



HOUSES OF PARLIAMENT

Joint Committee on Human Rights

Uncorrected oral evidence: Legislative Scrutiny: Northern Ireland Troubles Bill, HC 1437

Wednesday 22 April 2026

2.20 pm

Watch the meeting

Members present: Lord Alton of Liverpool (Chair); Juliet Campbell; Tom Gordon; Baroness Hamwee; Afzal Khan; Lord Murray of Blidworth; Lord Rook; Alex Sobel; Peter Swallow; Sir Desmond Swayne.

Also present: Lord Carlile of Berriew; Baroness O'Loan.

Questions 22 - 39

Witnesses

I: Rt Hon Hilary Benn MP, Secretary of State for Northern Ireland, Northern Ireland Office; Baroness Anderson of Stoke-on-Trent, Lords Spokesperson, Northern Ireland Office; Sharon Carter, Deputy Director, Legacy, Northern Ireland Office; Philip Shaw, NIO Legal Adviser, Northern Ireland Office Legal Advisers.

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Examination of witnesses

Hilary Benn, Baroness Anderson of Stoke-on-Trent, Sharon Carter and Philip Shaw.

Q22 **Chair:** Welcome to the 50th meeting of the Joint Committee on Human Rights in this session. As we reach our half century, I would like to remind anyone who is interested in our proceedings—and I see from the full gallery today that there are a lot of people interested—that we publish all our previous reports, as well as details about our current inquiries, on our website.

We have reported in the last year on things like transnational repression, on supply chain transparency and modern-day slavery, and the role of British citizens who were recruited to Daesh and who were involved in genocide in northern Iraq against Yazidis and other minorities, none of whom have been brought to justice. Those are in our reports from the last 12 months.

We are currently involved in three thematic inquiries. One is on AI and human rights, one is on children in social care and human rights, and one is in the area of human rights in security, safety, and protest. Today we return to our current legislative inquiry into the Northern Ireland Troubles Bill.

We have two colleagues from the House of Lords from the Northern Ireland Scrutiny Committee who are guesting with us today. Its Chair is Lord Carlile KC, Alex Carlile, and Baroness O’Loan, Nuala O’Loan, who was the first Police Ombudsman in Northern Ireland. You are both very welcome.

This is a public evidence session and an opportunity to explore the human rights implications of the Northern Ireland Troubles Bill in light of the written and oral evidence that the committee has already received, and which has been published.

Our principal witness today is the Secretary of State for Northern Ireland, the right honourable Hilary Benn. He is joined by his departmental colleague from the House of Lords, Baroness Anderson, and also by Simon Carter, who is the deputy director of legacy, Northern Ireland Office, and Philip Shaw, Northern Ireland Office Legal Advisors.

Hilary Benn, Member of Parliament, was appointed Secretary of State for Northern Ireland on 5 July 2024. He was elected as Member of Parliament for Leeds Central in 1999 and is now the Member of Parliament for Leeds South. During the last Labour Government he served as a Minister in the Home Office, as Secretary of State for International Development and as Secretary of State for Environment, Food and Rural Affairs.

Since 2010, in opposition, he served as shadow Leader of the House of Commons, the shadow Secretary of State for Communities and Local Government, and the shadow Foreign Secretary. From 2016 to 2021, he was the Chair of the Exiting the European Union Select Committee and

latterly the Select Committee on Future Relationship with the European Union, before his appointment then as shadow Northern Ireland Secretary in September 2023.

Before I turn to my colleague Alex Sobel, Member of Parliament, another Leeds MP, to ask you about the Legacy Commission, can I ask you about the Bill itself and the timetable as it is being presented to Parliament? We know you share the committee's concern that individuals have been left in limbo by the uncertainty over Northern Ireland legacy. The Troubles Bill had its Second Reading in the House of Commons on 18 November last year.

Earlier today, you put out a Written Ministerial Statement saying that the Bill would return to the House, and I quote, "early in the new session", accompanied by—I quote again—"a substantial package of Government amendments". It would be helpful to the committee if you could say something to us about the immediate arrangements for carryover, that this will be carried over into the new session, and if you could outline to us what some of those amendments may do.

Hilary Benn: First, can I say it is a pleasure to appear before your committee again, Lord Alton. Thank you for that very full introduction. It is like watching my life flash before my eyes, but I hope that is not a foretaste of what is to come in the next hour and a half.

A lot of people have views about this matter. As we have discussed before, if sorting legacy were easy, it would have been done a very, very long time ago. As one of your witnesses in the previous two evidence sessions you had on the Bill said, this is probably the last chance and I agree with that.

It has taken some time to work through the kinds of amendments the Government are considering. Of course, we will publish them before the Committee stage of the Bill, and you have drawn attention to the Written Ministerial Statement that was published earlier today. We have basically run out of time in this session.

We also want to make sure, because of the large volume of amendments, not just from the Government but from other Members of the House who put them down, that there is not sufficient time to discuss them all. I am not trying to predict anything, but I note that when the Legacy Bill had a Committee of the whole House, two days was provided for it.

There has been a lot of conversation with veterans in particular—but not exclusively, because I have met a very large number of people—in the run-up to drafting the Bill and since the Bill was published. Concerns have, of course, been expressed by veterans. The Bill contains a number of protections and measures, but we want to go further. That is the point that the Prime Minister has made, and you will see that reflected in the amendments when they are published.

However, as I indicated in the Written Ministerial Statement today, they are intended to improve the process for victims and families, because there is a balance here. There are, of course, victims and families who are forces families. To further safeguard Operation Banner veterans and oversight of their protections, which is an issue that has been raised, and clearly differentiate between the role played during the Troubles by our brave security forces and the actions of paramilitary terrorists—because people have said there is no equivalence, the Government have said repeatedly, “Well, of course there is no equivalence between those who served to protect the public in Northern Ireland during the Troubles and those who were trying to kill members of the security forces and others”—we are looking very carefully at how that can be reflected in the legislation.

Chair: That is a very good curtain raiser for us, and I know that colleagues will want to delve deeper into some of those questions as we proceed. First of all, a slip of the tongue, it is Sharon Carter, as well as Philip Shaw. No doubt you will want to bring your officials in as we proceed.

Hilary Benn: Indeed.

Chair: Feel free to do that.

Sir Desmond Swayne: When are we doing the carryover Motion?

Hilary Benn: Sorry, on that of course there will have to be a carryover Motion. I can confidently predict that will come between now and the end of the session. I hope that is a fair enough answer for you, Sir Desmond.

Chair: It looks as though Sir Desmond is satisfied with that answer.

Sir Desmond Swayne: I am very pleased with that.

Chair: If you can give us a small prediction about when the end will come, I think we would all be fascinated.

Hilary Benn: Well, that is a completely different matter.

Q23 **Chair:** Before we leave the procedural thing, Secretary of State, you came before us—and we were grateful to you, you were generous with your time—over the remedial orders that were laid before Parliament. It has always been a long-standing position of this committee, which is charged with the responsibility of examining remedial orders, that they should not be used when primary legislation is available.

In our report on the Northern Ireland Troubles remedial order in December, we exceptionally—with differences within the opinion, you know that—by a significant majority, accepted your justification for using a remedial order in parallel with the Troubles Bill. The justification that you gave us was speed and urgency. There is still no sign of the remedial order. What should we make of that delay, and when do you think you might be in a position to table those approval orders?

Hilary Benn: I want to be very frank with the committee on this matter, and I am very grateful for the scrutiny that the committee gave to the remedial order and the fact that your conclusion was that there were, and are, compelling reasons for proceeding with it. It was, of course, passed by a large majority in the House of Commons.

However, there is a Motion that has been tabled in the other place by Lord Garnier, as I am sure members are aware. It proposes pausing approval of the RO until the Dillon judgment arrives, which we are all waiting for. How shall I put it? Having taken some soundings, there appears to be support for that in the House of Lords. The Government are very clear, and remain of the view, that the Supreme Court is not going to opine on immunity because the appeal of the previous Government in respect of immunity was withdrawn, and therefore it is not an issue before the Supreme Court. There are others who try to suggest, because of the intervention of the Northern Ireland Veterans Movement, that it might be in play. The Government do not share that view.

However, I have also been clear throughout the whole of this process, I want to try to proceed on legacy with as much consensus as possible. It will not be possible for everything, because not everyone will get everything that they want out of this. It is a balance that we are trying to achieve. That is why it is difficult and therefore, in recognition of the strength of feeling on this matter in the Lords—and as much as I do not agree with the position in Lord Garnier's Motion—I am choosing not to progress the RO until we have the confidence of the House of Lords, and we will be in a different position once the Dillon judgment arrives. I cannot tell you when that will be; only the Supreme Court knows that.

Chair: Of course, there is a separation of powers that we have to observe between the courts and Parliament, but it is the missing piece of the jigsaw, and without Dillon it is very difficult to see how we can process our report in the most effective and helpful way. But my colleague, Sir Desmond, wants to come in.

Hilary Benn: Can I just add one other thing?

Chair: Yes.

Hilary Benn: Notwithstanding what I have just said to the committee—I would like to progress it as quickly as possible but it will take the length of time it does—it will still certainly be the case that the remedial order, if approved by the other place, will come before the Troubles Bill is finally enacted. Therefore, the arguments for speed, clarity and certainty for civil cases and immunity still hold, although slightly later than we had anticipated would be the case previously, if that makes sense.

Sir Desmond Swayne: Given what you have said about building a consensus, will you withhold the remedial order until the rulings from the Supreme Court have resolved all outstanding issues on Dillon?

Hilary Benn: That is, in effect, what I thought I had just said.

Sir Desmond Swayne: You said the confidence of the House of Lords.

Hilary Benn: Well, I am showing due respect to the other place but, yes.

Chair: What is stopping us from putting the substance that is in the remedial orders into the Bill itself and just getting on with that?

Hilary Benn: For the reason I just gave, I presume it would still be quicker to proceed with the remedial order. The Dillon hearing was in October last year. I look to others who are much more experienced than I in working out how long it might take the Supreme Court to reach their decision. That is, of course, entirely a matter for them, but I think it is reasonable to suggest that we will get the Dillon judgment before the Bill completes its passage through both Houses. Therefore, the argument, "We need to do this as quickly as we can", holds in respect of the two main matters that the remedial order addresses.

Lord Carlile of Berriew: My educated guess would be that you will get the Dillon judgment shortly after the new session starts.

Hilary Benn: Oh, well, now there we are.

Lord Carlile of Berriew: That is just an educated guess.

Hilary Benn: Well, I will take an educated guess, especially from you, Lord Carlile.

Chair: I think we had better leave educated guesses where they are and turn to Mr Sobel and we will come back to your colleagues later.

Q24 **Alex Sobel:** Welcome, Hilary. Inquisitorial proceedings in the Legacy Commission will be led by judicial panel members, appointed by you as Secretary of State, rather than the independent Northern Ireland Judicial Appointments Commission. Coroners in Northern Ireland are appointed by the independent commission. Why should judicial panel members not be chosen by the commission?

Hilary Benn: When we have public inquiries, the judges who lead public inquiries are appointed by Secretaries of State, so one could make the same argument on that. It is following a standard pattern for public inquiries is the first point I will make.

Secondly, the holder of this office will be required to consult a range of people in making that decision. The people appointed will have to be legally qualified, they will be judges. We will in due course publish a list of the people that the Secretary of State will consult in making that appointment, and it may well be that one of the bodies consulted will be NIJAC. However, the basic principle is we are mirroring what happens in public inquiries.

Alex Sobel: Throughout our committee inquiry, we have heard that independence is very important to people involved in the legacy process. How important do you feel independence is? Do you feel that the fact that you will be appointing will have a bearing on the proceedings in future?

Hilary Benn: I do not think so because, if you take the parallel of public inquiries, when has that been the case? Governments of all parties have established many public inquiries. When have people said, "Well, I am afraid this judge is not independent because they were appointed by the Secretary of State"?

The key fact is the independence of the judge: the fact that he or she is a judge and comes from that background. I do not think the fact that the process for appointment involves a Minister, given that we have the parallel of public inquiries, would lead people to say, "Well, we should look askance at who has been appointed by this method", especially given the consultation that will have to be undertaken, and of course the person appointed will be a judge.

Alex Sobel: You make an equivalence here between public inquiries and the inquisitorial proceedings, but those proceedings replace coroners, not public inquiries, so why are you making that equivalence, and why have you not considered having the same process for these new appointees as their predecessors?

Hilary Benn: There is a precedent in the form of public inquiries where Secretaries of State make the appointment, and it seems to me a perfectly reasonable precedent to follow.

Chair: Baroness O'Loan has a supplementary.

Baroness O'Loan: Yes, please.

Chair: We will go straight after that to Lord Carlile.

Baroness O'Loan: A very brief supplementary. Thank you very much for all you have said so far. The Legacy Commission will not have all the powers of a public inquiry or else you would set it up as a public inquiry in some form and have reference to it. Therefore, I still cannot understand whether the issue that has been predominant in the public domain of the independence of this organisation, and of the excessive powers of the Secretary of State, have not informed your consideration and whether, if the Judicial Appointments Commission could actually appoint these people, it might be in your interests simply to allow that normal process to continue. That might enhance confidence in the Bill as it comes before the House again.

Hilary Benn: The independence of the commission is extremely important to me. Although in some respects the courts have found there are aspects of its procedures that have been declared incompatible, although the Government are appealing those in respect of powers of disclosure, I would not describe those as excessive myself—but no doubt we will come on to discuss that. Then there is representation of families when, through the inquisitorial proceedings, the commission is acting a bit like an inquest, because that is what the courts said.

The courts have found in other respects that ICRIR, even in its current form, is independent. It is very important to me that it is independent

and is seen to be independent, but we will be making further changes to its structure to enhance public confidence and, in particular, to address incompatibilities, because you cannot have a body that has been declared incompatible with the European Convention. As we know, in Northern Ireland—you will know better than I, Baroness O’Loan—sections of the community have said, “We do not have confidence in this body” and that is why the new Government came in with a commitment to repeal and replace the legislation, but to do so by reforming the commission.

There was an alternative option. Many people urged me, “Scrap it, start again”. As I may have said to the committee—well, perhaps we did not cover it previously—I was not persuaded that was the right thing to do. A lot of money has gone into it. A lot of cases are now being considered, and to suddenly bring that to a crashing halt and start all over again did not seem to me to make any sense when you would end up in exactly the same place, as I hope we will end up, when the legislation has passed its parliamentary scrutiny.

Chair: Its independence is the key. Lord Carlile, and then we will turn to Dr Swallow.

Q25 Lord Carlile of Berriew: I want to ask you specific questions about inquests, Secretary of State. Apparently, some inquests will go back to coroners and the rest will go to the Legacy Commission. This committee has received evidence that bereaved relatives are not sure what the difference is between the two processes and whether one is better than the other. In my professional life, I have appeared in front of both, and I would say they are different, but I would not like to say one was better than the other. They are just different.

You have been clear that you think that the Legacy Commission’s inquisitorial proceedings will be able to do everything an inquest can do, and possibly more. Why are you having this two-track approach? Could you particularly say a word about whether the disclosure of documents to interested parties will be as rigorous in both tracks, taking into account that some of the disclosable material may be very sensitive and will require very sensitive treatment?

Hilary Benn: You put a number of very important questions, Lord Carlile. There were nine inquests that had already begun, which were brought to a crashing halt by the Legacy Act 2023. The Government’s clear view was that they should restart without any debate, because you have had the expectation, the process has started and then suddenly it is removed from you. That is the first point.

The second point, in respect of the other 24, I think it is, as you will see from the legislation, it will be exercised by the Solicitor General. We have first of all said that there will be a presumption that those cases, if they involve sensitive information, would go into the commission, and it goes to the heart of your question. As we know, with coroners’ inquests, coroners see all the information. It is open to the Government to make a public interest immunity statement that, say, “These are the things that

the Government think cannot see the light of day". It is for the coroner, of course, to decide whether he or she accepts that. If the coroner accepts that, he or she cannot take into account any of that information in the deliberations. The commission—and in that respect it is superior, better, different to a coroner's inquest—sees all of the information, like a coroner, but can consider it, and there will be provision for closed hearings as a way of dealing with it.

That is the fundamental difference. The reason it matters is because we know that, for some of the coroners' cases in Northern Ireland, the coroner said, "I have received the PII, there is a lot of sensitive information. Do you know what, I cannot take this any further. That is it, I am stopping the inquest". The reason for the presumption in the legislation is to say if there is sensitive information, which may well lead to the coroner saying, "I cannot take this any further", it would make sense for that to go into the commission that does have the ability to deal with sensitive information.

It will be a test that is then checked against two other requirements for the Solicitor General in doing the sifting process, as it is described. The first is speed. How long will it take an inquest as opposed to an inquisitorial proceeding? Who can deal with it most swiftly? That is a consideration. The second is what are the views of the parties, the families, others who have an interest in the decision about whether it should start as an inquest or go into the commission? The Solicitor General will weigh that all up and will make a decision. That is the thinking behind the structure that is contained within the Bill.

Lord Carlile of Berriew: Where national security material arises, will there be provision for independent special advocates to advocate on behalf of interested parties, albeit in those proceedings?

Hilary Benn: There will not be special advocates in the commission, but the counsel to the inquisitorial proceeding will have the ability to perform that function and also to take questions from family members, to put them in the closed session dealing with that part of the material that is deemed to be sensitive. However, the commission gets it all and can take it all into account.

We then get to the final stage of the process, which is what the commission publishes in its report, the powers that the Secretary of State has—as I say, I am sure we will come on to that—where there is, in effect, a dialogue between the commission and the Secretary of State about what can be revealed. I am in favour of maximum openness, I have said that repeatedly, consistent with the requirements of national security. That was a principle that was reaffirmed in the Thompson judgment.

Lord Carlile of Berriew: Thank you very much.

Chair: Maybe we will be able to come back later in the proceedings. I am anxious to hear now from Dr Swallow, and after that we will hear from

Baroness O'Loan.

Q26 Peter Swallow: Thank you, Secretary of State. Maximum openness is a helpful place to start for my question. You will be aware that this committee is also very interested in the Hillsborough Law, the Public Office (Accountability) Bill, which sets out in Clause 2(1) that public authorities and public officials must at all times act with candour, transparency and frankness in their dealings with inquiries and investigations. We have already had set out for us the dual tracks that the Northern Ireland Troubles Bill proposes of coronial inquests and inquisitorial proceedings set out by the Legacy Commission. What is your understanding of how the duty of candour would apply to each of these pathways? Would the duty of candour apply to both pathways?

Hilary Benn: Well, because of the interrelationship between the two bits of legislation, these are both live Bills going through their process. We do not yet know exactly where each of them will—

Chair: Although it has been sitting in a backwater for the last three months. It was due three months ago to come to the second House, and it has not.

Hilary Benn: Self-evidently, they are in the process of passage through Parliament, so the first point I will make is that we need to see how the two bits of legislation align when the process is concluded. That is the first point.

The second point is the current draft of the Hillsborough Bill provides a power to extend the duty to a range of investigations, the duty of candour and the other things that you just referred to, Mr Swallow, within the following categories: criminal investigation, regulatory or supervisory investigation, investigation into the provision of public services, investigation into the exercise of public functions. The Government envisage making broad use of this power and will bring forward secondary legislation following appropriate consultation. The point I am making is that this could then be applied through that means to the Legacy Commission.

Peter Swallow: I think with full openness that the word that people will hit on there is "could", Secretary of State. It is fairly clear that the duty of candour would apply to coronial inquests. There is potentially an open question, which I think you have more or less conceded there, about whether it would apply to proceedings by the Legacy Commission.

Can I put it to you that there is a very simple way of ensuring that "could" turns into a "will", and that is by introducing an amendment either to the Hillsborough Law, to the Public Accountability Bill, or to the Northern Ireland Troubles Bill to ensure that it does apply to both tracks?

Hilary Benn: I want to ensure that there is consistency between the two bits of legislation. May I take away the point you have just made?

Peter Swallow: Of course. Can I encourage you potentially to write to

us with more information once you have had an opportunity to mull it over?

Chair: That would be very helpful indeed, and we are watching that other Bill with our eyes wide open as well. It was a recommendation of this committee that there should be a Public Accountability Bill and, just like the commitment you gave at the election to introduce the Troubles Bill, we were delighted when you honoured the commitment to introduce the Public Accountability Bill. Getting them on the same page and co-ordinating with one another is a priority, so we would love to hear from you on that. Baroness O'Loan, and then we will hear from Baroness Hamwee.

Baroness O'Loan: I did not have a question on that. Or is it question 6?

Chair: Question 6 on the Legacy Commission.

Q27 **Baroness O'Loan:** Secretary of State, the Legacy Commission will be able to investigate if someone has died or if they have suffered serious physical or mental harm. The Bill gives an exhaustive list of what constitutes serious physical or mental harm. We have heard evidence that the result is that the Legacy Commission cannot investigate all harms that require investigation under Articles 2 and 3. The first question is: why should the Legacy Commission be able to investigate murder but not attempted murder, or bombings that cause total blindness but not very serious blindness that is not total?

We have also heard evidence that because of the exclusions from the list, the Legacy Commission will not be able to investigate all the cases where Articles 2 and 3 require investigation. Do you think the approach in the Bill is compatible with the convention? If your answer is, "Well, we can ask the police to investigate, or we can ask the Police Ombudsman, using the replaced powers under the Bill, to investigate", why not keep it all in one place?

Hilary Benn: It is a very fair question. I think it is to do with the capacity of the commission to deal with all of the cases if all of them came to the commission. When you think about it, if you step back, this body has been established. It has had 250 inquiries and has over 100 cases on the go. It is dealing with very, very serious cases: the M62 coach bombing, the Guildford bombing, the Kingsmill massacre, the Warrenpoint attack and lots and lots of others. Any single police force that suddenly had, at one and the same time, all of these cases appearing would find that exceedingly challenging. Therefore, I think it is about striking a balance.

The most important thing that the Bill does is address the fact that the Legacy Act said nothing that is Troubles related can be investigated henceforth except through the Legacy Commission. Therefore, if nobody came forward or it was not referred by one of those who had the power to refer cases, it was not looked at. Our Bill will change that, so there will be a place where all incidents, potential offences relating to the Troubles,

can be investigated, and if a police force is investigating, my clear understanding is that that satisfies Article 2. In other words, there will be a means of doing that, but it is principally to enable the commission to manage the number of cases.

I hope it will eventually have the means, because I want more people to come forward, when greater confidence is engendered in it, in particular on the part of those who have been reluctant to come to the commission because of the circumstances in which it was established and because of immunity. People said, "I am not going anywhere near that if it gives immunity to the killers who murdered my father or my mother or my sister or my brother"—so that is the reason.

On your point about different types of injury, it will always be difficult to draw a line. You will all know this extremely well: it is really difficult. If you take the example of severe psychiatric damage, where there is any room for interpretation, it will be for the commission to do the interpreting. The commission would look, and if someone says, "I have severe psychiatric damage", if the commission is persuaded, that is a case that they can look at.

Chair: There may be some discretion?

Hilary Benn: I picked that example because if you are talking about loss of a limb that is pretty clear. If you are talking about severe psychiatric damage, there is a degree of interpretation that is open to the commission.

Baroness O'Loan: Can I ask you one supplementary? Would you accept that those cases of bombings and deaths will be subject to an investigatory regime that has no powers of surveillance, no powers to take action under the Regulation of Investigatory Powers Act, but ones that go back to the police or back to the Police Ombudsman will be conducted with those additional powers?

Hilary Benn: I do recognise that point and we are considering precisely that because we want to ensure that the commission has all the powers it needs.

Chair: Hopefully in the amendments that you are going to table there might be some notice taken of that, but we will not pre-empt that. What we will do, though, is go to Lady Hamwee. After that we will hear from Tom Gordon, though I am told that there is a Division likely to be called soon in the House of Commons. When that happens, it will be normal for us to suspend our proceedings briefly. You have been very generous with your time, and we are grateful to you.

Hilary Benn: I will come straight back, like everyone else. We will have the injury time, as long as you have it.

Chair: We have injury time, and we will stay here. We will go to Baroness Hamwee now.

Baroness Hamwee: Could I follow up on the answers to Baroness O'Loan's question about the distinction between murder and attempted murder, and you have used the psychiatric example? A psychiatric injury may be amenable to treatment. Partial blindness, which can be almost total, may not be amenable to treatment. I suppose I am asking you if you can make any comments on that or otherwise treat that as a comment from me.

Hilary Benn: I will refer to what I said a moment ago. If you are listing a series of conditions, which you will find in the Bill, you are going to have to draw a line somewhere and you can make it—I do not like to use the word “restrictive” because it is not intended to be that, and you can allow for more circumstances or fewer, but there does have to be a line somewhere for the reason I gave in answering the first part of Baroness O'Loan's question.

Q28 **Baroness Hamwee:** I think one might expect to see something like “severe” rather than “partial”, but anyway, we will see when the Bill comes back. I dare say it is something that you will raise.

Can I turn to the national security veto and the Secretary of State's powers to veto disclosure of information? I have been asked to ask quite a lot of questions, so I have split them up a bit to try to make them a bit less indigestible. In most civil cases and judicial reviews, the power covers material where disclosure would be damaging to the interests of national security. In the Bill, the Secretary of State can prohibit disclosure of information that would risk damaging national security, so why the broader veto power?

Hilary Benn: First, I would say it is not a veto power. This is a really important point to make because any decision about what can or cannot be disclosed by the commission at the end of either inquisitorial proceedings or a report will be subject to—in practice, what happens is a back and forth. Take the example of Operation Kenova, which has published its main report and a shortened version of Operation Denton. The full report is not currently available because that is subject to judicial review as we speak.

What happens is it is drafted and others look at it and say, “Can you put that slightly differently? I am not sure about this”. There is a dialogue. It is not like, “No”, because, as I said just before Mr Swallow asked his question, I want them to do the maximum possible disclosure. That is the first point. The second point is that there is an appeals mechanism contained in the Bill, which you will find in the relevant clauses.

Thirdly, I have made changes in the Bill, first to make it explicit that the Secretary of State has to conduct a balancing exercise in respect of something that harms national security, would harm national security or runs the risk of doing so. I would say that is quite a high test. It is not just, “I think it might possibly”, because the holders of these offices have a responsibility, ultimately, as elected politicians for national security. That is a point clearly confirmed by the Thompson judgment in this

particular case. Secondly, where possible, I will be required to give reasons. Those are two additions I have made.

The court said, "The powers you have really do not look like those that relate to public inquiries". I am firmly of the view that what we are going to put in place is akin to the arrangements that apply to public inquiries. I know people are quite fond of using the word "veto", as if the holder of this office will sit there and say, "No, hide everything, hide everything". That is not how I intend the system to work, and there is the provision for appeal and judicial review. All decisions can be judicially reviewed, and that is quite an important safeguard.

Chair: Baroness Hamwee was asking you specifically, Secretary of State, about why "risks damaging" rather than "would be damaging" would be used? Is that not taking a broader power than in civil cases or in, for instance, judicial review?

Hilary Benn: Well, it is a judgment. If somebody says, "If you do that, you risk damaging national security", as I said a moment ago, I think that is quite a high bar. It is not like, "Well, it might possibly. In remote circumstances there is a risk that national security would be damaged and, therefore, you should take that into account".

Chair: Thank you. To Lady Hamwee and then we will hear from Tom Gordon.

Q29 **Baroness Hamwee:** You have decided that the Secretary of State needs to be the decision-maker for the Legacy Commission as to whether information should be withheld. I gather this reverses—am I screwing this up? I think I am—the approach for the Legacy Commission. The Secretary of State will decide whether information should be withheld. Family members could then seek to challenge that in the courts. Is your answer as to why the Secretary of State is the decision-maker again that it is more aligned to public inquiries?

Hilary Benn: You anticipate, Baroness Hamwee, exactly what I was about to say. If you look at the way that public inquiries work, there are two ways in which information can be deemed sensitive to be restricted. One is if the chair of the public inquiry issues a restriction order or if the Secretary of State who established the inquiry issues a restriction notice, although in a public inquiry, if material is excluded, it can inform conclusions and can be in a closed report. As I indicated earlier to the committee, the commission can see everything and can have closed proceedings. The appeal mechanism in the case of a public inquiry is JR.

Chair: I need to call the committee to order because the Division has been called. I was letting the Secretary of State just complete his sentence.

Hilary Benn: I will try to remember how I began the sentence when I come back.

Chair: We will invite you back after the Division has been completed and

leave our Commons members to go and vote. For now, though, we suspend this hearing.

The committee suspended for a Division in the House of Commons.

Chair: I welcome back the Secretary of State, and Members of the House of Commons who have voted in a Division on the Pensions Bill in the House of Commons. We return now to the Northern Ireland Troubles Bill. We were in the middle of a question from my colleague Baroness Hamwee, and after that we will be turning to Tom Gordon, Member of Parliament.

Baroness Hamwee: I am afraid I have a little more after the Secretary of State starts a sentence, "As I was saying".

Hilary Benn: Would you be so kind as to repeat the question, then I will try to pick up where I left off?

Baroness O'Loan: I was asking about why you have decided that the Secretary of State will be the decision-maker for the Legacy Commission, with family members being able to challenge that in the courts.

Hilary Benn: I think, as I recall, I was citing what happens in public inquiries with the restriction orders and restriction notices. There is an appeal in respect of public inquiries by means of judicial review, but in the Bill there are clauses that relate to the appeals mechanism in respect of this. Some people have said to me, "Why is there not an appeals mechanism?" But there is. It is in there already.

Q30 **Baroness Hamwee:** Let me go on to a couple of questions on process. The first is that the Bill provides the process for challenging a Secretary of State's decision to prohibit disclosure of sensitive information in reports following investigations under Part 3, but not an equivalent process for challenging a restriction notice limiting disclosure in reports following inquisitorial proceedings under Part 4. Why the distinction between Parts 3 and 4?

Philip Shaw: Again, back to the purpose of the inquisitorial proceedings, which is to mirror public inquiries as closely as possible. Where a restriction order or notice is imposed under Part 4 of the Bill, it will be subject to judicial review and can be challenged that way, which accords with the way it works in a public inquiry.

Q31 **Baroness Hamwee:** Okay. Then let me ask finally, which Ministers will be able to use—I will put quotation marks around it, given what you have said—"the veto"? Is it just the Secretary of State for Northern Ireland or could it also be exercised by other Secretaries of State: Defence, Home and so on?

Hilary Benn: I will stand to be corrected, but I have always understood that the word "Secretary of State" in legislation is interchangeable.

Baroness Hamwee: Yes, which I understood too.

Hilary Benn: Then I am glad to be able to confirm, with the advice of my colleagues, that my interpretation was correct.

Chair: I do not see Mr Shaw disagreeing.

Philip Shaw: No, absolutely. That is legally the position. There is, of course, something about how Government chooses to arrange themselves and which Minister is given this responsibility but, yes, absolutely, that is the legal position.

Chair: Thank you very much. We will turn now to Mr Gordon, and after that we will hear from Lord Murray.

Q32 **Tom Gordon:** Thank you, Secretary of State. The various provisions of the Bill rely upon the term “close family member of the deceased person”. That is the gateway criterion for things like who can request an investigation from the Legacy Commission and who the commission must notify about its proceedings. In previous evidence sessions, we have heard about the current definition of “close family member” in the Bill being insufficiently broad for compliance with Article 2 of the ECHR. For example, the Bill excludes grandchildren from this definition, even when they are the surviving next of kin. Therefore, how is the Bill’s limited definition compatible with Article 2 of ECHR?

Hilary Benn: The Bill defines in Clause 93 “close family member” as parents, siblings and children, but the Bill also allows the commission to accept referrals from other relatives, such as grandchildren, if there are no close family members. In the end, it is a balanced approach and it focuses, in the first instance, on the more immediate family members to be able to request the investigation. To be frank, one of the things about the Bill is it only takes one family member to request a case to be looked at.

I think it would not have been right to get in to try to adjudicate between different families, because there may be family members who say, “I do not want it to be looked at at all. This is the end. I really do not want any of this dragged up again”. Someone else may say, “No, I do”. That is why it only takes one, which is the trigger in respect of close family members to ask the commission whether it would be prepared to investigate.

The other thing I will point out is that, under Clause 32(1), if it is necessary for ECHR compatibility—and I know that was an issue raised when you were taking evidence on the issue of grandchildren—the commission has the authority under the Bill to initiate an investigation itself. That is a back-up power to deal with the circumstances you may be envisaging.

Tom Gordon: Just coming back to what you said, though, the point I would like to press you on is that it is not automatic in all cases and, therefore, the commission’s requirement to notify as such would not necessarily be guaranteed. It would depend on the commission having those interactions and adjudicating on whether or not they would be classed as sufficient, as you have outlined there.

Is there anything further on that? Again, that would be counter to the evidence that we have heard when we were taking evidence about it being insufficiently broad. We also heard that the current definition is too narrow to meet the continuing obligations under the Windsor Framework, particularly the EU Victims' Rights Directive, which refers to family members in the direct line of a victim, which could include grandchildren. How do you reconcile those definitions of "close family members" and their compatibility with obligations under the Windsor Framework?

Hilary Benn: That is a very interesting question. To be frank, I have not contemplated that in respect of this. That is because the Victims' Rights Directive defines a close family member as anyone who is a family member—so that could include great-grandchildren and great-great-grandchildren, presumably. Yes.

Tom Gordon: Do you have any thoughts on how you would go about reconciling those issues then?

Hilary Benn: We would have to take it away, I think is the short answer.

Chair: If it can be added to the letter that you said you will kindly send to the committee, we would be very grateful.

Hilary Benn: Okay. I think that is two things already.

Chair: Thank you very much indeed. We are always grateful for correspondence from Secretaries of State. Let us go to Lord Murray.

Q33 **Lord Murray of Blidworth:** Secretary of State, I think I have another topic for your little list to have a look at. This is the question of the five-year limit, which requires the Legacy Commission only to accept requests for investigations from family members and public authorities for five years after the date set in the statute.

Hilary Benn: Yes.

Lord Murray of Blidworth: There is a provision allowing public authorities, in exceptional circumstances, to ask for an investigation to be considered after the expiry of that five-year period, if needed for, it says, "ECHR compliance or because of new information". My question is a simple one. If that is appropriate for public authorities, why is that not appropriate for family members?

Hilary Benn: I would say that because at some point there needs to be a cut-off. By definition, we are talking here about deaths and serious injuries that occurred 28-plus years ago and going right back to the beginning of the Troubles; that is the first point. The second point is we are restarting the clock, the five years. The commission has been in existence now for a little while, but we are restarting the clock under the new arrangements because I think it is right to give family members the chance to say, "Now we have five years to make the application". I would argue that that is a reasonable period in the context of how long ago the loss of a loved one occurred.

Thirdly, there is the question of the lifetime of the commission overall. When the five years come to an end, subject to the provisions to which you have drawn attention, where other cases can be put forward, the commission will complete the investigation of all outstanding cases before it. How long that would take will depend on the volume of cases it has on its books at that time.

Lord Murray of Blidworth: I see your point about legal certainty and having a point at which complaints should cease. However, if compliance with the European Convention on Human Rights requires a pressure release valve for public authorities, why should that not be the case for a family member? Why are public authorities given special status?

Hilary Benn: It would be open to the family member to go to the public authority and say, "Would you please exercise this pressure release valve on my behalf, because new information has come to light that was not available to me up to the end of the five years?"

It is not a direct mechanism, but it is a provision contained within the Bill, and that is the way a family member could seek to have the case investigated. If the public body did not do so, and the family member thought the decision was not compliant with the ECHR, they could bring a judicial review against the decision of the public body not to ask the commission to look at the case using the powers it has.

Lord Murray of Blidworth: That is rather cumbersome. Would there be any real harm in extending the privilege to families?

Hilary Benn: We are always open to considering the points that have been put to us. However, given the length of time it has taken to reach this point, followed by another five years with the restarting of the clock once the legislation has completed its passage, that represents quite a long period. How likely it is that information will become available that was not previously available is uncertain. However, I think that this is a reasonable period for family members to come forward and ask the commission to investigate.

Baroness O'Loan: Secretary of State, there are many situations in which people have been very seriously injured but do not wish to relive what happened. In these five years that are coming up under the Bill, it is possible that some of those people may die, and then the families will have the opportunity that they may have sought otherwise. If the only possibility of bringing a case after the five years depends on new information becoming available, those families would be precluded. Do you think, in the interests of victims, that this situation should be contemplated?

Hilary Benn: My understanding, although I stand to be corrected, is that where someone meets the injury threshold in the Bill, they may say that they do not wish the case to be investigated. Is the assumption that other family members would say, "If Mum and Dad do not want it, we are not going to do that but when, sadly, time passes and they pass away,

we would like to do that”, it would be open to people to make a request? Do you know whether they could say to the commission, “We are making a request now to get in under the five-year wire. Might you wait to investigate this until my mum and my dad have passed away?” That is a slightly unusual situation.

Baroness O’Loan: I am happy to leave that thought with you.

Hilary Benn: I am trying to think creatively about how one might deal with the circumstances you have identified.

Philip Shaw: That is an issue that we are aware of and have been considering. Thank you for raising it.

Chair: Thank you for reflecting on it. It is an important point, and the committee will want to reflect further on it. One of the issues frequently raised with the committee is the position of veterans. Sir Desmond Swayne has a question about that, after which we will hear from Lord Rook.

Q34 **Sir Desmond Swayne:** There is a number of crimes for which prosecution requires the authority of the Attorney-General, including war crimes. Would you consider an amendment that would require Troubles-related prosecutions to require the Attorney-General’s consent?

Hilary Benn: I will make two points. First, I have discussed the Bill with many people, and I do not recall anyone suggesting that. There have been many other suggestions made about the protection of veterans and reassurance for them, but not that one.

Secondly, it is essential that decisions about prosecutions are taken by independent prosecutors. That is an absolute foundation of our system. I say that in the context of some who have tried to argue the existence of vexatious or political prosecutions, which I refute utterly. There is no such thing as a vexatious prosecution or a politically motivated prosecution. We should trust the independence of prosecutors to take those decisions.

Sir Desmond Swayne: I am sure that we will revisit that in the Committee stage. You indicated that you were not convinced that the intervention of the veterans in Dillon was going to make much difference. If the Supreme Court were to rule that the existing immunities were consistent with the convention, would you amend the Bill?

Hilary Benn: First, we will cross any bridges of the Supreme Court when we come across them. Secondly, the Government are opposed to the principle of immunity, as are many veterans I have met, who have told me that they do not believe they should be immune from the criminal law in a way that does not apply to anybody else simply because they served in uniform. It is a matter of principle. Thirdly, I have met many people who are very cross at the idea that those who committed the most serious paramilitary crimes during the Troubles could get away with it. That is what the immunity provisions in the Legacy Act would have

allowed, had they been commenced. Those provisions were declared incompatible and were struck down under Article 2. We will wait to see what the judgment in Dillon says.

Sir Desmond Swayne: As you continue to reverse the immunities in the current Act, will you rescind the letters of comfort issued by the previous Labour Government?

Hilary Benn: The letters were issued at the time, and what they said was, "As things stand at the moment, we have no reason to be interested in you". I paraphrase, as I am not a lawyer, but that is essentially what they said. They did not offer anyone immunity from prosecution. That is a very important point. You do not have to take my word for it, because that has been said by Lady Justice Hallett, the Chief Constable, and Prime Ministers. The letters did not offer immunity from prosecution. As I have said in the House, there is a particular case in which the recipient of one of those letters is currently facing prosecution for two murders, which demonstrates that immunity was not offered. It is, therefore, unclear what rescinding the letters would achieve, as they do not offer what some claim they did.

Sir Desmond Swayne: I am sure those debates will continue. Finally, what progress has been made to ensure human rights equanimity across the border with respect to Article 2 and 3 obligations on the Government of Ireland?

Hilary Benn: I have been in negotiations with the Government of Ireland. They brought an interstate case against the previous Government's Legacy Act, arguing that it was not compatible with the European Convention on Human Rights, which has indeed been confirmed by the British courts.

When I came into office, one of the first things I said was that I was determined to create a mechanism, in the form of a reformed Legacy Commission, that is fully compliant with human rights standards. You cannot have a system that is not fully human rights compliant. Once we have completed the passage of this Bill and it comes into law, the basis of the interstate case will disappear. It will then be for the Irish Government to decide at that point.

The importance of the framework agreement we reached is that commitments have been made by both Governments. The United Kingdom Government are committed to honouring theirs through this Bill and the Irish Government have made their own commitments, which I am confident they will fulfil. As a result, we have agreed a joint way forward for the first time since the Stormont House agreement of 2014. That has been welcomed, including by Joe McVey, the Commissioner for Victims and Survivors, who commented positively on the ability of the two Governments to work together on this complex issue.

Chair: That is one of the outcomes of our inquiry that we are pleased about. These are important questions, and thank you for the clarity of

your answers. They have been very helpful. My colleague Dr Swallow has a brief supplementary before we turn to Lord Rook.

Peter Swallow: Secretary of State, on the subject of veterans, I would like to ask about the Written Ministerial Statement issued today, which states that additional rights will be put into the Bill for veterans. Can you clarify whether the intention is to strengthen the six protections the Government have already set out on the face of the Bill, or to introduce additional protections beyond those six? I appreciate that you may not be able to provide detailed information at this stage.

Hilary Benn: I can confirm that these will be additional protections and reassurances, showing that we have continued to listen. We have held a large number of meetings involving me, the Defence Secretary, the Minister for the Armed Forces, colleagues in the Northern Ireland Office and officials in the Ministry of Defence. A lot of conversation has taken place to offer reassurance on what the Bill does do.

Returning to Sir Desmond's question, some have suggested that the only people being prosecuted are veterans and that no paramilitaries are being prosecuted. Here is a small fact to aid debate. There are currently 10 live prosecutions relating to the Troubles: eight relate to paramilitaries, one to the Royal Ulster Constabulary and one to the Army. No one could look at those facts and say that those who committed paramilitary and terrorist crimes are of no interest or that no one is trying to hold them to account. As I have already indicated, some of the cases that the commission is looking at involve very serious terrorist offences that were committed during the course of the Troubles.

Peter Swallow: As you mentioned in your opening statement, many of the victims were service personnel themselves.

Hilary Benn: Indeed they were. I should point out that, of the eight alleged offences committed by paramilitaries, a number relate to the murder or attempted murder of soldiers and police officers. That is an example of how the system of independent prosecutorial decisions is standing up for justice and accountability.

Chair: It is very helpful to lay that to rest. Thank you very much, Secretary of State. Let us turn to Lord Rook now and then after that we will hear from Afzal Khan.

Q35 **Lord Rook:** Secretary of State, as we understand it, the commission will have complete immunity from all legal proceedings. This would obviously prevent, for example, its own employees being able to bring cases against the commission on the grounds of discrimination or unfair dismissal. Is this blanket immunity appropriate and compatible with human rights?

Hilary Benn: I think you are referring to the ICIR.

Lord Rook: The ICIR. I should have clarified that.

Hilary Benn: The origin of the ICIR is to be found in the Stormont House agreement, which two Governments agreed. It was then not taken forward and the Legacy Act emerged. The reason for this structure is that the ICIR process—and there is a precursor parallel in the ICLVR, which tries to locate the remains of victims who were kidnapped, murdered and buried by the Provisional IRA—is designed to encourage people who have information to come forward. It is a separate route, and we have taken great pains in designing the legislation to separate it out from the work of the Legacy Commission.

As the Bill makes clear, if the Legacy Commission is looking at a case with a view to establishing whether there is any potential for prosecution, the ICIR cannot receive information from those who want to give it. That is the first point. Secondly, the fact that disclosure is protected operates in exactly the same way as disclosure to the ICLVR, for obvious reasons. Not everyone would necessarily be happy with that, but I think society in Northern Ireland was very prepared to accept that the price to be paid to enable families to be reunited with the remains of their loved ones who were kidnapped, murdered and buried, mainly in the Republic of Ireland, is that any information given and anything found in the process of recovering the body cannot be used in any proceedings. So many of the remains have been discovered, though there are four people whose remains have not yet been found, which is a great pain to the families in that position.

You must find a balance with a legal regime that also encourages people to come forward. On your particular point about employees, you will no doubt have noted that Clause 81(4) of the Bill allows the Secretary of State to make regulations about certain privileges—people raise the question of an employee wanting to take a case against their employer—and I hope that provides some reassurance to the committee. If the committee has any views on whether that is broad enough to deal with the issue you have raised, it may wish to consider it and I would look at what you have to say.

- Q36 **Lord Rook:** Thank you very much, Secretary of State. On a slightly separate point now, a person who provides information to the ICIR will not be immune from prosecution, but none of the information they provide is admissible in other legal proceedings. Is that compatible with human rights? One fairly blunt example is if a person is being prosecuted for murder but the ICIR has received information demonstrating that someone else perpetrated that murder but cannot disclose it, we seem to have a challenge for the person who is being wrongly accused in their own claims and their own rights.

Hilary Benn: It is a very important point to raise. First, I think that it is probably very unlikely to happen. Secondly, the sequencing of the work between the commission and the ICIR also makes it highly unlikely, because it is only when the commission has completed any consideration of whether there might be a prosecution that its work then turns to fact-finding for the family, at which point the ICIR can come into play if somebody wants to disclose something. They move to fact-finding once

they have concluded that there is no possibility of a prosecution. There is nothing in the Bill that would prevent an individual sharing that information with any other authority. If someone had information that told them another person had committed the act and saw that a third party was being prosecuted, they could go to the authorities and say that they had the wrong person. The person who has that information would be able to unburden themselves of the knowledge to prevent a miscarriage of justice.

Chair: Thank you very much. During your evidence so far, Secretary of State, you have referred to Dillon and the Carltona principle. That is a question I know that Mr Khan is anxious to pursue.

Q37 **Afzal Khan:** In the High Court in Dillon, the then Government argued that they were trying to restore the Carltona principle with the provisions in the Legacy Act about interim custody orders. The court found those provisions to be incompatible with the convention rights. What is different about the provisions in the Troubles Bill that makes you think they are compatible with the convention rights?

Hilary Benn: The history here is that the Supreme Court ruled in the Adams case in 2020, and it surprised a lot of people at the time when it set aside the Carltona principle in ruling that an interim custody order signed by a junior Minister did not have the authority of the Secretary of State, which is the basis on which a great deal of government works. The last Government had two and a half years to try to find a remedy for this. In the end, the remedy was provided in the House of Lords in the form of what became Sections 46 and 47 of the Legacy Act, which in the Fitzsimons case was found not to be compatible. That is the history.

If you compare what is in here on ICOs with what you will find in Sections 46 and 47 of the Legacy Act, they are clearly different. I have heard some people say they are exactly the same, but they are not. We are seeking through our amendment to assert that Parliament has the right to correct the interpretation of the Supreme Court in that 2020 judgment. The provisions in the Bill are trying to make clear that, as Ministers understood at the time, the Carltona principle applied in the context of interim custody orders. Parliament can change or clarify the law if it wishes, and correction of the law can apply retrospectively.

We are reasonably confident that this should work in the way that Sections 46 and 47 did not. Time will tell. We were determined to find a way of fixing this issue by focusing on a reassertion of the Carltona principle. That is important because one of the reasons the court gave for saying that Sections 46 and 47 did not work was that it appeared we had moved to deny people compensation, which is not compatible. That is why our provisions in this Bill say that what was done at the time was lawful, and we are making it lawful retrospectively. Other consequences flow from that, but if you focus on that issue, we are in a better position to deal with the matter.

Afzal Khan: If you believe the High Court reached the wrong decision in

Dillon on Carltona, why did the Government abandon the appeal?

Hilary Benn: It was self-evident from what the court said and the reasons it gave for why the provisions did not work. We thought we could do something better, which is what we are seeking to do with what is in the Bill.

Chair: We have a penultimate question, but Lord Murray wants to come in with a supplementary.

Lord Murray of Blidworth: When the Government laid the initial remedial order, Article 5 of that order repealed Sections 46 and 47 of the Legacy Act completely. The Government then changed their mind and, in the version of the draft remedial order that was subsequently laid, those provisions were taken out of the remedial order. We then have the revised text that we see in the Bill. Why did you make that change?

Hilary Benn: It turned out to be a flimsy defence because it did not work. A lot of people said to us in the course of the consultation on the first version of the remedial order, "Why have you taken it out?" We reflected on that and said, "We are going to leave it in, we have got a better way of dealing with this", and that is what is in the Bill. We listened to what a number of people had said.

Sir Desmond Swayne: Including me.

Hilary Benn: Including your good self, Sir Desmond. I hope you were grateful for it.

Sir Desmond Swayne: I was. I said so on the Floor of the House.

Hilary Benn: You did indeed. Thank you very much.

Chair: Sir Desmond, as you will have noted, plays a very constructive and important part in the proceedings of this committee, for which we are grateful.

Sir Desmond Swayne: That is very kind, but quite right.

Chair: We have a penultimate question, which builds on something that the Northern Ireland Select Committee has been asking you about, and that is funding. Justice does not come cheaply. Baroness O'Loan wants to ask that, and then I have a final question for you.

Q38 **Baroness O'Loan:** Secretary of State, the Northern Ireland Affairs Committee has also reported on the Troubles Bill, and it noted that the Government have not updated the initial funding allocation of £250 million following the passing of the Legacy Act. Its report highlighted the concerns of many organisations, including the PSNI, who said that they do not have the funds to meet their obligations—particularly disclosure obligations—under the Bill, alongside their day-to-day work.

We know that at least £50 million of the ICIR funding has already been spent. I do not think we have seen any accounts, but we do know that.

We have also heard a lot of reference today to people going to judicial review of decisions made by this new commission under the Bill. Secretary of State, you know that judicial reviews are expensive and take a very long time, which prolongs the life of this commission. Are you confident that the current levels of funding for organisations and for the Northern Ireland Executive are sufficient to ensure that justice can be done? I am particularly concerned about the PSNI and the PPS.

Hilary Benn: The original allocation for both the Legacy Commission and the measures in Part 4 of the Bill was £250 million, broken down as £232 million for the Legacy Commission and £18 million for the Part 4 provisions. I am in discussions with the Chief Secretary to the Treasury about the continuing funding needs of the Legacy Commission as its work continues. I do not think anyone could argue that when the £250 million was identified some time ago, that was intended to be the final word. It depends on the size of the case load. If we are successful in encouraging more people in Northern Ireland and elsewhere to have confidence in the commission, I hope that will result in more cases coming forward and therefore more work for the commission to do. I am very much on the case. The Irish Government have said that it will contribute €25 million to the process once our legislation has gone through.

On the question of disclosure, there are issues around having to go through all the material, because all the material will go to the commission to identify what is sensitive at the outset, and that has a significant cost, on which I am reflecting. In respect of the Executive, it has had a record funding settlement in the spending review last summer, averaging £19.3 billion a year, and we are giving additional security funding.

The funding of the PSNI is, however, a matter for the Executive, and it is for the Executive to choose how to distribute its funds among all the competing demands that all Governments face. I will think about what we can do to try to ease that. Even prior to the Legacy Act coming into being, the PSNI had around 1,000 cases on its books, with disclosure requirements for those, so this is not entirely new, though the form it takes is different because of the legislation we are bringing forward.

Baroness O'Loan: May I ask a supplementary, Secretary of State? I want to put to you that the issues with which the Legacy Commission will deal arose, for the most part, while the United Kingdom Government were running Northern Ireland, not while the Northern Ireland Assembly, as newly created under the Good Friday agreement, was running Northern Ireland. Therefore, the costs of this whole exercise should not impact on the ability of the PSNI to do the work it must do today. We have seen recent reports in Northern Ireland of human trafficking, drug activity and similar matters. I would like to record with you and ask you to contemplate whether it is reasonable to say, "We give you a budget, calculated according to Barnett formula and so on, and you have to live within it", when the responsibility for this period of Northern Ireland's history lay, for the most part, in Westminster.

Hilary Benn: I have heard that point advanced, and I refer back to what I said a moment ago about the 1,000 or so cases that the PSNI had on its books relating to deaths.

Baroness O'Loan: Secretary of State, they were unable to deal with them. That is what happened.

Hilary Benn: These matters have been devolved and, as a result, it does fall to the Northern Ireland Executive to take decisions. I know there is a bigger argument: it is one the Chief Constable makes regularly about what he regards as the adequacy of the funding for the PSNI. We give an additional security grant of £113 million, but it is for the Executive to take that decision, and that applies to this as well.

Q39 **Chair:** Thank you very much. I have one last question for you. I think yesterday you had a chance to meet Bernard Duhaime, who is, for the benefit of the committee, the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence for the United Nations. Thanks to Andy McDonald MP, I was able to attend a meeting with him yesterday, and the Special Rapporteur has sent me the full text of his remarks. I think you have a copy too, but if not, we can share it with you. In it, he says, "The new Government's response has been substantive and, on the whole, welcomed by my mandate", which is good. He does, however, identify five areas for the Committee stage of the Bill that he would like to see addressed: the genuine independence of the Legacy Commission; an explicit reparations framework; the prosecutorial accountability question; meaningful victims' participation; and adequate resourcing of the civil litigation pathway. He also said, as you have done today, "I wish to re-emphasise the importance of firmly resisting any pressure to reintroduce amnesties in any form". Those five areas, all of which have been touched on during our proceedings today, are things I hope you will be able to give further thought to. Will there be a formal response to what the Special Rapporteur has said?

Hilary Benn: He wrote to us previously, and I am trying to recall whether what you have just read out, Lord Alton, is new or whether it relates to the report he sent to us previously.

Sharon Carter: I think this may be new. I do not think we have seen it.

Chair: These are remarks he made only yesterday in Parliament.

Hilary Benn: If you would be so good as to pass on a copy, we will reflect on those. Whether he has put them to us directly, above and beyond what he raised with us previously, I do not know. I will need to go away and check.

Chair: I would like to put them to you on his behalf in that case, and ask that, when you write to us, there is some reference to the points he made in those remarks.

Hilary Benn: I very much enjoyed meeting him. Reading the transcript of the two evidence sessions you have had, you can see what a lot of

people have said in welcoming the Bill, and that is certainly what he indicated to me. I was particularly struck by what Joe McVey said to the committee. He talked about a "cautious welcome", and I understand completely why it is a cautious welcome, because there is a terrible lack of trust given what has happened before. Our job, collectively, is to build that trust in this new framework, and I hope very much to have the support of as many colleagues as possible in putting it in place so that people can find answers. That is what this is all about.

Chair: That is why this meeting today has been so important, because we want to play our part working with you on a bipartisan, bicameral basis to get the best outcome we possibly can. It is 28 years after the Good Friday agreement. During the lives of many of us who are members here, we have seen over 3,500 people killed and thousands injured, with so much damage done in so many respects.

I was struck at the meeting with the Special Rapporteur yesterday when he paid tribute to the British Parliament for wrestling with these things and trying to find ways forward. He also said that in a global setting, where there are so many post-conflict situations needing to be resolved, whatever we finally do here will set a standard for what can be done elsewhere. It is not just about trying to put right terrible injustices and terrible deeds committed in the past, it is also about the gold standard that we want to set for conflict-related societies. I know you are playing an important part in that, Secretary of State. You have been generous with your time again today, as have your officials, both of whom have been welcome here.

The committee will now think carefully about the things that you have said to us and will produce a draft report for consideration by the committee. When it has been agreed, we will make it available to both Houses of Parliament. With those words, I thank you again for being with us.