of course happen with organised displays, too, but it is far less frequent. In this country we are privileged to have some fantastic fireworks companies and operators who organise magnificent displays, and we should encourage that. Were we to ban fireworks from domestic sale and say that all fireworks displays should be licensed with a proper operator, that would encourage the number of licensed displays in this country. Far from being bad news for the fireworks industry, it could be very good news.

The other point is that fireworks are of course distressing for animals. I have a feeling that those who like to have an amateur display in the back garden think it is upsetting only a few people, but they do not see the distressed individual dogs cowering in the corner of the living room. Responses to noise are one of the most primitive in-built instincts that all animals have. As human beings, we can be frightened by noise, but we can rationalise it, understand it and overcome it. Very few animals can do that. Those who are operating these back garden displays do not see the small dogs, the large dogs or the cats—you name it—cowering in the corner petrified at the bangs going off outside.

Fireworks are great if they can be seen and if they are good, but they are universally awful if they can only be heard. Fireworks have to be seen to be appreciated; it is not possible to appreciate just the noise. Whenever somebody has a family firework display, hundreds of animals in the vicinity in a built-up area will be terrified for however long that display lasts.

The Government insist that children attend school every day, get their homework done and get the right grades, but how can we expect children to perform well at school if they are woken up at 9.30, 10 or 10.30 at night by an amateur firework display in the neighbouring

[Mr Philip Hollobone]

street? They will probably wake up distressed; they might find it difficult to get back to sleep; and they will certainly not be as right as rain when they wake up for school the next day.

Angela Smith: The hon. Gentleman is making an excellent speech and showing a refreshing independence of mind in calling for regulation and indeed a ban on an activity such as this. His comments about the noise and the spectacle itself underline the point that we cannot drive fireworks underground by restricting their use to certain times of the year. It is impossible to drive the use of fireworks underground; they are seen and heard, so it is possible to police restrictions on the use of fireworks at certain times of the year.

Mr Hollobone: The hon. Lady makes a very good point. As a former special constable under the police parliamentary scheme, I know a little about trying to enforce rules and regulations. Often it is difficult, but she is right; when it comes to fireworks, it is relatively straightforward, although not in every case. I have had the experience of trying to track down where a very loud noise was coming from in a local area, and sometimes it is more difficult than people think. However, I managed to do it. It is possible, especially with other officers in attendance. It is also possible to draw on local intelligence from neighbours. The hon. Lady is therefore right to say that it is possible to enforce restrictions.

A ban is simple and understandable. If I were drawing up the legislation, I would prescribe days in the year when it is permitted to have licensed firework displays: Guy Fawkes night, Chinese new year, Diwali and the Queen's 90th birthday, for example. At all other times fireworks would not be allowed, and I would have an absolute proscription on letting off fireworks during a school evening.

Encouraging people to notify their local area is very well meaning, but in practice it will not happen and will not be enforceable. We all know that there are responsible local firework displays organised on a small basis. One was organised by my local church not long ago. The volunteers from the church were well meaning. They put up notices in the local area that said what time the display would be and how long it would last. That is great, but there would still have been lots of animals in the local area distressed by the noise.

Jim Fitzpatrick: The hon. Gentleman mentioned that he was a special constable; he is also a graduate of the fire scheme. As my hon. Friend the Member for Penistone and Stocksbridge has outlined, he is directly challenging the Government. Is that just from his time as a special constable or because of his experience from the fire scheme? Or does he want a ban because he is a constituency MP listening to complaints from constituents?

Mr Hollobone: The hon. Gentleman brings to this debate the enormous benefit of his long service with the London Fire Brigade. He probably came across pretty dramatic fireworks instances, and he will know that the risk to people and property from the improper use of fireworks is a common complaint among firefighters. If we had a poll of firefighters I would be surprised if there were not a big majority in favour of banning them because they are simply too risky. The fireworks industry in this country would benefit from a ban on the domestic sale of fireworks because we could then develop the very good reputation that a lot of the licensed operators have for fantastic displays. If people knew that they could see fireworks only at a licensed display, I think fireworks would become more popular.

Sir Alan Meale: The hon. Gentleman's analogies are interesting. He talks about amateur backyard ventures by parents and huge displays at community events such as we have had at Westminster. Back-garden displays are likely to keep children up and not going to school the following day, as indeed are the very large bangs from organised professional displays. The one thing we all know, which is why we are having this debate, is that they all scare the living daylights out of animals, whether pets or wildlife. How can he justify saying that we should organise regular and larger professional events? We should ban them.

Mr Hollobone: The hon. Gentleman makes a good point in his own way, but I would not go as far as him in banning them altogether. I do not believe that a complete ban on firework displays would enjoy popular support in this country. I do not think that that would get a majority of votes in a referendum. However, there could be a majority of votes for banning the domestic sale of fireworks. I can reconcile the question he asks by saying that there would be more fantastic licensed displays on the specific days when they were allowed throughout the year: for example, on Guy Fawkes night, Chinese new year, Diwali and the Queen's birthday. Whatever the event, I envisage more displays of better quality just on those days. Most pet owners in this country would recognise that as a reasonable solution, so they would need to worry about this issue only on certain days during the year.

Sir Alan Meale: It is bizarre that we are here in the Palace of Westminster discussing whether we should have large bangs and firework displays when we all know that they came about only because of a guy called Guy Fawkes who initiated it all.

Mr Hollobone: The hon. Gentleman makes a very good point. Of course, this is where the original Gunpowder Plot took place, so perhaps it is apposite that we should be having this debate here. I readily agree with him.

I hope that the Government do not dismiss the petition as simply another House of Commons petition signed by just over 100,000 people who have a particular bee in their bonnet. I think that the issue is bigger than the petition suggests it is.

Jim Shannon: The hon. Gentleman was not here when I made my contribution and referred to Northern Ireland where we have a licensed system organised by the council and the Police Service of Northern Ireland. The system seems to work. It is regulated and controlled. We have a system that works and people can enjoy fireworks. I am not sure whether the hon. Gentleman and I are at odds on this, but I want to see balance in the debate. I want the opportunity to use fireworks and I want protection for animals. I believe that it is possible to achieve that. We have done it in Northern Ireland. Why cannot we do that here?

Mr Hollobone: The hon. Gentleman always seeks balance in a debate. I am disappointed that I missed his contribution, but I know that I will not have to wait too long before chancing upon another one, which I am sure will be of his usual high standard. He makes a good point. Often we can learn from Northern Ireland about how to do things. The issue is more serious than indicated by the great numbers who signed the petition. Were we to ask the British people to weigh up the pros and cons and consider banning the domestic sale of fireworks and have only licensed firework displays, I think a majority in this country—a majority in Kettering—would vote for that.

5.48 pm

Martin Docherty-Hughes (West Dunbartonshire) (SNP): It is always a pleasure to see you in the chair, Ms Vaz. I congratulate the hon. Member for Northampton South (David Mackintosh) on securing this debate. Importantly, I congratulate the authors of the e-petition, which offers a constructive path that the UK Government can follow to ensure a healthy balance between limiting noise pollution and respecting and acknowledging important occasions that our communities take part in.

I declare an interest as my family includes two rather spoilt whippets, so I can fully appreciate and sympathise with the thousands of people who signed the e-petition, including those from my own constituency, calling for a limit on when the general public can use fireworks.

To pick up the point made by the hon. Member for Clwyd South (Susan Elan Jones), I cannot stand fireworks. They are the dullest thing since sliced bread. I would rather be sitting in the house, having a cup of tea and watching "Coronation Street". Perhaps I am the odd one out, but I have never really got into them. By allowing communities to celebrate and mark events, such as Hogmanay, that are part of our culture and heritage, while at the same time offering protection to those dog owners whose animals are adversely affected by noise, we will go some way towards tackling the increasing problem of noise pollution for those who have pets, as well as for those affected by the noise personally.

[Mr David Nuttall *in the Chair*]

The traditional bonfire night was perhaps the reason why I do not really appreciate fireworks. They were always very small bonfires and, back in the good old days when I had hair, the fireworks were useless. Most importantly, it was always raining, so I never really liked fireworks displays. In my constituency, we have bonfire night events in Levengrove Park in Dumbarton and Dalmuir Overtoun Park in Clydebank. They are organised by the local authority and done very well, but I hear from constituents who live close to such large organised events that dogs—it is predominantly dogs, but also cats and other animals—have to be sedated so that they can deal with the noise. Traditionally, we did not have so many huge events or back-garden firework displays. Fireworks were not easily accessible and more often than not people could not afford them. There has been a change in the culture, and fireworks are now used a lot more often and are a lot noisier.

As the owner of two whippets who like nothing better than to run about in the park or the garden, I see at first hand the impact that the noise from fireworks has on them and neighbouring dogs. As the saying goes, dogs are our best friends, and they are an important and integral part of any family. For me, seeing them suffer is like seeing one's own children suffer. Noise pollution harms not only dogs but their owners, who feel helpless as they are unable to offer comfort to their pets. The psychological impact on all those affected cannot be fully calculated or identified, but it is not too difficult to agree that there is some impact.

I was pleased that the former Scottish National party MSP Dennis Robertson released an eight-point guide to helping pet owners and, probably more importantly, their pets through last Hogmanay. The recommendations included having a specific play area in the house—as is often mentioned by charitable bodies that deal with animal care—filled with favourite toys, treats and so on, and making sure that pets are secure and cannot escape if they are suddenly frightened. Dennis also highlighted the effect of fireworks on his companion and working guide dog, Mr Q, who retired at the end of the last Scottish Parliament Session. Although highly trained, working animals are nevertheless susceptible to noise pollution from fireworks, which can undermine their working capabilities and affect those who rely on them.

Dennis's guide will go only some of the way towards combating the issues relating to noise pollution from fireworks. As Members have mentioned, more could be done by strengthening the existing Fireworks Regulations 2004, or by fully ensuring that they are properly and rigorously enforced. I am sure that, like me, other Members will find that the Pyrotechnic Articles (Safety) Regulations 2015 go some way towards addressing the issue of access to certain fireworks, such as those classed as category F4. That legislation was a step in the right direction.

The noise of fireworks gives cause for concern, but other devices, such as Chinese lanterns, are well documented as having caused injury and the death of livestock. That is a dreadful way for any animal to die and a huge loss to local farming communities. Animals face many challenges. Although it is not the UK Government's intention to legislate at this point—the Minister can correct me if I am wrong—if further work is to be done, the implementation of the Pyrotechnic Articles (Safety) Regulations 2015 might allow additional support. The purchase of fireworks online is a serious issue mentioned by my hon. Friend the Member for Coatbridge, Chryston and Bellshill (Philip Boswell). It gives me cause for concern, and I am sure that it is brought up with other Members in the lead-up to fireworks night.

It is critical that we work with animal welfare and educational charities to bring about a cultural shift in the indiscriminate use of fireworks, thus reducing noise pollution and ensuring a better experience for communities when they use fireworks. This debate offers the welcome opportunity to highlight the work of various national bodies that seek to educate the wider community about the impact of using fireworks, especially organisations such as the Scottish Society for Prevention of Cruelty to Animals, which has been on the frontline of animal welfare in Scotland since 1839.

The SSPCA reminded me, as a constituency MP, that individuals and communities must bear in mind that fireworks can be very stressful for pet owners who are trying to protect their animals from fear and distress. It also highlighted the fact that the bang from a firework

[Martin Docherty-Hughes]

is terrifying to an animal, causing some to panic and flee. That has resulted in road traffic accidents, and there have even been reports of swans flying into electricity pylons and horses being badly injured after running into barbed wire fences.

We require a cultural change in our use of and interaction with fireworks, based on the understanding that noise pollution affects people and animals. As the hon. Member for Strangford (Jim Shannon) said, pet owners have a personal duty to protect their pets in the lead-up to fireworks night. Nevertheless, as the hon. Member for Clwyd South said, it is ridiculous for pet owners to have to do that from October all the way through to January. It is unacceptable that they find themselves in that position. Perhaps the Minister will reflect on that.

We must recognise changes in fireworks themselves. As I said, for me, Hogmanay used to be about spending time with neighbours and family; it is now more about going out to huge fireworks displays. There has been a huge cultural shift in many events across these islands, with more, louder fireworks. That, of course, affects communities. Partnership is key to changing attitudes. Closer collaboration can enable people to better understand the impact of noise. We should work with the fire service and people in education services. We should work with people in the health service, who understand the effect of fireworks through working in A&E departments and seeing the reality of the impact a firework can have on an individual. We should work with veterinary surgeons, who can tell us about the effect of fireworks on animals who escape during displays.

We must collaborate and we must better understand the impact of noise pollution on people and animals to better inform the enforcement of the existing legislation. If required, future legislation should be based on communities' experiences. We must ensure that future legislation or policies better reflect the impact of noise pollution on animals, as highlighted by the petitioners. I congratulate them on their petition and thank the hon. Member for Northampton South for bringing it to the House.

5.58 pm

Yvonne Fovargue (Makerfield) (Lab): It is a pleasure to serve under your chairmanship, Mr Nuttall. I, too, congratulate the hon. Member for Northampton South (David Mackintosh) and the Petitions Committee on providing this valuable debate. I also congratulate the people who initiated and signed the petition.

It is 12 years since the existing legislation was introduced in 2004, so it is right that we look at it again and consider whether it is adequate. We also need to see whether things are being monitored correctly, because it is not only about having the legislation but about what we do with it, and adequate monitoring and enforcement are key. As many Members have said, in the end, the debate is about balance. As someone who was injured by a firework at the age of four and still bears the scar—do not worry, I am not going to display it—I am very much aware of the dangers of fireworks to human beings. I do not think we considered pets enough in my youth, and it is a positive sign that we are now considering how livestock and pets are affected by fireworks. It used to be all about the terrible tragedies. As my hon. Friend the Member for Poplar and Limehouse (Jim Fitzpatrick), who has vast experience of the fire service, knows, they were all that became news at the time. Animals were never mentioned, so we have made progress.

It would be far too simple to see this debate as a clash between two opposing forces. On the one hand, the animal welfare charities bring to our attention the effects of noisy fireworks on livestock and domestic pets. It is indisputable that loud bangs and bright lights can cause distress to animals. I have had to sit in a garage with my cats for long periods, because it happens not just on fireworks night but in the period leading up to it and at other times. On the other hand, the fireworks industry, equally understandably, points to the potential loss of jobs if there were further restriction, and to the public's enjoyment of firework displays. All of us, with the honourable exception of the hon. Member for West Dunbartonshire (Martin Docherty-Hughes), enjoy firework displays. Although I was injured by a firework, even I watch them at a very, very safe distance.

Both sides have a point. The real questions are, where do we draw the line, and are the laws that are in place enforced sufficiently? Nobody wants a free-for-all in the sale of fireworks, or to go back to the situation where they were on sale for months in supermarkets. We need to look at whether the regulations are sufficient and sufficiently enforced. The Fireworks Regulations 2004 were made under the Fireworks Act 2003, which was a private Member's Bill—that shows that private Members' Bills have an effect in this place. The previous Labour Government supported it, and it had cross-party support. We worked together for the good of people and animals. The purpose of the Act was explicitly to stem the trend of year-round fireworks, which concerned the RSPCA and others at the time.

Fireworks can be sold to the public by unlicensed traders, including supermarkets, only for Chinese new year and the preceding three days, Diwali and the preceding three days, the bonfire night period—although if it lasts from 15 October to 10 November, I think that is a very long period—and new year celebrations from 26 to 31 December. That is 41 days in total. Perhaps we should look at the length of time for which they can be sold for bonfire night. As far as I am concerned, they should be sold for 5 November and perhaps the Saturdays around that date, although my hon. Friend the Member for Poplar and Limehouse made a good point: how do we know that people are not stockpiling fireworks and keeping them for other dates?

Suppliers that want to sell fireworks outside the traditional periods have to be licenced by local authorities, which is pretty costly and requires them to comply with stringent conditions. Under the 2004 regulations, it is an offence to use fireworks outside the traditional periods after 11 pm and before 7 am without permission. As my hon. Friend the Member for Clwyd South (Susan Elan Jones) asked, how difficult is it to enforce those regulations? Do the police go out if they hear fireworks? What monitoring is done of whether action is taken in areas where the rules are abused? A number of hon. Members mentioned the noise level allowed, which is 120 dB for home fireworks. Will the Government consider that noise level and its effect on animals? Has more research been done? Is the level being continuously monitored?

I have concerns about trading standards organisations' monitoring of firework sales. We know that trading standards departments are being cut throughout the country, and that they are overworked at the moment. Are they monitoring the illegal sale of fireworks? Do they have the resources to do so at the moment? We need to raise that concern.

The use of fireworks has changed for the better since I was younger. I remember fireworks being available far more widely. They were often bought by what we might call a hooligan element. Bangers were regularly thrown at cars, and there were constant reports of fireworks being tied to cats' tails. People seemed to have less respect for fireworks in those days. I am pleased that the education appears to be working. The television news used to be full of horrendous incidents, and there were not many reports about pets, apart from the more horrific tales. I am pleased that public concern has been raised, but I would like there to be more education. Perhaps, as my hon. Friend the Member for Clwyd South said, people should contact their neighbours if they are going to have a display in their back garden. I agree with my hon. Friend the Member for Penistone and Stocksbridge (Angela Smith): I would like public displays to be much better promoted, although with adequate notice so that people can keep their pets in. Public displays, rather than back garden displays—which are often, frankly, very disappointing and expensive—should be the norm for fireworks.

It is not just the 2004 regulations that protect us from firework misuse. The Explosives Regulations 2014 deal with the storage of fireworks and explosives, and the Pyrotechnic Articles (Safety) Regulations 2015 deal with the safety of fireworks as a consumer product. We need to look at whether trading standards organisations have enough resources to deal with the illegal trade in fireworks. The Environmental Protection Act 1990 requires that local authorities' environmental health officers take "all reasonable steps" to investigate complaints about excessive noise. Have there been any prosecutions for the use of fireworks? Is that monitored? Are the statistics looked at?

To return to the petition, of course animals need to be protected. They do not like fireworks, there is no doubt about that. There is animal protection legislation—under the Animal Welfare Act 2006, it is an offence to cause unnecessary suffering to animals. There is advice and guidance on the safe use of fireworks on the "Safer Fireworks" website, but it should be better promoted and the information should be strengthened. Perhaps people can be given advice if they really feel it is necessary to have a display in their back garden and want to spend their money on fireworks that fizzle out so quickly. Perhaps they can be asked to inform their neighbours if they have pets.

It is important that the misuse of fireworks is kept to a minimum and that they are prevented from being a nuisance and a danger to people and animals. We have a lot of legislation, but we need to ensure that it is monitored and enforced and look at whether the penalties are set at the right level. If that is combined with a stronger public information campaign, maybe, just maybe, we will ensure that people enjoy fireworks—as most people do—responsibly and safely without instilling fear and distress in animals.

6.8 pm

The Minister for Universities and Science (Joseph Johnson): It is a pleasure to serve under your chairmanship, Mr Nuttall. I congratulate my hon. Friend the Member for Northampton South (David Mackintosh) and the petitioners on bringing about this debate.

The Chinese may be able to claim the credit for inventing the tradition of fireworks, but they are a big part of the UK's history. As the hon. Member for Penistone and Stocksbridge (Angela Smith) reminded us, they have been in use in this country since Elizabethan times and are now very much part of our multicultural traditions. They have been used for celebrations by many different faith groups—Christians, Hindus and Muslims—for many years, and they bring communities together to celebrate significant dates and events and to raise funds for good causes.

The majority of people who enjoy fireworks do so responsibly with consideration for others and in accordance with the law. None the less, I completely understand the distress caused to animals and their owners by the unexpected noise that fireworks produce. Of course, not only animals are affected by noisy fireworks. I also sympathise with those who suffer from mental health issues, autism and post-traumatic stress disorder, for whom the noise from fireworks can be very upsetting.

As a Minister in the Department responsible, my challenge is to find the right balance between the enjoyment of fireworks by consumers and the impact of those fireworks on vulnerable groups. My hon. Friend the Member for Northampton South, in his excellent opening speech, and other hon. Members have asked several pertinent questions, which I will attempt to answer.

I will take animal welfare and enforcement measures together—namely the adequacy and effectiveness of the existing framework and the various measures with respect to animal welfare. Considerable legislation is already in place on the use, sale and production of fireworks—as hon. Members have noted, the Fireworks Regulations 2004 and the Pyrotechnic Articles (Safety) Regulations 2015—and is enforced by trading standards officials, in partnership with the police. Elements of the Explosives Act 1875 also set certain restrictions on fireworks, again enforced by the police.

Fireworks must be produced to high standards. As mentioned, the 2015 regulations require that all fireworks and other pyrotechnic articles must comply with essential safety requirements, which control how the fireworks are manufactured, tested and labelled with use and safety messages. They are designed to ensure that the risks of injury to users, onlookers and the public in general, and of damage to property, are minimised.

The requirements vary by category of how powerful the firework is, and cover design and construction, labelling, and the need for full product testing. They also include restrictions on, for example, safety distances, explosive content and means of ignition. My hon. Friend also expressed concern about fireworks debris, which is restricted by the relevant British and European standards.

The 2004 regulations set an 11 pm curfew on the use of fireworks, with later exceptions for seasonal celebrations such as 5 November, new year, Chinese new year and Diwali. The curfew is enforced by the police, with any

[Joseph Johnson]

breach subject to an unlimited fine and/or six months in prison. The police can also issue on-the-spot fines of £90 to persons aged 18 or over committing that offence.

Furthermore, sale of fireworks is limited to seasonal periods, unless a retailer is licensed. A licence costs £500 and is issued by a local authority, subject to strict criteria. The penalty for operating without a licence is an unlimited fine and/or up to six months in prison. The hon. Member for Poplar and Limehouse (Jim Fitzpatrick) asked about trends in recent sales, and I offer him some statistics in response. I will happily write to him with further information in due course. The industry estimates that about 15% of sales are by those with a year-round retail licence.

The hon. Gentleman also asked about stockpiling, as did the Opposition spokesperson, the hon. Member for Makerfield (Yvonne Fovargue). Stockpiling and the storage of fireworks are governed by robust regimes. The storage of fireworks of less than two tonnes in weight needs a licence from the local authority; storage of more than two tonnes of fireworks requires a licence from the Health and Safety Executive. Both bodies may inspect storage facilities, if they so wish.

The hon. Member for West Dunbartonshire (Martin Docherty-Hughes) and others mentioned online sales. Online sales are regulated in the same way as conventional sales. The trading standards body is doing specific work on national trading standards for online sales. Funding for that body continues at last year's level of £14.8 million.

Fireworks cannot be set off in a public space, and the noise caused by them may constitute a statutory nuisance. Local authority environmental health officers may judge whether the noise constitutes a statutory nuisance and act accordingly. Finally, it is an offence under the Animal Welfare Act 2006 to cause any unnecessary suffering to any captive or domestic animal. Fireworks must not be set off near livestock or horses in fields, or close to buildings that house livestock.

In my view, those existing laws, which are robustly enforced, and the penalties for breaching them are appropriate to ensure that animal welfare is protected.

Jim Fitzpatrick: I am listening to the Minister's response with great interest and, kindly, he is dealing with points made by colleagues. I am not sure whether I am anticipating something he might be going on to answer, but a number of us asked about enforcement because of the clear interest in whether we have the balance right. The hon. Member for Kettering (Mr Hollobone) said that we should ban anything but organised displays; most of us say, "Let's get the balance right." On the enforcement of the regulations, does the Minister have the statistics on how many prosecutions there have been, what the trend is, and whether it is improving or deteriorating? Those could give confidence to people that trading standards officers, for sales, and the police, for enforcement, are working on this and are doing all they can to protect exposed communities and animals.

Joseph Johnson: No centrally available data are with the Department; the data are not separated out to show specific fireworks offences. The basis on which data are collected and given to the Home Office has changed, so we are unable to identify fireworks offences specifically or data of the kind the hon. Gentleman is interested in.

Angela Smith: The points about the role of trading standards were interesting, and I wonder whether the point about centrally collected data also applies to trading standards. Trading standards departments are important in terms of animal welfare, because they also enforce regulations on the breeding and sale of companion animals, particularly dogs and cats. There is real concern in the animal welfare world that trading standards do not have the resources to enforce regulation of either fireworks or, all important, the breeding and sale of dogs and cats.

Joseph Johnson: As I said, national trading standards continue to receive significant Government funding, to the tune of almost £15 million last year, but the hon. Lady's concerns are on the record.

On public awareness, there is Government-sponsored guidance on the safe and considerate use of fireworks on the gov.uk website, including the fireworks code. It includes a link to the Safer Fireworks website, hosted by the Royal Society for the Prevention of Accidents, which includes a section on thinking of one's neighbours and letting them know when planning a display, especially those with pets or animals, elderly neighbours and people with children.

In addition, the very useful "Celebrating with bonfires and fireworks: A community guide" is produced by the Department for Communities and Local Government. It, too, encourages consideration for neighbours and advising them of any fireworks planned.

Many local authorities provide advice on how to use fireworks safely and considerately on their websites, as well as links to other sites. In addition, UK fireworks manufacturers support the fireworks code, which is supplied with all their products and contains advice on safety and on considerate use, including informing neighbours when a garden display is planned. Many retailers have copies of the fireworks code available at point of sale. Retailers also have advice and safety information on their websites, including encouraging consideration for others. All such guidance means that the public have ample opportunity to be aware of their responsibilities.

My hon. Friend the Member for Northampton South also asked whether manufacturers and retailers could do more to mitigate the impact on animals. As I have already set out, the fireworks industry takes a responsible approach to the issue, and is keen to work with us to minimise the detrimental impact of its products. The sector supports the fireworks code, and its representatives regularly meet officials from the Department for Business, Innovation and Skills to discuss areas of concern, including those mentioned in the debate. However, I am confident that legislation already provides adequate safeguards and that the industry is doing everything it can to ensure that it continues to operate within that legal framework.

Finally, I come to the question of whether more could be done to support pet and livestock owners. Government are often not best placed to produce guidance on such matters, as others are in a better position to do so, but we are more than happy to promote and support

guidance produced by other organisations. In particular, animal welfare charities such as Blue Cross, the RSPCA and the Kennel Club have produced freely available guidance on how to minimise the impact of fireworks use on animals and on how to reduce any distress that they might feel.

While this debate is not specifically about changing the law, I want to take the opportunity to reflect on the e-petition that sparked the discussion and the calls for further restrictions on fireworks use to four traditional periods: dates around Guy Fawkes, new year's eve, Diwali and Chinese new year. In my view, changing the legal restrictions on use of fireworks is unlikely to be effective. It is likely that those who already use fireworks in an antisocial or inconsiderate way will not be deterred by further regulation. Indeed, further restrictions on when fireworks can be used could lead to higher incidents of illegal use at unexpected times. That might also be associated with trade in fireworks illegally imported from overseas, which might not conform to stringent UK and EU standards. Moreover, restrictions in use could lead to a drop in legitimate sales, leading to job losses not only in the fireworks industry but in dependent and associated businesses.

My hon. Friend the Member for Kettering (Mr Hollobone) called for a ban on fireworks outside tightly licensed displays. I remind him that this is a £180 million industry that provides employment to at least 250 people directly and supports thousands of others in the supply chain and I am not sure that they would share his optimism that the proposal he advocates would lead to an overall boost in revenues for the sector and an increase in the security of their livelihoods. We need to bear their position in mind in the debate, too.

In conclusion, there are already restrictions and penalties in place that I believe reasonably provide for animal welfare. Fireworks use, by both the general public and professional display operators, is heavily regulated. There are restrictions on when they can be bought—including on internet sales—and used, how they can be stored and noise levels.

Jim Shannon: I was hoping that we might have had some reference from the Minister to the good work done in the devolved Administrations. I hope that he has had an opportunity to consider that, but, if he has not, will he do so and come back to us?

Joseph Johnson: Indeed, we do reflect on differing practice around the United Kingdom. Fireworks use is of course a devolved issue and there is a differing regime in Northern Ireland. We look with great interest at how Northern Ireland approaches the question and any lessons that can be drawn from that will be learnt.

Fireworks are subject to stringent testing regimes and new products undergo intense scrutiny before they are made available for sale. Low noise fireworks are becoming more widely available. UK manufacturers have introduced low noise fireworks and worked with animal charities on guidance for owners.

I understand the concerns of those who find the noise and flash of fireworks distressing, but I must reiterate that I believe the majority of people enjoy fireworks with consideration for others and in accordance with the regulations governing their use. It is a great pity that the actions of an antisocial minority tarnish the reputation of a responsible majority.

I am satisfied that enough is being done to make the public aware of their responsibilities when using fireworks and that fireworks manufacturers and retailers are helping with advice to mitigate the impact on animals. Moreover, many local authorities have advice and guidance on using fireworks on their websites. They will also be aware of any issues particularly affecting the local community with regards to firework use. I therefore suggest that those who feel that fireworks use in their area is excessive contact their local councils with a view to working together on seasonal awareness campaigns to promote consideration for others when organising domestic displays. In the meantime, the Government will continue to monitor the situation closely.

6.23 pm

David Mackintosh: I am grateful to you, Mr Nuttall, and to Ms Vaz for chairing the proceedings and to all Members and the Minister for taking part in this important debate on how we ensure the balance between enjoying fireworks and animal welfare. We heard lots about how we consider that and I am grateful to the Minister for agreeing to take away some of what he has heard to look at for the future. I am also grateful to the creators of the petition and all the people who signed it for giving us the opportunity to have this important debate.

Question put and agreed to.

Resolved,

That this House has considered e-petition 109702 relating to restricting the use of fireworks.

6.24 pm

Sitting adjourned.

Written Statement

Monday 6 June 2016

PRIME MINISTER

G7 Summit

The Prime Minister (Mr David Cameron): I attended the G7 summit in Ise Shima, Japan, on 26-27 May. This was the 42nd G7 summit, and the third without Russia since its exclusion in March 2014, following the illegal annexation of Crimea.

This was the first summit under Japan's chairmanship since 2008. Under Prime Minister Abe's leadership, Japan has focused its G7 presidency on the global economy, regional prosperity and security, quality infrastructure, global health security and women's economic empowerment. G7 leaders also discussed key issues in foreign policy, trade, energy and climate change, and development. Prime Minister Abe invited leaders from Indonesia, Vietnam, Bangladesh, Sri Lanka, Papua New Guinea, Laos, Chad, and the heads of the UN, World Bank, OECD, IMF and African Development Bank to join two sessions on regional stability and development. I had a number of bilateral discussions and formal meetings with Prime Minister Abe of Japan and Prime Minister Sheikh Hasina of Bangladesh.

The G7 is a group of nations bound together by common values and common principles—freedom, democracy, the rule of law, a belief in open markets and respect for human rights. It is a forum where true democracies and like-minded countries come together for frank discussions on the biggest issues we face.

I went to the G7 summit with five clear objectives: to push for progress on global trade talks, particularly the EU-Japan free trade agreement; to highlight the dangers of increasing global resistance to antibiotics; to encourage G7 leaders to tackle the global scourge of corruption by committing to take forward the outcomes of the UK's Anti-Corruption summit on 12 May; to keep up the pressure to defeat Daesh; and to ensure support for continued sanctions pressure on Russia to complete the Minsk agreement. We made good progress on each.

Leaders discussed the substantial benefits new trade agreements would bring for all our citizens. We agreed to make a renewed push on the trade agreement between the EU and the US, and we agreed to reach a political agreement on the EU-Japan trade agreement by the end of the year. This was a significant step forward. I also pushed for progress on plurilateral deals in the WTO on green goods and on services, and on the need for the WTO trade facilitation agreement to be implemented, to ensure that the poorest are not left behind.

On the threat from growing resistance to antibiotics, I made clear to leaders the scale of the problem, and the risk that if we do not act on this now, there could be 10 million excess deaths a year by 2050. Last month, Jim O'Neill published his authoritative review on antimicrobial resistance, challenging us all to act now.

As a first step, I announced that the UK has put in place £265 million to track the spread of resistance in developing countries, and £50 million into a global fund for antimicrobial resistance research and development. I also announced that we will cut inappropriate prescribing in the UK by half by 2020, leading the global field in reducing demand for antimicrobials. The UK will work with international partners to develop a system that incentivises pharmaceutical companies to bring new products to market. The G7 recognised the recommendations of Jim O'Neill's review in the G7 Ise Shima Vision for Global Health. I also spoke to the World Bank and others about this at the summit.

I continued the push for global action to tackle corruption, and the G7 agreed to take forward a co-ordinated, ambitious global effort to defeat corruption, endorsing the outcomes of the UK's Anti- Corruption summit. The G7 agreed to play a leading role in implementing these actions, and also agreed to a G7 action plan to fight corruption.

On the global economy, leaders discussed the risks to the world economy and to jobs and growth at home, particularly from the economic transition in China, the problems in some emerging economies, and the consequences should the UK decide to leave the EU. I highlighted the success of our monetary, fiscal and structural reform policies in the UK to reduce the deficit and put the UK back on a path to growth, and made clear the need for each country to choose its macroeconomic policy tools according to national circumstances.

I led discussions among G7 Heads on terrorism and extremism. We agreed that Islamist extremism is the threat of our generation, and that Daesh is the most violent current manifestation. G7 leaders agreed that the international community must keep up the pressure to defeat this terrorist death cult, and endorsed a G7 action plan for countering terrorism and violent extremism.

I emphasised that Britain is playing its part in confronting Daesh militarily. Our RAF pilots have now conducted more than 700 airstrikes in Iraq and since December, more than 40 in Syria—which is more than any nation other than the US. With coalition support, Iraqi forces have already retaken over 40% of the territory once held by Daesh. Our intelligence services are co-operating with each other as never before, and at the summit, leaders agreed to do more.

I underlined that we must go beyond fighting terrorism and tackle the root causes of extremism. In the G7 action plan for countering terrorism and violent extremism, leaders committed to do more to work with the private sector to tackle the poisonous ideology of terrorism online, such as through working with internet service providers and administrators of relevant applications to facilitate counterterrorism investigations and to help prevent the use of the internet for terrorist purposes to recruit and radicalise young people in our communities. We discussed all of these things and shared ideas with each other.

Leaders underlined that Ukraine is the victim of Russian-backed aggression. G7 leaders were clear that existing sanctions against Russia must remain in place until the Minsk agreement is fully implemented, and that the EU should therefore renew the sanctions currently in place at the June European Council.

G7 leaders discussed the continuing migration crisis in the Mediterranean. We agreed that we must continue supporting jobs and livelihoods in poor and unstable African countries, to try to reduce migratory pressures—and the UK is doing a great deal already in this respect. But we also agreed that we need strong borders and a means to return those who attempt to cross them illegally, often at grave risk to their own lives. In the eastern Mediterranean, on average nearly 2,000 people arrived a day before the EU-Turkey deal was signed. Since then, the average has been fewer than 100 and in May was fewer than 50. Although the agreement remains fragile, it is saving lives and reducing migratory pressures, and needs to be fully supported.

G7 leaders discussed the need to achieve the same objectives on the central Mediterranean route. We are working to agree a plan to boost the capability of the Libyan coastguard. And I announced at the G7 that, once a detailed plan is agreed with the Libyan authorities, the UK will send a training team to assist in its implementation. I also announced that, once the relevant permissions and UN Security Council resolution are in place, I will deploy a naval warship to the south central Mediterranean to combat arms trafficking in the region. Together these developments will help stabilise Libya, secure its coast and tackle the migration crisis.

Leaders also discussed energy and climate change, and reiterated the need to move ahead with the momentous agreement reached in Paris last November to keep global temperature rise to below two degrees. Leaders underlined the importance of increasing women's education and training, as well as providing greater access to science, technology, engineering and maths subjects, as set out in the G7 guiding principles for building the capacity of women and girls.

Finally, leaders underlined the need to continue supporting the implementation of the UN Sustainable Development goals. Leaders agreed that we must leave no one behind, and agreed that the 2030 Agenda lays the foundation for a more peaceful, stable, inclusive and prosperous international community. Significantly, G7 leaders reiterated their respective commitments to providing 0.7% of gross national income in overseas development assistance, where the UK is the only member to be meeting this target.

This was a successful summit for the UK, and I look forward to working with the Italian G7 presidency to take forward many of these important issues at next year's G7 summit, which Prime Minister Renzi announced would be held in Sicily.

[HCWS36]

Petition

Monday 6 June 2016

OBSERVATIONS

HEALTH

Community Pharmacies

The petition of residents of the UK,

Declares that local pharmacies are a vital frontline health service, forming part of the fabric of health communities across England; further that they may be forced to close as a result of Government proposals; further that this could deprive people of accessible medicines advice and other valuable support from trusted professionals; and further that it may also put more pressure on GPs and hospital services; and further that a local petition on this matter has been signed by 386 individuals.

The petitioners therefore request that the House of Commons urges the Department of Health to reassess their proposed plans and protect local pharmacies.

And the petitioners remain, etc.—*[Presented by Mr Jim Cunningham, Official Report,* 18 May 2016; Vol. 611, c. 1-4P.*]*

[P001695]

Observations from The Minister for Community and Social Care (Alistair Burt):

The Government agree that community pharmacy is a vital part of the NHS. We recognise the public and patient support for community pharmacies locally that this petition has demonstrated.

We want to see a high quality community pharmacy service that is properly integrated into primary care and public health in line with the Five Year Forward View.

Our proposals are about ensuring we have a modern, efficient community pharmacy sector in England offering patient choice, easier access and fit for the future as well as today.

We have sought to encourage contributions from all stakeholders, including patients and the public, to help inform our discussions with the PSNC during the public phase of the consultation. This ended on 24 May. We will certainly take account of the views of the patients and public who signed this petition.

We are now entering a new confidential phase of the consultation process. We will continue to discuss the proposals with the Pharmaceutical Services Negotiating Committee (PSNC) and hold a final round of confidential discussions with other key stakeholders.

The Government are committed to maintaining access to pharmacies and pharmacy services and believe efficiencies can be made within community pharmacy without compromising the quality of services or public access to them. Our aim is to ensure that those community pharmacies upon which people depend continue to thrive. That is why we have been consulting on a pharmacy access scheme, which will provide more NHS funds to certain pharmacies compared with others, considering factors such as location and the health needs of the local population.

Our proposals are about improving services for patients and the public and securing efficiencies and savings. A consequence may be the closure of some pharmacies but that is not our aim.

We want to promote the use of online, click and collect, or home delivery models to enable patient choice whilst at the same time maintaining a network of community pharmacies for face to face high quality clinically and public health focused services.

We want to transform the system to deliver efficiency savings and ensure the model of community pharmacy reflects patient and public expectations and developments in technology.

ORAL ANSWERS

Monday 6 June 2016

WRITTEN STATEMENT

Monday 6 June 2016

PETITION

Monday 6 June 2016

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Monday 13 June 2016

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