

Debate

Lord Harris of Haringey

“There has been considerable concern about the central principle of the Bill, the idea of a single, directly elected individual who is to be responsible for the oversight and control of the police service. That is why I have tabled Amendment 3. Amendment 20 applies similar provisions to the Mayor’s Office for Policing and Crime.

At Second Reading and in Committee, there were widely held concerns about the concept of a single individual with this very strong responsibility for policing matters. The vote in Committee essentially removed from the Bill the principle of police and crime commissioners. The Committee voted in that way because of the fear of having a single individual with responsibility for such an important area of public life, an area where the police have such powerful responsibilities over the liberty of the citizens of this country and over the way in which the citizens of this country operate. That is the core of the concerns that have been expressed from many corners of your Lordships’ House. You could argue that we have solved the problem. By the amendment proposed by the noble Baroness, Lady Harris of Richmond, and agreed in Committee, there will not be a single directly elected individual. However, I am mindful of what the Minister said repeatedly in Committee—that the Government are determined to reinstate that principle. If the Minister wants to stand up and tell me that the Government have changed their mind and have suddenly realised that the House of Lords was right on this point, I might consider withdrawing this amendment, but if, as seems likely, the Government intend to reverse the House of Lords position on this and bring back to this House proposals for a single individual with those extraordinary powers over policing and with the police having such extraordinary powers over the citizen, we need something that looks at these matters. In fact, I submit that even if the Government were to accept the position taken by the House of Lords in Committee, there would still be value in having non-executive members around the police and crime

commission to bring to the deliberations of the commission expertise and independent-minded judgment. However, given that the Government intend to reverse that position, this amendment is essential. Amendment 20 relates to the position in London. There are no changes, so far, to the position in London. We will have a single elected individual—the Mayor of London—who will delegate some of his functions to the deputy mayor for policing and crime.

In the circumstances in which we are to have single individuals with these responsibilities, there has to be a governance structure around them. I think there is consensus among your Lordships about the value of a collegiate approach and robust and strong governance. The amendment is not about going back to police authorities. It is not about creating some new bureaucratic structure. It is not even about going to the appointed boards that the noble Lord, Lord Carlile, coruscated earlier in our discussions today. It is about good governance. It is about making sure that decisions are taken properly and transparently so that these single individuals cannot be subjected to criticism that they have acted in a wilful or inappropriate way. It says that on key financial matters, key personnel matters and on matters perhaps relating to equalities, they must act with the support of a group of non-executives who would be appointed for this purpose. Non-executives appointed in the way that I have suggested in my amendment would provide the public with an assurance that good governance was being followed. It would provide a mechanism by which you could make sure that those decisions were taken in a sound and proper way. It would also deal with what I suspect will be one of the issues. If you look forward to May 2012, when the Government hope that the first directly elected police commissioners will be elected, you will have elected individuals with an enormous personal mandate. The only person in the country with a larger personal mandate—I do not want to get into double entendres here—will be the Mayor of London. They will be the biggest political beasts in their regions. The elected police and crime commissioner for the West Midlands will be chosen by an electorate of more than 2 million people and will have a bigger mandate than a directly elected mayor of Birmingham, should such a creature come to exist

following the passage of the Localism Bill. Those individuals may think that they can walk on water, I do not know. I hesitate to make such a remark in the presence of the Bishops' Bench. However, we are back to the principle of being reminded that you are human, the way that Roman emperors had to have someone around them just to remind them of their human responsibilities. When I was the leader of a local authority—I was not directly elected by the people of the borough; it required endless arcane processes within the Labour Party before I ended up as leader—I did have tremendous authority within my local council. Sometimes I came up with ideas that were perhaps not as sensible as they might have been. My problem was that the officers of my authority would say, "Yes, Leader, it will be done tomorrow". What I actually wanted were officers who would say, "You are out of your tiny mind, Leader, have you not thought about the following? What about the implications of this? You do realise that there are going to be the following unintended consequences". The danger of having a single elected individual with a personal mandate bigger than that of any local authority person or Member of Parliament is who will say to them, "Hang on, just think about this, think again, consider it"? Or, "Let us just go through a proper, transparent process for making this decision". That is what creating a small board of non-executives would provide: that safeguard and those circumstances in which that challenge and proper governance can take place. It does not undermine the principle that the Government are trying to achieve. That is not the intention. It is simply trying to provide robust good governance. Actually, it is a principle that I thought the government parties endorsed in other contexts. The Conservative Party in the past brought forward the Cadbury report and saw the value of non-executive directors in the private sector. The principle is established in the health service. I understand that one of the arguments that is still going on—in so far as anyone can follow the minutiae of the debate on health—is the extent of the involvement of external boards in some new health structures. The report reviewing the position of the Children's Commissioner—a rare example of a corporation sole—recommended a small non-executive board to support the commissioner's activities and enable good governance. This is somebody saying, "I am in this position but I would like some effective systems of governance around me". That is why this is so

important. It also helps mitigate some of the problems with politicisation that are seen as potentially causing difficulty. I have seen circumstances involving the much maligned outgoing police authorities where the independent members have sometimes said to the political members, “Come on, hold on, let us not be political about this—let us just look at this in terms of the interests of the public of this area and good policing in this area”. So it helps deal with that. It provides some of the checks and balances that Members of your Lordships’ House are so keen to see enshrined in this Bill. It provides a mechanism whereby additional expertise can be brought in. A police and crime commissioner or the Mayor’s Office for Policing and Crime may want, for a specific purpose, someone with extensive external experience of human resources questions or particular types of financial management. Bringing in that expertise is the capacity that would be created. It provides resilience and a support mechanism to enable the enormous task that the Government want to place on these individuals to be carried out. It also provides a mechanism whereby that work can be carried on. The amendment provides for robust good governance and some collegiate elements to decisions where it would be dangerous and difficult for an individual to act on his or her own. If it is the Minister’s intention to tell us, “Well, actually, there is nothing in this Bill that prevents it happening”, I would say one thing. No, there is nothing in the Bill that prevents it happening, and I am sure that plenty of sensible elected police and crime commissioners would want to do that. But it would be precisely those police and crime commissioners who do not think that they need that sort of external support—those independent non-executives around them—who will be the ones who cause us problems in the future because of potentially wilful or maverick decisions. That is why this is so important. I beg to move.

Lord Howard of Lympne: My Lords, first, I congratulate the noble Lord, Lord Harris, on the sense of realism which infused his contribution to your Lordships’ debate. He recognised that we are likely to see elected police commissioners in place next year and that the Government are likely to reverse the amendment put forward by my noble friend Lady Harris. I rise with a degree of reluctance to oppose this amendment, not only because it is

proposed by the noble Lord, Lord Harris, with whom I had many enjoyable disputes many years ago, even long before I was Home Secretary. It was always a great pleasure to see him across the table when we were negotiating.

Lord Harris of Haringey: My Lords, I remember attending the shortest ministerial meeting I had with the noble Lord when we were allowed just seven minutes to consider the matter.

Lord De Mauley: We are on Report.

Lord Howard of Lympne: There were many other much longer meetings. The noble Lord talked about the characteristics of Roman emperors. When I faced him across the negotiating table, it always seemed to me that he took upon himself many of the attributes of Roman emperors—he still perhaps to some extent does so today—and therefore greatly adorns the contributions which he makes to your Lordships' House. I am even more reluctant to oppose the amendment because it is also supported by the noble Lord, Lord Stevens of Kirkwhelpington. I did not sit across the table from the noble Lord and negotiate with him. I had the great pleasure of working very closely with him when I had the privilege of holding the office of Home Secretary. I have enormous respect for his views and it is therefore with particular diffidence that I oppose this amendment.

My question is: what would the board of non-executives do which the panel would not do? The police and crime panel is particularly established by the provisions of this Bill to scrutinise and advise the police and crime commissioner. I repeat that it is established to advise the police and crime commissioner. What is the function of non-executives but to advise the police and crime commissioner? Do we really want to provide by statute a cumbersome bureaucratic panoply of organisations to perform the functions set out in the Bill?

We are proposing to have the police and crime commissioner, which I fully support, and the police and crime panel, precisely to provide the strong and robust governance arrangements which the noble Lord, Lord Harris, is so

keen to see introduced. I share his view that it is important to have good and strong governance arrangements but that is what the police and crime panel would provide. To have this non-executive board in addition would at best be duplication of functions and, at worst, confusion and a proliferation of bureaucracy, which I suggest is the last thing that your Lordships should be seeking to foist upon the new arrangements provided by the Bill.

Therefore, despite my long and happy memories of my negotiations with the noble Lord, Lord Harris, and my enormous respect for the noble Lord, Lord Stevens of Kirkwhelpington, I would respectfully advise your Lordships to reject this amendment.

Lord Stevens of Kirkwhelpington: My Lords, I support the amendment. Far be it from me to disagree with the noble Lord, Lord Howard of Lympne, who I have said publicly I believe to have been one of the most successful Home Secretaries during my time in policing and beyond, but on this occasion I have to disagree with him. Perhaps I may take noble Lords back to the setting up of the Metropolitan Police Authority, along with the London Assembly and the new appointment of the Mayor of London. A year before that, with the agreement of Paul Condon, the commissioner when I was the deputy commissioner, we set up a committee. It consisted of various people from the Home Office, and indeed the noble Lord, Lord Harris of Haringey, was a member. We thrashed through and gradually teased out a new structure for London. It was going to be extremely complicated and difficult to bring in. It had a conflict of interest that involved the national responsibilities of the Metropolitan Police, and specifically the commissioner, and it had to take account of the new London Assembly, the Mayor of London, Ken Livingstone, and not least the police authority itself, before which the commissioner would appear on a regular basis—at least once a month.

Part of the discussions related to that was the independent elements necessary to ensure proper governance, independence and expert advice. Going back to some of the excellent things introduced by the noble Lord, Lord Howard of Lympne, as Home Secretary, one of those was the independence of the police authority and a widening of its knowledge, expertise, delivery and

holding the chief constable to account. I believe it is necessary to have in place a process that can be dealt with by a non-executive director in relation to the new set-up with police commissioners and their panels. Perhaps I may take noble Lords through the three reasons for that process.

Financial decision-making and the creation of a corporation sole will be responsible for major decisions such as the placement of contracts, financial allocation and a number of other serious financial matters, including audit. It is imperative that within the police panel and outside of the official responsibilities of the Chief Constable and Commissioner of the Metropolitan Police, there is expert independence in terms of advice and good governance. The second reason is staffing. Again, it is important that the approach taken is that of best practice. Many noble Lords are involved in private business and they know that non-executive directorships constitute best practice in terms of good governance, independent advice, and ensuring that the vision of the company they are involved with is taken forward. If we are going down the line of corporation sole in relation to police commissioners and their panels, surely it is good governance, common sense and best practice to ensure that there is an element of non-executive directorship on the panel.

The third but by no means the least reason is that of equality of opportunity and diversity. The contribution made by a collective as opposed to an individual should always be noted in relation to what is on occasion an extremely difficult matter. The noble Lord, Lord Harris of Haringey, will know, as others on the Metropolitan Police Authority and the police assembly of the time will know, that on a number of occasions during the implementation of the Lawrence report-my deputy commissioner, the noble Lord, Lord Blair, was part of this-the implications of driving forward and turning the recommendations into action needed individual expertise from independent members of the Metropolitan Police Authority, members of which would on occasion come to see me or the noble Lord, Lord Blair, individually. To throw away that is to throw away extraordinary expertise which is necessary in the world in which we now live.

This amendment would ensure that, through a non-executive presence in the structure, additional expertise could be tapped into. I understand where the noble Lord, Lord Howard of Lympne, is coming from on this and I of course respect his views-I do not think that anyone could respect his views more than I do, having worked with him quite closely over a period of time. However, the amendment seeks to address some of the concerns expressed by Members of this House. As a result, we must listen. Again, I pay tribute to the Minister, who, without any doubt whatever, is a listening Minister, and it has been a delight to see that approach.

Lord Beecham: Bearing in mind the rather surprising assertion of the noble Lord, Lord Carlile, who is not now in his place, that this amendment originates from what he would describe as the dark days of old Labour, would the noble Lord who has subscribed to it care to say whether he is now, or has ever been, a card-carrying member of the Labour Party?

Lord Stevens of Kirkwhelpington: Certainly not. The two most successful Home Secretaries that I know of in history is the one who is sitting opposite, the noble Lord, Lord Howard, and the second-you would never get the name out of me if you tricked me-was Jack Straw. He of course would be represented in Labour. How about that for an apolitical comment?

Baroness Hamwee: My Lords, I was going to go back to the Roman Empire. With all this talk about Roman emperors, I wondered whether I should claim for myself the role of Caesar's wife, but I think I ought to leave that for the Minister.

I have two amendments in this group and was very persuaded by arguments made at the previous stage by noble Lords who spoke in support of the amendment of the noble Lord, Lord Harris. When the Government objected to the term "shall", I asked whether "may" would be more acceptable. It was almost before the words were out of my mouth that I knew that I was going to be challenged by the noble Lord, Lord Harris of Haringey, who quite rightly made the point that police and crime commissioners who do not understand the need for robust governance arrangements are the ones who most need them.

My Amendments 4 and 18 break my own rules about providing for more regulation-making powers for the Secretary of State, but I have worded them in that way because I am not quite convinced that Amendments 3 and 20 quite capture everything. I have added to my list, in what would be new subsection (4B),

"provision for arrangements to ensure probity".

Financial matters are within that, but probity covers a wider area.

I spotted what some might regard as a flaw in my amendment by providing for consultation with police and crime commissioners, or their union as it might be, before their coming into being, but I have assumed, for the purposes of this argument at any rate, that the transitional arrangements might give time for this as well as consultation with local authority representatives. That is because of the important role of panels, police authorities and local authorities in this area.

My noble friend Lord Wallace spoke in Committee of the importance of personalities and personal relationships, and a willingness to co-operate. He was quite right, but I would say, "Yes, but", or maybe, "Yes, therefore".

There was also concern about how much detail should be in the Bill. Well, there is quite a lot of detail in it, so I would like to see some that I would be comfortable supporting. My noble friend also talked about the roles undertaken by the chief executive and the chief finance officer. He said that they would ensure that propriety and that:

"They will be subject to established public authority duties, as are their equivalents in police authorities and elsewhere".-[*Official Report*, 18/5/11; col. 1466.]

They do have those duties, but that is not the same as governance in the round. I would say to the noble Lord, Lord Howard, that the police and crime panels, with their limited checks, are not governance. Most of their duties are to be carried out in arrears. They do not have a contemporary role and that is what governance is about. If it is to be their function, the Bill needs a lot of

amendment and I for one would be very happy to see that, but the check, balance and scrutiny role in police and crime panels is a different role from governance.

There have been major developments in governance in public life recently. Many of your Lordships will be involved in charities where hugely different arrangements have had to be put in place over recent years. It is proper that there are such standards in public life. This is another such position. I am not convinced that the amendment of the noble Lord, Lord Harris, is spot on and I am sure that he and the Minister will say that mine is not either, but something needs to be provided that surrounds, supports and controls this new office.

Lord Condon: My Lords, the amendment put forward by the noble Lord, Lord Harris, and supported by the noble Lord, Lord Stevens, gives us some comfort and takes us in the direction of more reassuring corporate governance than the Government's current proposals. Like the noble Lord, Lord Harris, I accept that the Government will probably be successful in reinstating their provisions for elected police and crime commissioners, but there remains an element of the doctrinaire in their proposals. There is a feeling that the election by the public of a single person who is then unencumbered by advice, support or challenge is the only way forward. I fear that the only people around the elected police commissioner offering expert advice could well be sycophantic staff whose very livelihood relies on the elected police and crime commissioner.

The dilemma is that we are in an either/or situation. Either police and crime panels with an independent element must be given greater strength and authority than is currently proposed-and I was reassured by the Minister that we are moving a little way that direction-or we should have the model offered by the noble Lords, Lord Harris and Lord Stevens, of a board of non-executive directors.

I have spent 10 years in the private sector as a deputy chairman and non-executive director of one of the biggest companies in the world and I know the value of non-executive directors. The Government also know their value, because under their proposals this week for reform of the defence of our

country the individual service chiefs will be removed from the Defence Board and replaced by non-executive directors. The Government know in their heart of hearts the value of non-executive directors.

I hope that the Minister will give us some comfort that we are moving away from this doctrinaire notion about the purity of the electorate electing the police and crime commissioner and the commissioner not being encumbered by any advice other than that which they choose to hire themselves. I am not sure that I could wholly support the amendment put forward by the noble Lords, Lord Harris and Lord Stevens, but we need either that or stronger police and crime panels, and words of comfort from the Minister.

Lord Newton of Braintree: I was wondering whether one was allowed to take part in the debate if one was not a former chief constable or Home Secretary, but I have decided to take the risk, having listened rather carefully.

I only want to add a few sentences. I thought that the speech made by the noble Lord, Lord Harris, was one of the most persuasive that I have ever heard—that is, until I heard the speech of my noble friend Lord Howard of Lympne about overlapping bodies. That brings me to the same position as the noble Lord, Lord Condon, who has just spoken, with his distinguished and long experience. We certainly do not want two boards or panels with overlapping responsibilities treading on each other's feet—that was my noble friend's point. Equally, we do not want a police commissioner who is a lonely figure with massive responsibilities and nobody to turn to.

It seems that the answer to this is not to set up a non-executive board but to look at the panel, as has just been suggested, and make sure that its powers, responsibilities or however they are defined reflect the need for the commissioner to be able to turn to people for advice, support and sometimes comfort—or, indeed, unwelcome advice—in the way that has been reflected in this debate. I hope that may be of some help to my noble friends on the Front Bench, as the view of one modest Back-Bencher who has listened to the debate.

Viscount Brookeborough: My Lords, I support the amendment, or at least the basis of it. My experience is from the Northern Ireland Policing Board—which is, incidentally, perhaps the last such board, but also the one which has been modernised most recently, and in difficult circumstances. It was required to cover all the aspects that we are talking about in that it had to be workable.

As for having non-executive directors or the equivalent, this is not just about the commissioner's power or about bringing in the expertise; quite frankly, it is about the impossibility of the commissioner carrying out all the functions that he will have to carry out. The functions of the police panels are laid out quite clearly. The Bill says that they are to monitor and keep up to date with the commissioner. It does not say anything about their powers to call police and other people. In fact, Clause 30(2) says:

"Nothing in subsection (1) requires a member of the police and crime commissioner's staff to give any evidence, or produce any document, which discloses advice given to the commissioner by that person".

The commissioner is the one who has the power to call the police to give evidence on what is happening, and to scrutinise everything that goes on in the police force.

Although I hesitate to do so, I do not agree with the noble Lord, Lord Howard. The problem is that the powers do not overlap. It appears that the panel has no right to go into the police to find out the details; that power rests entirely with the commissioner. The problem is that no individual-commissioner or otherwise-can possibly go into all the issues such as finance, staff, equality, property and everything else. To correct that in the Northern Ireland Policing Board, we had somebody in the property market as well as an accountant and somebody in HR. I do not believe that anyone here could give us an example of an individual who could do the work that we had to do to monitor the police. There is no such individual.

So I would ask the Minister: who in the police and crime commissioner's office will do that? The answer is that it will be done by paid staff. The police and crime commissioner's staff will produce an opinion to one person without that

being questioned by any expertise or any experience on that side at all because, as I understand the provision that I have just read out, the panel will have absolutely no right under the Bill even to hear that advice.

I support the amendment because I believe that, first, no single individual could physically do all those jobs that are required and, secondly, if the PCC does not have non-executives with the experience, the panel will need to provide that but, from my reading of the Bill, the panel does not even begin to have the powers to get to the bottom of the issues so it definitely could not provide a balanced view on what is going on. That simply does not happen. If any noble Lords wish to go and see the Policing Board in Northern Ireland, they can do so because these were exactly the issues and the problems that we had with our police force, which even I accept was not functioning properly-that is why these reforms were made. That is why such a committee, which may be formed of non-executives or, indeed, of panel members, should have the right to call any policeman within the headquarters or any department to account for the decisions that have been made. The committee could then produce a balanced view for the commissioner. Therefore, I support the amendment.

Lord Wasserman: I, too, am a great believer in non-executive directors. Having served as a non-executive director on a public company and on several private companies, I think that non-executive directors have an extremely important role to play, but their role is defined as relating to "fiduciary duty". They are there to look after the interest of the shareholders, or owners, of the company. They understand their role, management understands their role and, where it all works extremely well, as several noble Lords have already said, we know that they appreciate that role.

However, the amendment is not about fiduciary duty but about expertise, advice and management, which are quite different. This is not about the role of a non-executive director, who is an independent director on the board who ensures that the interests of the shareholders are looked after; this is about having a team that will bring expertise, knowledge and advice to the police and crime commissioner. I think that the amendment confuses a non-

executive with, as it were, a consultant or a special adviser; they are not quite the same. We ought not to think of this proposal in terms of a board of non-executives who provide independence but in terms of people who provide expertise. The amendment says that these people will advise on financial matters, staff matters and equality matters. It is important that such expertise should be available to PCCs-there is no question about that-but to suggest that these are non-executives who form a non-executive board is, it seems to me, the wrong way to go about it.

Also, we know that it will be open to any PCC to hire advisers and consultants-no doubt some will, and no doubt there will be some who will not who should-so the amendment seems to be rather a sledge-hammer taken to a nut. The amendment would require all 43 or all 41 forces, no matter how small, to have at least four non-executives. I think that the whole thing is far too prescriptive.

And yet the amendment also leaves lots of questions unanswered. For example, how often should the non-executive board meet? If we put this in the Bill, it will be quite open to a PCC never to bring the non-executives together or to bring them together once a year for a meeting lasting half an hour. The PCC would thereby fulfil the terms of the amendment, yet he would not get the advantages of having non-executives. The next thing, we know, is that we will want to set out regulations to make it clear that the PCC has to meet with them and how often he has to meet with them. What papers could the non-executives see? Could they see all papers or only those that relate to their particular subject? Could they see operational papers and all the papers that the PCC sees? Could they be briefed by the chief constable? Could they deal directly with the chief constable and with the management team, or could they only advise the PCC? Finally, how is their effectiveness to be judged? Can the PCC fire them whenever he wants to, or does he have to go back to the panel to fire them? According to this amendment, he does not. It would be a ridiculous situation if he fired them and then hired a new group, the panel approved a new group and then he disagreed with them.

There are several problems, but the main problem is that it is far too prescriptive while leaving these gaps. It smacks too much of central direction. I was thinking of the day when there will be an association of non-executive members of police authorities. They will meet regularly with ACPO at the annual conference and discuss the problems of non-executives. It will be all far too organised. There will certainly be directives out of the Home Office describing in minute detail when they should meet, how often they should meet, what records should be kept and so on.

Even worse than that, I see this as a sort of consultants' windfall. What will happen, unless we specify that these non-executives have to be resident in the area of the particular force, is that we will have a group of high-powered, well paid, very able and experienced consultants who act as non-executive directors for five, 10 or 20 forces. They will be specialists in equality, finance or staffing. There would be nothing wrong with that; it would achieve what this amendment wants it to achieve—namely, it would bring expertise to the commissioner. It would hold his feet to the fire if he refused to make decisions or, on the other hand, tell him that he has not got all the power in the world. The noble Lord, Lord Harris, suggested that that was one of the functions. I see this very much as a windfall for consultants, and I doubt that we really want that.

While the Bill gives chief constables more freedom to manage, at the same time this amendment gives the PCC less freedom. We are saying on one hand that the chief constable can appoint his top management team and at the same time that the PCC has to have approval for his non-executive team. That seems wrong.

Finally, I think or hope that people see this Bill as strengthening the link between forces and their local communities. This amendment will in effect weaken it by bringing in experts who are not related to the community but are simply there for their expertise, their knowledge and their experience.

Lord Blair of Boughton: My Lords, I apologise to the noble Lord, Lord Newton, for adding to his collection of commissioners and chairmen of police authorities. However, I want to say, having served as a chief officer of police

for 15 years, that I served with the police committees that the noble Lord, Lord Howard of Lympne, reformed in order to bring in an independent group of people. The committees were transformed by that process. I know from what I have heard of the speeches of my erstwhile colleagues that all of us feel that the independence of some people around this police and crime commissioner is fundamental. I have not seen a better amendment than the one put forward by the noble Lords, Lord Harris and Lord Stevens, and I support it.

Baroness Henig: I wish to add a word or two. I heard very much what the noble Lord said, and I very much sympathise with the idea of strengthening the panel. Nobody has tried harder during the Committee stage of this Bill than I have, with the assistance of the noble Baroness, Lady Harris, to strengthen the function of the panel. I have put five amendments to that effect. Thus far, the Government have not been minded to strengthen the panel, for a very clear reason. They feel that the only role of the panel is to scrutinise the commissioner and that the panel should be able to scrutinise the commissioner only on very specific areas. Thus far, I have to say that I do not believe that that constitutes strict checks and balances, which is a different issue. None the less, if I was confident that at Report the Government would change their views and accept some of the amendments that I have down later for strengthening the panels, I would feel differently. But I cannot say to the Minister that I have that confidence at the moment, because of the very strong line that the Minister has taken. The issue is the relationship of the panel to the commissioner. If the Government maintain their attitude on that issue then this is the only other mechanism to accomplish what I was trying to do with the panels.

I wanted to raise one slight point with my noble friend Lord Harris, which I asked him about very early on when he was putting together his ideas. Is it an either/or situation? Is there any way in which some or all of the independents who we have been talking about, and who we all value so highly for their expertise, could also serve on the panel? Perhaps he could say in due course whether it is an either/or situation, because I am not absolutely convinced that it needs to be.

Lord Hunt of Kings Heath: My Lords, this has been an interesting and, I believe, an important debate. My noble friend Lord Harris, in what I thought was a powerful introduction, pointed out the huge power and authority that is being given to an elected police and crime commissioner if the Commons decides to send this back to your Lordships' House in its original construct. I noted the comments on that of the noble Lord, Lord Howard, but when he referred back to his legislation of 20 years ago, I think he also referred to a number of ping-pongs. That is a salutary reminder to your Lordships' House that if we do not think that the House of Commons has thought sufficiently, we can send the Bill back to give it a bit more time to reflect-but we will come to that in a few months' time, no doubt.

The issue of governance is very important. My noble friend was right to point out that we are giving huge responsibility to police and crime commissioners, if that is the final outcome of the Bill. The need for some way in which the individual can be allowed to test out their ideas and have them challenged as my noble friend describes seems an important issue. We know that when individuals are given great power, sometimes they abuse it. We are talking about a considerable number of police forces. It is inconceivable that we will not have one or two persons who are unsuitable but who are elected to those positions. Earlier, we were referred to a number of local authorities where mayors have been elected. I would say that the experience of elected mayors has been mixed. Some have been outstanding, but there have been one or two who ought not to have been elected and great problems have been caused there. I think of them when it comes to the issue of governance around police and crime commissioners.

Other noble Lords have pointed out that the Government do not seem to speak with consistency in these matters. Earlier this week, as the noble Lord, Lord Condon, pointed out, we had the change in governance relating to the MoD. My own area of knowledge is in the National Health Service: I declare an interest as chairman of the Heart of England NHS Foundation Trust and as a trainer consultant in the NHS. The NHS Bill had gone through most of its stages in the Commons when the Government instituted a pause and, only 10 days or so ago, announced the results of it. One of them was to strengthen

governance within clinical commissioning groups. Originally, they were going to be GP consortia and a few GPs were going to sit round the table deciding how to spend £80 billion of public money. The result of the listening exercise has been that they are now going to be called clinical commissioning groups, because there has been recognition that you cannot just give that huge power to a few individual GPs.

We are now going to have two lay people appointed to those commissioning groups: a nurse and a consultant from outside the area. Why outside the area? It is because there is recognition that there might be a conflict of interest if a hospital consultant in the catchment area of the commissioning group were to be appointed. As a result of the listening exercise, what has happened is that a much stronger corporate governance structure is being put into place. What I do not understand is why the Home Office seems oblivious to what other departments are doing in relation to legislation or, for instance, to the changes in defence. It is difficult to see where there is any consistency of purpose.

I listened with great interest to the noble Lord, Lord Wasserman, who has not spoken much in these debates, alas. He talked about the fiduciary duty on non-executive directors. However, we are talking about public bodies. I say to him that within the public sector, a duty in relation to the finances of the organisation is part of the role of non-executives. However, in the NHS there is a duty in relation to quality, a duty in relation to safety and risk, and a duty in relation to exercising overall judgment and supporting the executive directors and chief executive in the performance of their duties. That ought also to apply to the police and crime commissioners.

The noble Lord then raised several interesting practical points about the amendments that we are debating. I should have thought that they could have been dealt with either by model Standing Orders or by the Government tabling a tidying-up amendment at Third Reading if one of these amendments is successful. It would be entirely appropriate and proper for the Government to do that. The puzzle is that the party opposite, as I said in Committee, has a very good record in supporting and strengthening corporate governance. My

noble friend mentioned the Cadbury report and he was absolutely right to do so.

The noble Lord, Lord Howard, suggested-several noble Lords have commented on this-that we need not worry about the police and crime commissioner exercising so much power because we have the panels. The problem with the panels is that they have no teeth. They have only two vetoes. One is over the appointment of a chief constable; the other is over the setting of the precept. As the Bill stands, 75 per cent of the members of the panel are required to exercise the veto. That will come down to two-thirds. However, that is still a tough threshold to reach and relates to only two aspects of the performance of the PCC.

In the absence of any indication that the Government will accept the amendments that my noble friends, particularly my noble friend Lady Henig, have tabled, we are right to support this amendment. I have no doubt that my noble friend Lord Harris of Haringey will wish to comment on the respective merits of his amendments and those of the noble Baroness, Lady Hamwee. Certainly, if the noble Baroness presses her amendments to a vote, I would have no hesitation in supporting her.

Lord Wallace of Saltaire: My Lords, we all recognise the importance of quality of governance for any new arrangements to oversee policing. Quality of governance is very much at the heart of all that we are concerned about. Part of what we are discussing is what we mean by the continuing process of scrutiny and the extent to which an overall package provides us with checks and balances that those responsible for holding the police to account are aware of every day. I respectfully suggest that noble Lords opposite underestimate how far the Government have shifted on the role of police and crime panels. That is the direction of travel in which we are increasing responsibility.

We recognise that police and crime panels will work with, as well as check, police and crime commissioners, and that police and crime commissioners will have to work with their panels. That is the model. Nothing in the Bill prevents a police and crime commissioner or MOPC forming a non-executive board.

We see the PCC and the Mayor of London appointing a chief executive and a chief finance officer who will, first, have professional qualifications and backgrounds; secondly, be governed by the Nolan principles; and thirdly, themselves be subject to confirmation hearings by the PCP. That is the direction in which we have shifted. It will be open for a police and crime commissioner to consult more widely for professional advice. The question is: how much detail do we want in the Bill about what sort of professional advice he or she should consult?

We have moved away from what the noble Lord, Lord Condon, described as "a doctrinaire position" of individual election and personal accountability and responsibility. The direction in which we have moved is towards stronger PCPs and a relationship between the PCP and the PCC that will have to be a continuing one of mutual confidence. We hesitate to insist on to some extent duplicating that relationship by writing into the Bill the necessity of having, in addition to this, a non-executive board.

We all recognise that we are talking about the risk of mavericks or irresponsible populists being elected. I know and respect the Mayor of Watford, who is an excellent elected mayor. There are several such mayors. However, I travel past Doncaster twice a week and am well aware of the issues that are at the back of people's minds.

It is the Government's aspiration that in cases where relations break down, the PCP will step in at that point. It will have the role of reviewing or scrutinising every decision of the police and crime commissioner. In particular, it will have a right of veto over the precept and the appointment of the chief constable. It will have a say in the police and crime commissioner's appointment of senior staff by holding confirmation hearings. It will play a significant part in the complaints procedure around the police and crime commissioner, and it will hold the police and crime commissioner to account for his or her role in the complaints procedure of the force. Therefore, we have strengthened the position of the PCP.

We look to a model in which the PCC and the PCP will work together and the police and crime commissioner will take the police and crime panel into his or

her confidence. The panels have been enlarged and have the ability to appoint independent members in addition to local authority representatives. That answers the question of providing governance in the round. I suggest that the House is now underplaying the concessions that the Government have made and the consequent role of the police and crime panel. We have listened and we share the concerns that have been expressed around the House from a range of positions. However, we are not persuaded that we should put in the Bill any further mandatory requirements from the centre, or seek to constrain the police and crime commissioner, when there is a proportionate degree of advice, guidance and scrutiny that is accountable to the public already built into the system. Having, I hope, provided reassurance on these issues, I respectfully request that the noble Lord withdraw his amendment.

Lord Harris of Haringey: My Lords, I am enormously grateful to those noble Lords who have contributed to this short debate, which has been extremely interesting and powerful. I am particularly grateful to the trio of former Commissioners of Police of the Metropolis who, in varying degrees, lent support to my amendment. I am also grateful to the noble Lord, Lord Howard of Lympne, for reminding me of our many productive-or nearly productive-discussions in the past on all sorts of other matters.”