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GENERAL COMMITTEES

Public Bill Committee

DEREGULATION BILL

Ninth Sitting

Tuesday 11 March 2014

(Morning)

CONTENTS

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Saturday 15 March 2014

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY FACILITATE THE PROMPT PUBLICATION OF THE BOUND VOLUMES OF PROCEEDINGS IN GENERAL COMMITTEES

The Committee consisted of the following Members:

Chairs: Mr Jim Hood, †Mr Christopher Chope

† Barwell, Gavin *(Croydon Central)* (Con)
† Bingham, Andrew *(High Peak)* (Con)
† Brake, Tom *(Parliamentary Secretary, Office of the Leader of the House of Commons)*
† Bridgen, Andrew *(North West Leicestershire)* (Con)
† Cryer, John *(Leyton and Wanstead)* (Lab)
† Docherty, Thomas *(Dunfermline and West Fife)* (Lab)
† Duddridge, James *(Rochford and Southend East)* (Con)
† Heald, Oliver *(Solicitor-General)*
† Hemming, John *(Birmingham, Yardley)* (LD)
† Hopkins, Kelvin *(Luton North)* (Lab)
† Johnson, Gareth *(Dartford)* (Con)
† Maynard, Paul *(Blackpool North and Cleveleys)* (Con)
† Nokes, Caroline *(Romsey and Southampton North)* (Con)
† Onwurah, Chi *(Newcastle upon Tyne Central)* (Lab)
† Perkins, Toby *(Chesterfield)* (Lab)
† Rutley, David *(Macclesfield)* (Con)
† Shannon, Jim *(Strangford)* (DUP)
† Turner, Karl *(Kingston upon Hull East)* (Lab)
† Williamson, Chris *(Derby North)* (Lab)

Fergus Reid, David Slater, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 11 March 2014

(Morning)

[Mr Christopher Chope *in the Chair*]

Deregulation Bill

Clause 22

Removal of power to require preparation of housing strategies

8.55 am

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

The Solicitor-General (Oliver Heald): I commend the clause to the Committee.

Thomas Docherty (Dunfermline and West Fife) (Lab): It is a pleasure, yet again, to serve under your chairmanship, Mr Chope, on a bright and sunny Tuesday morning. I have a couple of questions for the Solicitor-General, to which I am sure he will have the answers to hand. As I understand it, this clause will limit the application of sections 87 and 88 of the Local Government Act 2003, in so far as they apply to Wales. I would be grateful if the Solicitor-General clarified whether this is part of the Silk review and what discussions, if any, he has had with Welsh Ministers about the reasoning for this change.

The Solicitor-General: Perhaps I can make it clear that the purpose of clause 22 is to remove the power of the Secretary of State to require local housing authorities in England to produce a housing strategy. This is an attempt to tidy up the statute book, because the power has never been exercised since it was introduced more than 10 years ago and there is no intention to exercise it in the future. It is part of the Government's aim to reduce unnecessary central regulation. Councils do not need to be told to have housing strategies; in fact, it has become common practice for them and is a fundamental part of their job. The duty, also here, to prepare a sustainable community strategy is again something which councils do.

This provision will continue to apply in Wales. The Welsh authorities wish to continue to have it available to them, so it has been agreed that the power devolved to Welsh Ministers requiring local authorities in Wales to produce a housing strategy is not affected in any way. There have been discussions at official level. I cannot say that I have spoken to Welsh Ministers, because I have not, but I understand they are happy with the outcome.

Question put and agreed to.

Clause 22 accordingly ordered to stand part of the Bill.

Clause 23

Removal of restrictions on provision of passenger rail services

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

The Parliamentary Secretary, Office of the Leader of the House of Commons (Tom Brake): The purpose of clause 23 is to change the law with regard to the passenger transport executives established in England by the Transport Act 1968. These are for Greater Manchester, Merseyside, South Yorkshire, Tyne and Wear, West Midlands and West Yorkshire. The change removes the current geographic limit on the exercise of PTE powers to provide passenger rail services. Currently, they can exercise such powers up to 25 miles outside their statutory boundaries. Clause 23 will remove the 25-mile limit. This change will enable them to provide passenger rail services anywhere in Great Britain. They will be able to do so acting alone or jointly with other PTEs and local transport authorities. The policy intention is to facilitate their being able to participate in greater decentralisation of passenger rail services in the regions. For PTEs in Wales and Scotland, the existing 25-mile distance limit is retained, but there are currently no PTEs there

Schedule 7, which I will come to in greater detail shortly, makes a number of consequential amendments and a number of complementary amendments relating to passenger rail. Removing the distance restriction is a deregulatory measure, without which the PTEs could not fully engage in further steps towards decentralising passenger rail services. Building on the positive experiences in Merseyside, London and elsewhere, the Government believe that passengers and local communities could achieve better rail services and value for money for taxpayers if local bodies had more say in how their railways were run.

Following a public consultation in 2012, the Government confirmed their support for the principle of devolving responsibility for passenger rail services to local bodies in England where it is appropriate to do so. This supports the Government's important localism agenda. We continue to work with those local authorities that have submitted or are developing rail devolution proposals. In November last year, my right hon. Friend the Secretary of State for Transport agreed with Rail North—a consortium of PTEs and local transport authorities in the north of England—an initial partnership structure in relation to procuring and managing the next trans-Pennine express and northern franchises, which are due to commence in 2016.

The Secretary of State for Transport expects to receive a formal proposition from the West Midlands passenger transport executive, Centro, and other local transport authorities in the west midlands, in the near future, in relation to the devolution of local rail services in that area. He has also agreed in principle with the Mayor of London to devolve further services to him within the Greater Anglia franchise, while dialogue with the Welsh Government about their aspirations for greater local control of services in Wales is also continuing.

PTEs already have broad statutory duties and powers under the Transport Act 1968. In practice, they use those powers not to provide services directly, but through contractual arrangements with industry parties, including train operators, or within the Department for Transport to influence the delivery of local rail services in their areas. In particular, they have powers under the Railways Act 2005 to be party to a franchise agreement of the Secretary of State, with his consent, if it includes passenger rail services in their area—as is the case with the current Northern franchise—or to use their resources to sponsor additional local services being added to such franchise agreements.

Propositions for regional rail devolution under consideration in the west midlands and north of England envisage the PTEs and their parent local transport authorities becoming directly involved in the procurement of contracts for rail services with train operating companies, which would actually provide the services, and/or for the management of those service contracts once they were let. However, for the PTEs to take over the procurement of services currently franchised by the Secretary of State under the Railways Act 1993, he would have to make a section 24 exemption order, carving those services out of the franchising system. That is why schedule 7 to the Bill would strengthen the provision that can be made in a section 24 order.

Dialogue with interested PTEs and partners will cover all issues that would need to be addressed and agreed before a devolution proposal could be accepted by the Secretary of State. That would include issues such as funding for the rail service contract and whether the operator of last resort responsibility in section 30 of the Railways Act 1993 would remain with the Secretary of State, be passed to the authorities, or be shared in some way. Of course, any rail services procured by the PTEs would be subject to the same licensing, access agreement approval and safety certification requirements—overseen by the Office of Rail Regulation—as those provided by any other entity.

In conclusion—I apologise for the lengthy explanation—clause 23 is an enabling deregulatory measure that makes it possible for PTEs, working with local transport authorities and in liaison with central Government, to take further steps to increase their involvement in the provision of regional passenger rail services.

Chi Onwurah (Newcastle upon Tyne Central) (Lab): It is a pleasure to serve under your chairmanship this morning, Mr Chope.

As the Minister has explained, clause 23 enables passenger transport executives in England to carry passengers by rail beyond and outside their current geographical limits. PTEs are local authority bodies responsible for transport in a large urban area. They currently have a limit of 25 miles beyond the boundary of their jurisdiction. Separate PTEs across the country are combined by integrated transport authorities—we benefit from one in Tyne and Wear—which link the entire country together. They were created by a Labour government in 1968, and they have helped to keep fares lower than in non-PTE areas.

We support the clause, because we feel that removing the boundary will allow PTEs to function more effectively. We believe that that should facilitate a natural adjustment of rolling stock supply to fit demand. Labour took similar steps in our own efforts to review England's local transport structure. The Local Transport Act 2008 laid out measures to improve the ability of the Secretary of State to modify the geographical limits of PTEs. Those provisions were greatly extended by part 6 of the Local Democracy, Economic Development and Construction Act 2009, with which I know we are all familiar.

That Act provided for the creation of economic prosperity boards and enabled them to be merged with ITAs to form combined authorities. Those combined authorities integrated planning and delivery of transport with economic development, which provided society with a more encompassing planning structure. We all recognise the importance of good transport links to much-needed economic development, particularly when we are travelling to work. We therefore support clause 23, and I look forward to the Minister setting out whether, and how, he plans to proceed with supporting Labour's policy of further rail devolution.

Tom Brake: I welcome the Opposition's support for the clause, which I commend to the Committee.

Question put and agreed to.

Clause 23 accordingly ordered to stand part of the Bill.

Schedule 7

PROVISION OF PASSENGER RAIL SERVICES

Question proposed, That the schedule be the Seventh schedule to the Bill.

Tom Brake: Schedule 7 contains a number of provisions that are related to, or complement, the changes made by clause 23. Paragraphs 1 to 7 make a number of consequential amendments to ensure consistency, where appropriate, across the statute book. Paragraph 8 expands the scope of conditions and provisions that the Secretary of State may include in an order under section 24 of the Railways Act 1993. Most mainline passenger rail services in England and Wales are designated under the 1993 Act as services to be provided under franchise agreements with the Secretary of State, who is the sole mainline passenger rail franchising authority for England and Wales, although a section 24 order can exempt services from designation and thus carve them out of the franchising system. It is envisaged that a section 24 order will be used in conjunction with the enhanced geographical scope of the PTE powers provided by clause 23, should the Secretary of State agree in a particular case that the PTEs and relevant local transport authorities should take over full responsibility for the provision of certain regional passenger rail services from central Government.

Paragraph 8 inserts a new section 24A into the 1993 Act to enable the Secretary of State, in a section 24 order, to apply similar protective provisions to de-designated rail services as currently apply to franchised rail services. In doing so, some of the risks associated with full devolution of passenger rail services can be reduced. Paragraph 9 makes correcting amendments to section 30 of the 1993 Act on the duties of the operator of last resort. I commend schedule 7 to the Committee.

Chi Onwurah: We have no objection to schedule 7.

Tom Brake: I take that as Opposition support for schedule 7, which I welcome.

Question put and agreed to.

Schedule 7 accordingly agreed to.

Clause 24

REDUCTION OF BURDENS RELATING TO THE USE OF ROADS AND RAILWAYS

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

Tom Brake: The clause simply introduces schedule 8, and I therefore commend it to the Committee.

Question put and agreed to.

Clause 24 accordingly ordered to stand part of the Bill.

Schedule 8

REGULATION OF THE USE OF ROADS AND RAILWAYS

Chi Onwurah: I beg to move amendment 11, in schedule 8, page 111, line 21, at end insert—

'(8) If an exemption order is made the Secretary of State shall produce a report detailing the nature of the exemption, including the conditions or restrictions made as part of that order, and publish it on the Department's website and in any way the Secretary of State sees fit.".'.

The Chair: With this it will be convenient to discuss amendment 12, in schedule 8, page 111, line 13, leave out paragraphs 23 to 26.

Chi Onwurah: Schedule 8 is a long and complex schedule, of which I hope briefly to discuss parts 1 to 5 in the stand part debate. Amendments 11 and 12 are in my name and in the names of my hon. Friends the Members for Chesterfield and for Dunfermline and West Fife.

The amendments would introduce further transparency into the process of issuing exemption orders under part 6 of schedule 8, and they probe the Government's intentions in that part. The amendments concern the Government's power to introduce accessibility standards for rail vehicles, which was established by the Disability Discrimination Act 1995 under the previous Conservative Government. Labour introduced the first set of rail vehicle accessibility regulations—known as RVARs—in 1998, which have subsequently been updated to reflect changing technology. All new rolling stock must be compliant with the RVARs and all vehicles that fall under their scope will have to be compliant by 1 January 2020.

Some heritage systems use vehicles that can never be made fully compliant, such as the excellent steam engines at Beamish, and some operators, such as London Underground, use older rolling stock and it will take time to make them compliant. In such circumstances, the Secretary of State can issue an exemption order through a statutory instrument under powers in section 183 of the Equality Act 2010. Since 2008, mainline rail vehicles have been regulated by a separate European technical specification for interoperability for persons with reduced mobility—known as the PRM TSI. However, RVARs continue to apply to rail vehicles that operate on self-contained systems, such as light rail, underground railways and heritage railways. RVAR exemption orders are made by statutory instrument, even though that is not the case for road vehicles or for mainline rail vehicles under European standards. I hope that that helps to describe the difference between the PRM TSI and the RVARs.

The Government's proposals would remove the requirement for exemption orders to be made by statutory instrument, which would reduce the time that it takes to issue an exemption. We do not object in principle to the change, given the advantage in reducing the time it takes to issue an exemption, but we are concerned that the Secretary of State's power to limit exemptions could be undermined. The amendments seek to ensure that the Secretary of State still has full freedom to impose conditions on exemption orders, such as on length, rather than just issuing blanket exemptions.

I regret to say that the Government do not have a good record with disabled people. It was only in July last year that they decided, after three years' consultation, to perform a U-turn and not abolish the Disabled Persons Transport Advisory Committee. The DPTAC is an expert advisory panel made up mainly of disabled people. The hon. Member for Lewes (Norman Baker), who was the relevant Minister at the time, described it as

"a creature from a different era",

before later admitting that

"abolition would not lead to any discernible improvement in economy and accountability."—[*Official Report*, 12 June 2013; Vol. 564, c. 10WS.]

In short, he recognised that the DPTAC was good value for money and that abolishing it would not increase accountability.

Last year, hundreds of thousands of people lost their disability living allowance. For many, DLA was the passport to a Motability car or to door-to-door services such as Taxicard. DLA allowed thousands of disabled people to get out and about, even when local public transport was not easily accessible. I recently met with a constituent who is isolated in her home, unable to leave because she cannot pay for her transport costs without the DLA. All that is at a time when Ministers have been trying to encourage, and sometimes force, disabled people back into work.

9.15 am

Some 11.5 million people in this country—19% of the population—are currently classified as disabled. The majority of people will experience disability at some point in their lifetime. As some put it, we are all only temporarily able-bodied. Department for Work and Pensions figures show that more than one in five people with a disability have experienced difficulty using transport, yet the Government's complacency about improving access to transport for disabled people is startling.

Fewer than one fifth of rail stations have full step-free access via lifts or ramps. When the Transport Committee suggested last year that the Department for Transport involve disability organisations and charities in prioritising stations for improvements in the future Access for All programme, Ministers dismissed the views of disabled people by saying that those organisations' involvement would "add little value". Does the Minister really believe that the views of disabled people and their ability to access public transport, which is essential for them to be able to engage in society, to go out and work and deliver economic value, add little value? What disregard for disabled people that shows.

The same cross-party Committee recommended that the Department for Transport complete its review of the inclusive mobility guidance this year, but Ministers said that they did not have time. That seems strange when we do not have a pressing legislative agenda in the

House. When the Department was urged to make the Transport Direct website accessible to disabled people, Ministers said that it was too difficult. I must mention the Government's refusal to provide the assisted digital provision they have so long promised for those with difficulties using digital services. That is impacting on many disabled people.

I will not go into detail on the disgraceful lack of universal broadband provision, but I will dwell for a moment on the fact that a website designed to help disabled people find accessible transport is not accessible to disabled people. What kind of logic or support for the capabilities of disabled people does that show? It is shambolic and typical of a Government who marginalise disabled people. While Ministers tell disabled people to get back into work, the Government and transport providers are failing to provide accessible transport and infrastructure to help them do so.

Once again, we are looking at a supposedly deregulatory measure that, while not appearing to do much harm, does not do much good either. That is a common theme of the Bill. This is another measure to make life easier for Ministers.

Toby Perkins (Chesterfield) (Lab): The point that my hon. Friend is making is important. We all want to see more done to support disabled people in work, and transport infrastructure is an incredibly important part of that. It is another example of the Government saying to disabled people, "We expect more of you", while placing greater barriers in the way.

Chi Onwurah: I thank my hon. Friend for that. He exactly sums up the Government's approach. His point is particularly important when we are seeking to increase economic output, which relies on the contribution of those with disabilities. In the context of our amendment, as we live longer, more and more of us will be living with some kind of disability. Therefore it is essential to adapt the public transport system and ensure that it fits the needs of disabled people. The Government seem unable to recognise that. I look forward to hearing the Minister address that point.

This is another clause which makes life easier for Ministers but does not give very much benefit to British citizens. We do not object to the clause in principle, but we seek some reassurance that the Secretary of State's power to issue exemptions is not undermined or eroded. Amendment 12 is a probing amendment to draw the Minister on this point. It would remove part 6 of schedule 8 entirely, effectively reversing the deletion of section 183 of the 2010 Act. Why does the Minister think it necessary to delete that section? What reassurance can he give that removing this wording will not affect the Secretary of State's power to add tough conditions to any exemption orders? If the Minister can reassure me on these matters I will not press amendment 12.

Amendment 11 requires the Secretary of State to produce a report detailing the nature of any exemptions issued, including the conditions or restrictions made as part of that order, and to publicise them. Currently, there are no requirements to publish any details when exemptions are issued. Only the statutory instrument is published. I am sure that Members will agree that statutory instruments are not particularly accessible documents. An annual report is published online, but it is not easily identifiable on the Government's website. We have already seen that there are challenges particularly for disabled people in using some of the Government's websites.

How will the shift from statutory instruments to an administrative regime make the documents more accessible and the process more open for a wider range of UK citizens? I do not say that they will not be, but I seek some reassurance from the Minister that this has been considered. Given the Government's record with disabled people, I am not convinced that they have thought through the potential impact of this part of the schedule. In 2005 Labour updated the Disability Discrimination Act 1995 to make it unlawful to discriminate against disabled people using public transport or transport facilities. We introduced minimum accessibility standards for all new carriages and light rail. We introduced a requirement for rail operators to develop a disabled person's protection policy. So we are proud of our record in government.

We support removing unnecessary regulation on businesses and individuals, but the proposal seems to be more about making life easier for Ministers, potentially at the expense of disabled people. So we support legislation that protects the vulnerable from Government and from big business. Labour has put accessibility and social inclusion at the heart of our transport agenda, and amendment 11 is designed to bring some transparency and openness to the process of exemption orders. I intend to press the amendment to a vote.

Tom Brake: Mr Chope, may I start by seeking your guidance? Will there be a separate debate about schedule 8 or should I make comments about it now?

The Chair: No, there will be separate debate about schedule 8, which is a much wider schedule than other schedules.

Tom Brake: Thank you for clarifying that. I shall focus on the Opposition amendments then.

We started the Committee in a consensual manner. Indeed, the Opposition had no points to make at all on one of the clauses, so happy were they with what we proposed. I am sorry that the hon. Member for Newcastle upon Tyne Central has taken the debate into a political arena, for example, on the subject of DLA. I do not know whether she was happy that people were left on DLA for years and years without being reassessed, but I believe that the Government are right to take the action that we have. She rightly referred to the Disabled Persons Transport Advisory Committee. In her criticism of what the Government propose, she seems to have overlooked the fact that the advisory committee supports the Government's proposals. She is in a difficult position when she rightly refers to the committee as a responsible, well-informed organisation, but then criticises the Government's proposals that DPTAC in fact supports. I hope she will reflect further on what she has said.

Chi Onwurah: The proposals, frankly, do nothing to improve transport for disabled people. The fact that they are supported does not improve the Government's reputation on support for disabled people.

Tom Brake: I note the hon. Lady's comments. I am happy to have the principal organisation representing disabled people supporting the Government's proposals. She may also not be aware that a recent survey of passengers found that the UK had the most accessible rail system in Europe. That does not mean that we cannot improve on it, but those surveys found that we have the best in Europe. Her party's current position is that Labour have signed up to the coalition Government's spending plans, so if she intends to spend more on this issue, I hope she will set out precisely where the funding will come from.

The hon. Lady referred to the annual report, which she says is hard to find. It is called, "Annual Report Rail Vehicle Accessibility Regulations Exemption Orders", which I agree is a mouthful, but I suspect that if people type it into Google, they will find the report. It sets out in detail what has happened to exemptions: the number granted, carried forward and rejected. It is a good source of information. With some justification, she referred to the statutory instrument. There is an associated explanatory memorandum. The Government's intention is that, as we move to a more administrative system, work will be done to ensure that most people will be able to understand a given explanation without technical knowledge of the detail of accessibility. That is entirely in keeping with the agenda of openness and clarity we as a Government want to see. I hope she is reassured that the powers to limit exemptions are unchanged.

The Government recognise that Parliament and members of the public wish to know when the Secretary of State for Transport has used his powers to grant exemptions from the rail vehicle accessibility regulations. Amendment 11 is unnecessary because transparency is already provided through two routes, both of which will continue. The Equality Act 2010 already requires the Secretary of State for Transport to make an annual report to Parliament on the use of exemption powers, to which I have just referred. That requirement to make an annual report is unaffected by the Government's proposals and will remain. The Secretary of State for Transport will continue to report annually to Parliament on his use of exemption powers, whether granted by statutory instrument or administratively. The annual report for 2013 is being prepared, but those for past years are available on the Department for Transport website and in the Library. Parliament can call Ministers to account if it feels that the powers have been used excessively or inappropriately. Further, the Department already publishes on its website details of applications received for exemptions, the outcome of consultation on the merits of those applications and their outcomes, including the exemption order if granted. I assure the Committee that such openness will continue. To require the Secretary of State to make a further report available online is excessive and will give rise to additional administrative cost, which runs counter to one of the Bill's purposes.

9.30 am

Amendment 12, which would continue to make exemptions by statutory instrument subject to either the draft affirmative or negative procedures, is disproportionate now that only about a quarter of rail vehicles are subject to that regime. It is disproportionate to require exemptions in relation to trams, airport people movers, the underground and even brand new vehicles on heritage lines to be made by statutory instrument when equivalent exemptions for the far more numerous trains that operate throughout the country are made administratively. Similar exemptions for buses and coaches are handled administratively, too.

The crucial consideration is whether the applicant's reasons for exemption are valid and the impact that that would have on disabled people's ability to travel on those vehicles. This is a good point at which to underline the other measures the Government are implementing to improve accessibility, such as the £450 million dedicated to improving station accessibility under Access for All. Legal deadlines for full accessibility are between 2015 and 2020 for buses and 2020 for trains.

The Government are supportive of accessibility in relation to transport. We want our transport system to be fully accessible to everyone, including people with disabilities. Notwithstanding what the hon. Lady said about the Government's lack of commitment to accessibility, I hope that she recognises that the rail system developed over many decades on a regional basis, with trains and platforms at different heights, and it is extremely costly and time-consuming to turn the network from having disparate accessibility to being fully accessible at all points for those trying to access train and other transport services.

The crucial consideration is whether the applicant's reasons for exemption are valid and the impact that it would have on the ability of disabled people to travel on those vehicles. That is why we will continue to consult the Disabled Persons Transport Advisory Committee, our statutory advisers on disabled people's transport needs, and others, such as the rail safety regulator and passenger bodies, as appropriate. Indeed the Equality Act 2010 mandates that we consult DPTAC and that will remain the case when exemptions are granted administratively.

In previous debates on individual exemptions, Members both here and in the other place stated how highly they regard DPTAC's advice to the Secretary of State, which we publish online. Further, as I stated in my opening remarks, DPTAC was strongly in favour of our proposal, as were other industry and disability organisations, provided that DPTAC continued to be consulted. In the responses we received, 15 out of 17 supported the changes we are making. Proceeding with our proposal and rejecting the amendment will mean that applicants for exemption receive a decision sooner, which will reduce uncertainty for them and administrative burdens on Government without lessening protection for disabled passengers or transparency on use of exemption powers. I urge the hon. Lady to withdraw her amendment.

Chi Onwurah: I note that the Minister, while addressing some of my concerns, did not respond on the need for greater transparency. He seemed to say that the speed of making an exemption order outweighed the other considerations, particularly when combined with the increased burden on Ministers of having to be accountable for the exemptions being made.

The Minister suggested that by referring to DLA I had somehow politicised the debate. DLA is not a political issue inasmuch as everyone agrees that the disabled should have support to allow them to contribute more equally in society. What has made it political is the

way in which the Government have withdrawn it. I have seen delays for many of my constituents in waiting for their new assessments and the situation has placed intolerable burdens on them, but I will not discuss DLA any further.

I am happy not to press amendment 12, but transparency is of such importance that I will press amendment 11.

Question put, That the amendment be made.

The Committee divided: Ayes 6, Noes 11.

Division No. 8]

AYES

Cryer, John	Perkins, Toby
Docherty, Thomas	Turner, Karl
Onwurah, Chi	Williamson, Chris

NOES

Barwell, Gavin	Hemming, John
Bingham, Andrew	Johnson, Gareth
Brake, rh Tom	Maynard, Paul
Bridgen, Andrew	Nokes, Caroline
Duddridge, James	Rutley, David
Heald, Oliver	

Question accordingly negatived.

Question proposed, That the schedule be the Eighth schedule to the Bill.

Tom Brake: The schedule will reduce burdens relating to the use of roads and railways. It has six parts. Part 1, which relates to permit schemes, removes the current requirement for the Secretary of State for Transport to approve permit schemes that cover both street works and works carried out by the local authority. Local highways authorities will be able to prepare and approve their own schemes. That is consistent with the principles of localism and removes an unnecessary administrative layer.

The changes allow an authority to give effect to a permit scheme in its area by order. Such an order will be a local council order, not a statutory instrument. The authority will also be able to vary or revoke a permit schedule by order. The measure changes only the approval mechanism for schemes and does not affect the development or operation of schemes themselves. Authorities will still have to comply with regulations and statutory guidance.

The change in the approval process will be cost-neutral to utilities, as fees remain governed by regulation. It will remove the burden on authorities to provide prescribed documents and information to the Secretary of State and the burden on the Secretary of State to assess and provide formal approval before a scheme can come into force. It will also improve transparency on scheme effectiveness and retain the power for the Secretary of State to direct authorities to vary or revoke failing schemes.

Part two of the schedule is on road humps. It will make amendments to the Highways Act 1980 to remove the Secretary of State's power to construct road humps, which is redundant as in practice the construction of road humps is undertaken by local authorities. The provisions will also remove prescriptive consultation requirements for proposed road humps from primary legislation, allowing them to be prescribed in secondary legislation. The powers for Welsh Ministers are retained under the schedule.

Part 2 also removes prescriptive consultation requirements from the primary legislation and allows for them to be prescribed in secondary legislation. That change brings road humps into line with the consultation regime used for many other types of traffic management. The changes will also permit the revocation in due course of a redundant set of regulations covering local inquiries into proposed road hump schemes.

Part 3 covers pedestrian crossings and will remove the requirement for local authorities to notify the Secretary of State for Transport of any plans to install, alter or remove pedestrian crossings. Requiring local authorities to notify central Government when installing a pedestrian crossing on a local road network does not fit with the current climate, in which responsibility for the provision of traffic management rests with local authorities. Authorities do not have to notify when installing other facilities such as traffic signal junctions or toucan crossings, so the schedule will bring pedestrian crossings into line with provisions for other traffic management measures.

With regard to the devolved Administrations, in Scotland, the requirement has already been repealed by section 44 of the Transport (Scotland) Act 2005. The repeal in the schedule will also have effect in Wales. We have discussed it with the Welsh Government and they agree that the change makes no alteration to devolved aspects of the law in Wales. The requirements to consult the local police chief and give public notice of proposed changes to crossings will remain. As good practice, we recommend that local authorities consult all those likely to be affected by the traffic management proposals.

Part 4 covers a particular aspect of off-road motoring and redresses an omission in the Road Safety Act 2006, which introduced the offence of causing death by careless or inconsiderate driving, but omitted to exempt participants in authorised off-road motoring events. Those participants are already outside the scope of the offences in sections 1, 2 and 3 of the Road Traffic Act 1988, relating to causing death by dangerous driving, dangerous driving, and careless and inconsiderate driving, provided that they drive in accordance with the appropriate authorisation for the event. However, currently participants could be prosecuted for the offence in section 2B of the 1998 Act of causing death by careless or inconsiderate driving. This change brings that offence into line with other driving offences. Competitive driving at speed is an inescapable part of some motor sport events and the Government do not want legislation to interfere with legitimate sporting events. The measure benefits participants in authorised off-road motoring events while driving in off-road areas to which the public has access.

Part 5 covers testing vehicles and broadens the Secretary of State's powers in relation to the roadworthiness testing of goods vehicles and public service vehicles, or PSVs, which are essentially buses and coaches carrying fare-paying passengers. The broadening of the Secretary of State's powers consists of an expansion of regulation-making powers and a new power to designate premises. The intention is to allow for the shift towards testing at private sector testing stations to continue and to simplify the charging arrangements for those businesses. The latter in particular will ease the administrative cost burdens currently faced by testing stations in accounting

[Tom Brake]

for test application fees due and payable to the Driver and Vehicle Standards Agency. That may hasten the shift to private sector premises testing by encouraging more potential testing stations to become designated.

The amendment in paragraph 20 of part 5 would allow the Secretary of State to designate premises at which goods vehicle examinations may take place. That is consistent with existing powers of designation in relation to PSVs, which are contained in the Public Passenger Vehicles Act 1981. There is a need to designate such premises to ensure that testing only takes place at premises that are suitable and equipped.

The amendments in paragraphs 21 and 22 expand on what the Secretary of State may do in regulations in respect of roadworthiness testing charges for PSVs and goods vehicles respectively. The regulations can provide for charges to be paid by those occupying designated testing premises for testing services provided by the Secretary of State, as well as for the issue of test certificates or test refusal notifications, the issue of duplicate or copy certificates or the correction of errors in such certificates. The regulations may in addition provide for those charges to be paid on account. Where forms for certificates or notifications are supplied by the Secretary of State, the regulations may require a charge for those. The regulations can also provide for the keeping of test certificate registers and records, the inspection of such registers in prescribed circumstances and the providing of returns and information to the Secretary of State.

In the short term, examination functions at private sector testing stations will continue to be carried out by examiners appointed by the Secretary of State. It is consistent with the aim of the Bill to provide the Secretary of State with relevant powers, to ensure that he can put in place the most appropriate arrangements to fulfil road safety duties and policy objectives.

Committee members will be aware that part 6 relates to the vehicle accessibility regulations. On that point, it might help the hon. Member for Newcastle upon Tyne Central to know that no comments at all were made during the consultation about the lack of transparency, so what she identified as a problem does not seem to have hit anyone else who took part in the consultation.

Part 6 would amend the Equality Act 2010, so that exemptions from rail vehicle accessibility regulations are made administratively, rather than by statutory instrument. We have made much progress in making rail vehicles more accessible to disabled people since accessibility standards were first introduced in 1998. More than 7,800 rail vehicles now meet modern accessibility requirements. However, it is occasionally not appropriate or proportionate for those standards to apply fully, so the Secretary of State retains the right to exempt specified vehicles from all, or parts, of them. Originally, all such exemptions were made by statutory instrument. However, in 2008, the domestic rail vehicle accessibility regime covering mainline trains was replaced by one covering the whole of Europe, under which exemptions are issued administratively. That left a rump of vehicles—just over a quarter of those originally covered—still subject to the domestic regime, which retained the use of statutory instruments for exemptions. Such vehicles include trams, underground and metro vehicles, airport people-movers and even brand new vehicles for use on heritage railways, such as the Bluebell railway.

9.45 am

Part 6 seeks to remove that inconsistency by amending the Equality Act 2010 and allowing exemptions from our domestic rail vehicle accessibility regime also to be made administratively. Section 183 of that Act also contains a power for the Secretary of State to make regulations on exemption orders—for example, on the information to be supplied with an application for an exemption order. This power is also being removed.

The intention of removing the power is not to change the information to be supplied with an application. Instead, we believe that setting out our requirements on the Government's website is a more flexible approach than setting them out in regulations. As I said earlier, the intention is to make them more accessible to the wider public than is currently the case.

The practical effect of these amendments will be to shorten the period between when an application is made and the outcome is given, so reducing uncertainty for the rail industry. It will also reduce the resources required within the Government to handle each application. The changes will not reduce in any way the strength of argument that an applicant will need to make to justify an exemption. No exemptions will be granted in future that would not have been granted under the existing arrangements.

Appropriate consultation with interested parties, including the statutory advisors on DPTAC, will continue to take place on the merits of each application. The final decision on whether to grant an exemption will remain with Ministers, and the Department for Transport will continue to report annually to Parliament on the use of the exemption powers over the previous year. This will allow Parliament to call Ministers to account if they believe that the powers have been used excessively or inappropriately.

I note that both the Delegated Powers and Regulatory Reform Committee and the Joint Select Committee felt that little had changed since this reform was first proposed in 2004, and that statutory instruments should continue to be used to make exemptions. However, we believe that making trains subject instead to a European accessibility regime in 2008 did change the situation significantly. This reduced the scope of the domestic regime by almost three quarters.

I am sure the Committee will recognise that it is disproportionate that, if sought, exemptions for the hundreds of trains serving Gatwick, Stansted and Birmingham airport stations would be subject to an administrative process, while any for the 17 small vehicles shuttling passengers between terminals would remain subject to a process involving statutory instruments, or that Parliament's approval would be needed if any exemptions are sought for new vehicles on the Bluebell and Wensleydale steam railways, but not if any are sought for the mainline trains taking visitors to those operators' termini at East Grinstead and Northallerton.

Given the overwhelming support from stakeholders that this proposal received, we continue to believe that this reform is sensible. Clause 24 and schedule 8 make a

number of changes to the regulations relating to the use of roads and railways. These are sensible measures and I therefore commend clause 24 to the Committee.

Chi Onwurah: As we indicated, we do not oppose parts 1 to 5 of schedule 8, but I have a few questions for the Minister before we can move on. The first part of the schedule alters the Secretary of State's powers over local highways authorities' ability to introduce permit schemes. It will remove the Secretary of State entirely from the introduction of a new localised scheme. This part of the clause states that the Secretary of State will retain powers to make regulations covering permit schemes, including powers to make regulations covering the fee structure of permits. Labour support localism, and decentralising permit schemes was an initiative introduced in the Traffic Management Act 2004 by a previous Labour Government, so we support the clause as an extension of our original Act.

Part 2 represents an extension of localism. The power to construct speed humps is removed from the Secretary of State and given to the relevant local authorities. That is reasonable and we support that. Part 3 removes the requirement for councils to inform the Secretary of State about the installation or removal of pedestrian crossings. The construction of few other aspects of road furniture currently necessitate approval by the Secretary of State, so it is sensible for there to be no difference here. It has been shown that in most cases approval is not sought anyway, so in practice this piece of deregulation will have little effect.

Part 4 of the schedule exempts off-road motoring events from driving laws, in line with other motoring events such as Formula 1. In theory this is a straightforward measure allowing a simpler set of regulations to cover a broader range of motorsport. In practice, it concerns matters as serious as death by dangerous driving, so it may be worth a little more of this Committee's time. These two related areas of sports have been deemed close enough to be brought under the same piece of legislation, but why were they not so treated to begin with? Will the Minister assure us that, as far as he has assessed, safety will not be adversely impacted?

Part 5 of the schedule extends the current power of the Secretary of the State to charge fees in connection with the annual roadworthiness tests of lorries, buses and coaches. It allows the Secretary of State to designate which centres may conduct the set tests, and then sets out the way in which the fee may be collected. It is a simple piece of regulation, but how is it deregulatory? Aside from those small questions and points, we have no objection to the first five parts of this schedule. It is regrettable that the Government did not accept our amendments on the other parts, but we do not oppose the first five parts.

Tom Brake: I welcome the Opposition's support for some of the parts that we have debated this morning. Part 2 means that the Secretary of State has no responsibility for road humps, which I suspect he greatly welcomes. Anyone with responsibility for road humps has a difficult job on their hands, so I am sure that he is happy to pass on that responsibility. Part 4 is one of the areas about which the Opposition spokeswoman had concerns, and she highlighted the concern around safety. I can certainly reassure her that if, for instance, a driver taking part in an event commits an act that leads to the serious injury or death of one of the spectators, if there had been intent on the driver's part and they had done something deliberately, there is other legislation that would allow that driver to be prosecuted, such as the Offences Against the Person Act 1861. So it does not give any driver carte blanche to do whatever they want when they are taking part in a motorised event on our roads.

The hon. Lady asked whether this was a new addition to the legislation. I hope that inspiration will come shortly on that point, but if it does not, I will write to her to set out the position. She also asked why the proposal in part 5 is deregulatory. It is deregulatory because it enables simplification of the regulatory environment for business by the removal of administrative burdens, primarily for those businesses that operate ATFs at which DVSA examiners carry out annual roadworthiness tests of HGVs and PSVs, and it is likely to lead to reductions in the overall cost of the testing regime. That is why we believe this to be a deregulatory measure that it is appropriate to include in the Deregulation Bill.

I will not rehearse the arguments that we have already had on part 6, other than to remind the hon. Lady that DPTAC, which she prayed in aid previously, supports the Government's proposals, and no one in the consultation raised any concerns about the lack of transparency. The amendments that she has tabled simply add to the regulatory burden, which we are trying to reduce.

Question put and agreed to.

Schedule 8 accordingly agreed to.

Clause 25

Reduction of burdens relating to enforcement of transport legislation

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

The Chair: With this it will be convenient to discuss that schedule 9 be the Ninth schedule to the Bill.

Tom Brake: The clause introduces schedule 9, which will improve the enforcement of drink and drug-driving offences in road, railway, maritime and aviation legislation by reducing delays in obtaining evidential specimens. Such delays may give individuals time to sober up and evade conviction.

Paragraph 1 removes the "statutory option" under the Road Traffic Act 1988 for individuals to have their breath specimen replaced by a specimen of either blood or urine. The "statutory option" means that the lower of the two breath specimens will be the evidential specimen. Under the improved enforcement regime, evidential blood or urine specimens may still be required if the individual cannot provide a breath specimen, for example on medical grounds. Enforcement will also be improved by supporting the introduction of portable evidential breath testing equipment. Paragraph 3 of schedule 9 removes the requirement for a preliminary breath test before an evidential breath test, allowing evidential breath specimens to be more easily taken at the roadside once equipment becomes available.

[Tom Brake]

The role of custody nurses and paramedics will be extended to reduce delays in waiting for a doctor. Paragraph 5 extends the role of registered health care professionals to give an opinion that an individual has a condition that

"might be due to drugs".

I emphasise that the registered health care professionals in question are nurses and paramedics. At a police station, such an opinion is a prerequisite to requiring an evidential blood specimen from an individual who is suspected of drug-driving.

Paragraphs 9 and 10 of schedule 9 allow nurses and paramedics to take evidential blood specimens in hospitals. Allowing registered health care professionals to take blood specimens will be consistent with their role in other police investigations and other medical contexts, and with their role in police stations. Paragraph 8 allows registered health care professionals to take evidential blood specimens from individuals who are incapable of consenting.

Paragraph 2 removes the "statutory option" in the corresponding regime for railways under the Transport and Works Act 1992. Paragraph 4 allows evidential breath specimens under that regime to be taken anywhere, rather than solely at a police station. Paragraphs 6, 12 and 13 make equivalent extensions to the role of registered health care professionals under the regime for railways.

Toby Perkins: We are all conscious of the fact that we want to reduce burdens in this important area of law. At the same time, we are concerned to ensure that deregulatory changes that support our services to do their work do not allow those who should be prosecuted to get off in court because of concerns about the quality of evidence. Has the Minister received any evidence about the safeguards required to ensure that the steps that he is taking do not lead to those who are guilty of a crime being let off because of a technicality in the evidence base?

Tom Brake: I hope to be able to reassure the hon. Gentleman that the purpose of what we are doing is to stop those who are getting off currently, particularly those who have an opportunity to sober up. As I understand it, type testing is under way to ensure that the evidential breath testing machines operate appropriately. That should reassure him that people will not be able to get off on a technicality, as he has suggested they might, when the changes are implemented. I reassure him that the purpose of the measures is to ensure that everyone who drink-drives or drug-drives is caught rather than being given an opportunity to sober up.

Toby Perkins: I entirely understand the purpose, and I support the Government's intentions. Can the Minister give the Committee any information on how many people fail tests but subsequently get off as a result of querying the evidence? Has he had any representations about whether that is likely to increase or decrease as a result of this?

10 am

Tom Brake: I do not have that information to hand, but am happy to write to the hon. Gentleman and the Committee to put it on the record if it is available. I hope that it is. Indeed, it may be contained in my notes and I may come across it shortly. Paragraphs 14 to 16 make equivalent changes to maritime and aviation regimes. Clause 25(b) together with schedule 9 part 2 amend section 144(3)(b) of the Transport Act 2000—

Toby Perkins: Very briefly, on the basis of what the Minister has just said, it might help Members and support him in future when responding to interventions if he actually read his speech before attending the Committee.

Tom Brake: I thank the hon. Gentleman for that intervention. I will ponder on it and I am sure it will have added value to today's debate. That means I now have to repeat the complicated clause that I was referring to. Clause 25(b) together with schedule 9 part 2 amend section 144(3)(b) of the Transport Act 2000 to enable the Secretary of State, as "the relevant national authority" to specify, by notice in writing, an approved local authority in England to enable it to enforce bus lane contraventions. Without the amendment, section 144(3)(b) would continue to require this to be done by order. The current need for a statutory instrument therefore imposes an unnecessary cost and administrative burden on the process of specifying a local authority.

The provisions in schedule 9 part 2 affect only England because, although section 144 has been prospectively repealed by the Traffic Management Act 2004, the repeal has yet to come into force in England. It is not yet known when this might take place, so the amendment to section 144(3)(b) is needed as an interim measure. The Traffic Management Act 2004 will introduce a new regime for the enforcement of bus lane contraventions when it comes into force fully in England. Part 2 of schedule 9 therefore inserts a new provision into paragraph 9 of schedule 8 to the 2004 Act to ensure that any notice given under the amended section 144 will continue to have that effect. I commend clause 25 and schedule 9 to the Committee.

The Chair: Members of the Committee will have noticed that we have been debating both clause 25 and schedule 9, so I will allow a joint debate on these two.

Chi Onwurah: Thank you, Mr Chope. I appreciate the opportunity to debate schedule 9 along with clause 25. Schedule 9 is a two-part schedule and I will address each in turn. My hon. Friend the Member for Chesterfield has made some excellent points already about our concerns on this schedule. It is not at this time our intention to oppose it, although we have some questions for the Minister. I should also point out that the Minister has a tendency to take silence not only as consent, but as active support.

Thomas Docherty: Does my hon. Friend agree that the Minister is in danger of reverting to that old belief that no evidence of interest is evidence of no interest?

Chi Onwurah: My hon. Friend makes that point more eloquently and concisely than I could have hoped to do. That is exactly the logical lapsism that I fear the Minister may be in danger of entering. I find it even more surprising that he should succumb to the trap, because I

recently learned that we share the same university. We both studied for our undergraduate degrees at Imperial College. The Minister studied physics, I studied electrical engineering, but I am sure the Committee would agree that both of those courses emphasise logic and taking concrete evidence as a basis for formulating conclusions. I hope to see more of that as the debate progresses.

The first part of schedule 9 alters the way in which transport police forces can acquire evidence for drink or drug-related offences, as the Minister has set out. The second part is an alteration to a law that, as I understand it, is due to be repealed anyway. Part 1 concerns the removal of the "statutory option" to have breath specimens replaced. It allows a police officer or a licensed medical professional to conduct an evidential breath test at the side of the road. The test is called evidential because it relates to a piece of evidence that can be used in court, rather than to make an arrest. For the benefit of those of us who do not have a legal background, it may be useful to make that clarification.

The medical professional in question is not defined. I believe that it is important to define all terms, as many medical professionals will have no prior experience in this field, so can the Minister assure me that the definition of medical professional will be ironed out before the Bill is finalised?

Currently, an initial test can be done at the side of the road to make an arrest, but anything that is to be used in court has to wait until the individual is taken to a police station.

Clause 25 also brings railway regulation up to the same standard and applies it to the shipping and aviation regimes. Finally, it removes the option of having a replacement urine or blood sample unless there is a specific reason, medical or otherwise, why a breath sample cannot be acquired.

The Minister has said that he will await further inspiration with regard to those who are evading justice because of the situation as it stands. I emphasise that Labour has always been tough on drink and drug offenders. The Road Safety Act was introduced in 2006, under the last Labour Government, and delivered a tough stance on drink and drug-driving offences. Indeed, I would say that the change in cultural and behavioural attitudes towards drink-driving is in large part due to the changes that the previous Government introduced. The 2006 Act made it harder for individuals with a conviction to get back behind the wheel. It required them to reapply for their licence and carry their record for 11 years, rather than just four. The Act also introduced something that sounds far more revolutionary than I believe it was. The alcohol ignition interlock programme utilised a new piece of technology that would be inserted into a convicted individual's car and into which they would have to submit a sample of their own breath before they were able even to start the engine. That typifies the forward-thinking approach to new regulation under the previous Government. I am sure that my fellow members of the Committee will agree with me that prevention, particularly when it comes to drink-driving, is better than punishment.

Under the previous Government's initiatives, the number of driving offences relating to alcohol and drugs went down from almost 75,000 to just over 50,000 per annum between 2007 and 2011. The proposals in this part of the schedule originate from a review commissioned by the previous Government in December 2009. Indeed, the last Secretary of State for Transport in the previous Government, Lord Adonis, proposed a review of the exact area of legislation that this Committee is discussing today.

The North review in 2010 identified two weak points in the processing of drink and drug-driving incidents at the evidence-gathering stage. Sir Peter North stated:

"'There is no provision for any other health professional to take [a specimen in evidence]."

At that time the measure was introduced to ensure that the law was ahead of technology, recommending that:

"Type approval and deployment of portable evidential breath-testing equipment should be completed no later than the end of 2011."

That was in 2010, when the evidential breath-testing equipment required had not completed type approval and deployment. That was expected to happen in the following year, and the law wanted to make provision for it, as I understand.

The North review reasoned that if those two aspects were changed then a significant number of drink- and drug-driving cases could reach prosecution in a more straightforward manner. That relates to the point that my hon. Friend the Member for Chesterfield made earlier. Those solutions were identified in an attempt to offer the Government a strategy that should have enabled them rapidly to close the net and take advantage of the new technology by the end of 2011.

That Labour-commissioned report was submitted to the Secretary of State for Transport immediately after the last election in May 2010. We are now in March 2014. Why has it taken so long for some of the proposals within it to be brought forward? It is not as though we have had an unduly heavy legislative programme, as I remarked earlier. Surely, the Government are determined to act to improve road safety.

I have had the pleasure of reading the Government's response to the North review. I was interested that the Department for Transport questioned the accuracy level of the available portable evidence-testing equipment, stating that:

"Since impairment is a function of blood alcohol concentrations, any chosen solution [to accuracy issues] therefore risks one of two kinds of problem: some drivers risk being categorised as offenders unfairly because a breath test will over-estimate their blood alcohol level (compared to the result of a timely blood test properly conducted)."

The other risk it identified was as follows:

"If the limit is set high to avoid this problem, then many drivers are likely to be treated too leniently"—

the concern to which my hon. Friend alluded—

"and will avoid prosecution even though a timely blood test (if conducted properly) would have found them in excess of the prescribed limit."

Toby Perkins: I support what my hon. Friend says. At the moment when someone is tested, they have already driven. The moment they are first stopped is when there is the most accurate representation of their blood alcohol level at the time they were driving. Every minute that passes after that takes it further away from being an accurate sample. I entirely support any move the Government take to deal with that factor of timeliness. We do not want people in court and then finding good reasons to question the evidence base. Those were the reservations I was asking the Minister to consider.

Chi Onwurah: I thank my hon. Friend for an intervention that emphasises some real concerns. The accuracy of the blood alcohol level at the time of driving will be less well reflected for every minute that passes, depending on the metabolism of the alcohol in the blood. There are many reasons to encourage blood testing to be done as quickly as possible. However, I wonder why we have had such a delay in bringing these measures forward and whether that reflects any concerns over the technology or the methodology.

10.15 am

Thomas Docherty: Does my hon. Friend share my disappointment that it is getting on for three years since a Member of Parliament introduced the Drugs (Roadside Testing) Bill in the House of Commons? It was a Mr Christopher Chope, in fact, who introduced the Bill, saying that it was part of a process to encourage the Government to make more progress on this issue. Does she share my disappointment that, despite this eminent Member of Parliament doing so much work on the issue, the Government have not made more progress?

Chi Onwurah: My hon. Friend has found me out, inasmuch as I was seeking to avoid asking the Chair of the Committee—I do not know, indeed, whether it is in order to ask—to comment on the speed with which an hon. Member's proposals have been taken up by the Government in the legislative programme. Avoiding that, I can say that it is clear that with the North review and the proposals made by you, Mr Chope, there has been more than adequate opportunity for the Government to bring forward early proposals to deal with this critical issue for road safety. Will the Minister give an account of the concerns, barriers or hurdles that led to such a delay and, in particular, whether they reflect in any way on confidence in the technology which is now available? As my hon. Friend the Member for Chesterfield has said, we certainly do not want to give any opportunities for those who have a high level of alcohol in their blood to attack the evidence or the process during their trial.

Will the Minister explain to the Committee the advances in technology that mean that an evidential test can now be accurately conducted at the roadside? The Secretary of State for Transport has previously called for more evidence before the statutory option of a blood test could be removed and replaced with road-side evidential breath testing. As this is exactly what the schedule proposes, will the Minister explain to the Committee what evidence the Department has produced or received on that point?

We on this side are keen to see further reductions in drink and drug driving in this country. I need not give examples to the Committee of the many instances in which drink and drug driving have caused serious injury or death and have traumatised families and loved ones. Progress so far has saved many lives. It is partly about changing the culture, and there have certainly been vast improvements in cultural attitudes towards drink driving over the years, but it is also about taking drink and drug-drivers off the road. The schedule will help with that and on that basis, if the Minister will answer those questions about accuracy and technology, we will support this part of the schedule.

I shall deal more briefly with the second part of the clause, which introduces a simplifying measure designed to remove a small burden from the Secretary of State. Again, the removal of burdens from Ministers seems to be the main theme of the Bill. Deregulation should be about lightening the burden on businesses and citizens, not on Ministers and civil servants. This part of the schedule allows the Minister to specify an approved local authority for enforcing bus lane contraventions in writing rather than by order. It appears, however, and this is some of my confusion, that the entirety of section 144 of the Transport Act 2000, which is what this amendment concerns, is already due to be repealed. We do not oppose this part of the schedule—though, again, that does not imply active support for it—but why do we appear to be repealing something that has already been repealed or is waiting to be repealed by order in England?

Tom Brake: Let me start by saying that I do not necessarily imply that the silence from Labour members indicates consent or support—I hesitate to think that it might be indifference; I am sure that that is not the case. I welcome the fact that we share the same university background and I am sure that in electrical engineering the hon. Lady conducted many hours of practicals to identify evidence. I did the same and spent many enjoyable hours in the lab producing evidence and understanding methodology, which I think has now been brought to bear in this Bill in terms of ensuring that the Government have sound evidence for the things that we are putting forward.

Chi Onwurah *rose—*

Tom Brake: She has taken the bait.

Chi Onwurah: I welcome the right hon. Gentleman's reference to happy days in the labs at Imperial. If that experience is the basis for some of the methodology of this Bill, I hope that his experiences in the lab were more successful and less dangerous than some of mine.

Tom Brake: I cannot recall there being any particularly dangerous incidents in the lab; most of it seemed to involve going down to Hyde park and trying to measure where the layer of rock was beneath the park. Clearly the hon. Lady had a different experience to mine. She chided me for the lack of evidence, but I must go back—not for too long—to the previous debate and almost the complete lack of evidence to support her amendments under the previous clause, which I think that she should reflect on. She raised a number of questions, and I certainly agree that the attitude towards drink-driving has changed, which is very welcome; I wish that at some point in the future we could achieve the same change of attitude towards mobile phone use, but that is for another debate.

She also, I am afraid, again repeated something that we hear often from the shadow Leader of the House: that the Government do not have a heavy legislative programme. That is completely untrue and she may want to reflect on the fact that the Government make time available for her own party to hold debates and make 35 days a year available to the Backbench Business Committee. I am not sure whether she is saying that her own party's debates and the debates that the Backbench Business Committee and the Liaison Committee undertake are pointless. I am sure that that is not what she is indicating.

Chi Onwurah: It has regrettably been for the Opposition to make time to debate some of the key issues that are exercising my constituents and many others around the country, such as the bedroom tax. They are very important debates, but they do not constitute a legislative programme, which this Government do not seem to be overly occupied with.

Tom Brake: Obviously, I cannot reveal to her the content of the Queen's Speech, but I can reassure the hon. Lady that her appetite for Bills will be satisfied by that particular number.

Thomas Docherty: Let me take him gently back to the discussion that we are having on schedule 9. Returning to the superb debate in June 2011, the then Under-Secretary of State for the Home Office, the hon. Member for Old Bexley and Sidcup (James Brokenshire), said that six trials on the use of road-side drugs testing would be starting. On the basis of the comments about evidence, may I press the Minister to tell the Committee what progress has been made on those trials?

Tom Brake: I would be happy to give the hon. Gentleman an update on that matter, and I will do so shortly, having dispelled the notion that the Government have no legislation to conduct.

The hon. Member for Newcastle upon Tyne Central said she did not think that the Bill was deregulatory. I have pointed out that, for instance, the measures on rights of way are exactly about deregulating. It is not particularly a benefit to the Secretary of State, but it is clearly a benefit to local authorities and organisations that campaign on rights of way.

Regarding the accuracy of breath-testing devices, as hon. Members will know, for around 30 years now there has been extensive use and development of evidential breath-testing machines, which have been used following robust and revised type approval processes. We therefore consider that concerns about reliability and challenges to evidential breath test results are unjustified. Hon. Members will be pleased to hear that portable evidential breath-testing devices are expected to become available in late 2014. As I said earlier, they are currently being type-approved by the Home Office.

The hon. Lady also mentioned the definition of "medical professional". "Registered health care professional" is defined in section 11(2) of the Road Traffic Act 1988 as nurses and other health care professionals

"designated for the purposes of this paragraph by an order made by the Secretary of State."

That order is the Registered Health Care Profession (Designation) Order 2003, which designates paramedics.

There was a request for information about the number of occasions on which people had been able to sober up and therefore escape prosecution. We have some pertinent information. A 2012 survey, courtesy of Devon and Cornwall police, indicated that about half of eligible individuals opted to exercise the statutory option and have their breath specimen replaced by a specimen of either blood or urine. That amounted to 8% of individuals arrested for drink-driving.

Furthermore, research conducted before Sir Peter North's review of drink and drug-driving law indicated that about a quarter of statutory option tests resulted in a blood or urine sample below the prescribed the limit. Almost invariably, those tests relate to people who would also have been in excess of the prescribed limit had a blood or urine sample been taken at the time of their evidential breath test.

The hon. Lady referred to the previous Government's interest in alcohol ignition interlocks, for which provision was made in the Road Safety Act 2006. Such devices may be effective while in use, but the evidence is that, once the restriction is removed, if it is not associated with a programme of closely supervised and supplemented education and counselling, it is not necessarily effective. Of course, there is a simple way of getting round the alcohol ignition interlock, which is by driving another car.

The repeal of section 144 of the Traffic Management Act 2004, has yet to come into force in England. It is not yet known when that might take place, so the amendment to section 144(3)(b) is needed as an interim measure.

Chi Onwurah: Will the Minister explain why we do not know when a repeal will come into force in England?

Tom Brake: I will have to get back to the hon. Lady on precisely what is in the way of the repeal coming into force.

I hope that I have addressed all the points raised by hon. Members. I commend clause 25 and schedule 9 to the Committee.

Question put and agreed to.

Clause 25 accordingly ordered to stand part of the Bill.

Schedule 9 agreed to.

10.30 am

Thomas Docherty: On a point of order, Mr Chope. I seek your guidance as the guardian of good debate and fulfilled promises. In column 247, from last Thursday morning, the Parliamentary Secretary, Office of the Leader of the House of Commons promised to write to the Committee with more detail about the costs that may be transferred to people who apply for a change to a right of way. It seems that the Parliamentary Secretary has not been productive in finishing his correspondence—although if I am wrong, I apologise. Is there some way that with your help, Mr Chope, I can get the Parliamentary Secretary to explain when he will honour the promise he made to the Committee?

The Chair: As I think the hon. Gentleman realises, that is not a point of order but a point of debate. It is open to the hon. Gentleman to speak to the Minister privately or engage him in a public debate. However, I am afraid that he cannot use a point of order as a means of getting that public debate.

Clause 26

Removal of duty to order re-hearing of marine accident investigations

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

Karl Turner (Kingston upon Hull East) (Lab): On a point of order, Mr Chope. We come to a part of the Bill in which the National Union of Rail, Maritime and Transport Workers has an interest. It is therefore right and proper to pay tribute on the record to its general secretary, Bob Crow, who sadly died this morning. He was a personal friend of mine, although he was not always a personal friend of the Labour party.

The Chair: I am grateful to you for putting that on the record, Mr Turner, and for giving notice to members of the Committee who might not have been aware of that sad news.

The Solicitor-General: I met Bob Crow when he gave evidence to the Committee on Standards in Public Life. He was an engaging, warm and pleasant witness, and he explained his views about party funding with his customary forthrightness. Of course, I did not agree with much that he stood for or his union politics, but he was a warm man and I am sure he will be missed by many.

The clause frees the Secretary of State from the duty to reopen a formal investigation into a marine accident when new and important evidence is found, but it leaves him with the discretion to reopen such an inquiry. Currently, the Secretary of State is obliged to reopen a formal investigation if new and important evidence that was not available at the time of the original investigation becomes known or there are grounds to suspect a miscarriage of justice. In any other circumstances, the Secretary of State has the discretion to reopen the investigation. The clause pertains to the first limb of those two obligations, namely, that new and important evidence is found. It will remain mandatory to reopen the formal investigation if there are grounds to suspect a miscarriage of justice.

The subject of the clause is completely separate from the safety investigations into marine accidents that are undertaken by the marine accident investigation branch, in which blame and liability are not apportioned. The sole objective of the marine accident investigation branch is to determine the causes and circumstances of an accident to prevent it from happening again. In contrast, the formal inquiries to which the clause pertains can apportion liability and blame, censure ships' officers or cancel their certificates of competency. They are relatively rare. There have been four since 1997: the formal inquiry into the loss of the Marchioness and the reopened formal inquiries into the Derbyshire, the Gaul and the Trident. I also want to be clear that the clause would not remove the obligation on the Secretary of State to reopen a formal inquiry where there are grounds to suspect a miscarriage of justice. That would include any case where an investigation may have led to a wrong outcome as a result of which someone has suffered. Nor would it affect the existing right of a person affected by the finding of a formal inquiry to appeal against it.

The specific issue that the clause seeks to address is that, with the passage of time after the loss of a ship, the findings from a reopened formal investigation are less likely to benefit shipping and mariners today. For example, ship design and maritime operating practices change over time and progress from those that applied at the time of the accident. Clause 26 will enable the Secretary of State to take a considered view on the likely benefits in terms of improving marine safety from reopening a formal inquiry in circumstances where new evidence comes to light.

On Second Reading, I was asked to provide more detail about how the Secretary of State might approach such a decision and I am happy to do so. Each case for reopening will be considered on its individual merits, including, but not limited to, the likelihood of lessons being learned that would improve the safety of current marine operations and ship design; the likelihood of being able to identify the true cause or causes of marine accidents where these have been particularly uncertain prior to the evidence being found; and the likelihood of uncovering information that will provide a deeper understanding of the causes of other marine accidents. In short, clause 26 will facilitate the more efficient administration of reopened formal inquiries without compromising marine safety, and I commend it to the Committee.

Chi Onwurah: I too pay tribute and express shock and dismay at the news of the sudden death of Bob Crow. Our thoughts are with his family and loved ones, and with the members of his RMT union. Unlike my hon. Friend the Member for Kingston upon Hull East, I cannot say that I was a friend of Bob Crow, as I did not know him personally, but I did have the pleasure of hearing him speak on many occasions. In an age where many accuse representatives of not being conviction politicians and not being driven by great beliefs, I particularly remember the big meeting—the Durham miners gala—one year where it was clear from his passion that Bob Crow was a man of great conviction. He was a man who could express those convictions not just eloquently but in a way that spoke directly to those most concerned by the political issues of the day. He was a great advocate and representative of his members. Nick Robinson of the BBC, not known as a wholehearted supporter of Mr Crow, said of him that he

"was, some argue, the most successful union leader in terms of securing jobs and pay for his members."

As my hon. Friend said, it is fitting that we should pay tribute to him, particularly as we debate clause 26 on the removal of the duty to order rehearings of marine accident investigations—a clause that we know is of great concern to the RMT's members and leaders.

Clause 26 seeks to abolish the duty of the Secretary of State in the Merchant Shipping Act 1995 to automatically request that marine accident investigation cases be reheard in the light of new and important evidence. The Secretary of State, as the Solicitor-General has said, would retain the discretionary power to reopen any formal investigation should new evidence come to light, and would still have a duty to reopen should there be grounds for suspecting a miscarriage of justice.

This topic is emotive and the duty should not be thrown away lightly. Serious incidents have proven its value, as the causes of major incidents involving great loss of life have been found only on second investigation. Secondary investigations have proven particularly important in shipping, where wrecks are sometimes not retrieved for many years. The Gaul sank in 1974 but was only found in 1997. The Solicitor-General mentioned the case of the Derbyshire, which sank in 1980 and was only found in 1994. He argued, if I understood him

correctly, that with time, the safety implications of finding the vessels became less important, but will he provide detailed examples and evidence of that?

There were 14 years between the sinking of the Derbyshire and its being found, yet the way in which it sank had significant implications for maritime safety. What evidence does the Solicitor-General have that the rate of technological advance in maritime travel—it does advance, but not quite on a par with mobile telephony, for example—is such that when a ship is found, the way in which it sank is no longer important enough to reopen an investigation? Both the Gaul and the Derbyshire prompted reinvestigations many years after the original incidents, and in both cases the then Secretary of State refused to reopen an investigation until new evidence became available. That caused decades of extra suffering for the loved ones of those who lost their lives. Imagine what additional suffering would have been caused if, even when new evidence was available, the Secretary of State had still refused to reinvestigate. The removal of this duty will enable him or her to do that.

The impact assessment clearly showed that the Bill has very little impact. It will save the UK economy just £10 million in one decade. After 13 years of saying that Labour regulates too much, that is all the Conservatives have to show for their bluster. It is clear that Ministers have been desperate to fill this Bill with as much as they can, to show some justification for it. This is another clause that lifts a burden on Ministers while doing little for businesses or citizens.

Andrew Bridgen (North West Leicestershire) (Con): I am slightly disappointed. The hon. Lady seems to insinuate that any Secretary of State would be uninterested in maritime safety. The discretion offered by the clause allows for all the new evidence to be collated, therefore allowing the amount of evidence to get over a threshold before an investigation is reopened. We could then have one complete investigation, rather than going off half-cocked with half of the new evidence, which could lead to further investigations and more trauma for the families involved instead of a definite conclusion.

10.45 am

Chi Onwurah: As it stands, the duty applies when the new evidence is significant or important, so there is already a threshold. The threshold is set out quite clearly in the legislation. Although discretion is of course important in any Minister's or Secretary of State's functions, duty is also very important. We have seen in the two examples that were given the impact that a lack of investigation had on the lives of the relatives of those who had drowned.

Andrew Bridgen: Will the hon. Lady not concede, though, that the Secretary of State already has discretion, because he will decide what is important as far as new evidence is concerned? There already is that discretion.

Chi Onwurah: I thank the hon. Gentleman for his intervention, but I am not sure that I entirely follow it, because if the Secretary of State has discretion, why do they need further discretion? We already have a balance between duty and discretion, one that safeguards the right of those concerned with a marine accident to know that if there is important new evidence, there will be a reinvestigation. What they need to aim for if they are concerned about a reinvestigation is shown very clearly, but they know that once they have passed that threshold, they will get a reinvestigation. Opposition Members are very concerned about leaving so much to the discretion of the Secretary of State, particularly because of the examples that we have seen.

This is yet another clause that seems to be lifting a burden on Ministers, but what is that doing? How is it helping sailors, the maritime industry and, in particular, the loved ones—the relatives and families—of those who die in marine accidents? It is clear that we cannot prevent every disaster, but we can, should and must avoid prolonging the suffering of those afflicted, who want the truth for loved ones who have passed away.

The duty concerned was used in 1998 to reopen the formal investigation into the loss in September 1980 of the MV Derbyshire, which disappeared south of Japan during Typhoon Orchid. All on board—42 crew members and two passengers, who were wives of crew members—lost their lives. She remains the largest UK ship ever to have been lost at sea.

The original investigation reported in 1989 and was largely inconclusive, lacking any useful, rigorous insight into the causes. That created suspicions that were intolerable for family members that there had been some error by the crew. That led to nearly 20 years of campaigning for further investigation of the cause of the loss. I think we can all agree that that kind of implicit condemnation of a family member who has died in such tragic circumstances must be intolerable.

Finally, in 1998, the investigation was reopened. In 2000, the Attorney-General, Lord Williams of Mostyn, described the original investigation in 1989 as

"self-confessed speculation in large measure, an exercise in surmise, constrained by the lack of evidence."

There was a major union-funded search for the vessel in the 1990s, and I do want to say, particularly today, that when Conservative Members hyperventilate over the activities of unions, they never mention examples such as this. It was a major union-funded search for the vessel that identified the wreck of the Derbyshire in 1994, and the introduction of the duty in the 1995 Act meant that, with the necessary evidence established, the legal obligation was on Government to reopen the investigation. The unions concerned can be proud of that. The reinvestigation absolved the crew of any blame in the loss of the vessel, which led not only to significant reassurance and justification for the families of those lost, but to significant improvements in the safe operation of bulk carrier-class ships and understanding of typhoon conditions.

I urge the Ministers to reconsider the clause. To retain the duty to reopen an investigation if the Secretary of State suspects a miscarriage of justice is not likely to happen without an investigation in the first place—how can a Secretary of State suspect a miscarriage of justice without an investigation? This area should not be left to discretion. We have seen the pain that can be caused over long time periods when a Secretary of State wrongly refuses to reopen an investigation. When new and important evidence comes to light, it is right that the marine accident investigation branch carries out rigorous and independent work to find out what happened.

[Chi Onwurah]

Ministers have argued spuriously that the possibility of future automatic investigation of a ship's officers who are involved in an accident would compromise their right to a fair trial. I do not have a legal background, although many of my Opposition colleagues do. In our view, in the Derbyshire case, the inquiry was a matter of trying to prevent a rush to judgment on the culpability of crew in the accident when in fact other non-crew-related causes were eventually established. The Government must focus on the right of those deceased or injured to have the circumstances surrounding an accident fully investigated. Nor is the removal a tidying-up exercise to synchronise the 1995 Act with other recent guidance. Recent MAIB guidance dealt with only the reporting of accidents, not their investigations.

The Solicitor-General: I did try to make the point clearly and I hope that the hon. Lady accepts that we are not talking about marine accident investigation branch investigations, which do not apportion blame or liability. We are talking about the formal investigations, which are a quite separate procedure.

Chi Onwurah: I thank the Solicitor-General. In fact, I was just coming to that point. The MAIB guidance deals with only the reporting of the accidents, not their investigations. That body is not responsible for enforcement or prosecution; those functions are still underpinned by the 1995 Act.

In the Government's bid to shed regulation, they risk sacrificing justice for seafarers and their families and jeopardising the future safety of our maritime fleet, as the removal of this duty could mean that safety concerns will not be fully identified and learnt from. For that reason, we ask the Government to reconsider the clause in its entirety. To remove the duty so that the Secretary of State has to reopen a case only when there is reason to believe that there has been a miscarriage of justice sets the bar too high and, to some extent, in the wrong sphere. That is a step backwards for maritime safety. It is really important to retain the stronger power so that the Secretary of State's default setting is to reopen investigations, not to remain silent. That would send a clear signal that safety comes first.

Chris Williamson (Derby North) (Lab): I rise to support my hon. Friend in her opposition to the clause. I hope that the Government will reconsider their position. I am certainly not convinced by the Solicitor-General's comments so far, and cannot see that there is any justification for the removal of section 269 of the Merchant Shipping Act 1995, which contains the duty on the Secretary of State to reopen maritime accident investigations in the light of new evidence.

Let us look at what the Government are proposing to remove. They want to remove the paragraph that says there will be a duty to order a rehearing when "new and important evidence" is discovered. Why on earth would any Government want to omit that obligation on the Secretary of State? It is all very well for the Solicitor-General to say to us that the Secretary of State has the discretion to order investigations and will no doubt use it. Frankly, I do not trust this Government to use that discretion.

Toby Perkins: I share my hon. Friend's views, but surely the point is also that regardless of who is the Secretary of State now, in future it could be someone different who we do not trust, so if we absolve the Secretary of State now of certain responsibilities neither we nor Government Members can be disappointed if someone new comes into the role and takes advantage of the provision in a different way. Whether or not we trust the current Secretary of State, we should all be concerned because there might at some point be a Secretary of State we do not trust, so we might wish the power was still there.

Chris Williamson: I agree with my hon. Friend. This is about protecting seafarers and ensuring that justice is both done and seen to be done. There should therefore be an obligation.

John Hemming (Birmingham, Yardley) (LD): I agree with the hon. Gentleman that justice needs to be seen to be done, but does he not accept that the Minister will be subject to judicial review, and article 5 of the European convention on human rights would mean that there would remain a duty if there were sufficient new evidence? It would merely be that a rehearing would not occur every time there was new evidence.

Chris Williamson: If the duty exists through other routes, why remove the explicit duty contained in the legislation on the statute book?

Chi Onwurah: I applaud the passionate and strong points that my hon. Friend is making. Although it is enlightening to hear Government Members putting their faith in the European Court of Human Rights for justice for UK citizens, does he agree that our legislation should reflect those rights? It is then for judicial review to identify errors or bad practices.

Chris Williamson: That is absolutely right. As I was about to say, why force people to go through the convoluted route of judicial review when an avenue is already available right now on the statute book? The Solicitor-General has given no good reason for the repeal of that particular provision. Nor has any other Member.

The Solicitor-General: We all accept that, in a situation such as that of the Derbyshire—it was 18 years after the accident and similar ships were still ploughing the oceans—it was sensible and right to reopen the formal inquiry. That would still happen under the new provision. Once it gets to 35 years, as was the case with the Trident, things become more marginal. There was a big inquiry from which there came only one recommendation. After 50 years, it is very unlikely that new evidence, even though important, would do more than help the history books. It would not help mariners today. That is the point: when a wreck is found many years later, there comes a point when reopening the inquiry is not helpful.

Chris Williamson: I would have more sympathy for the Solicitor-General if the Government were finding that they had to order the reopening of inquiries every single year. Not many inquiries have been reopened, so I do not consider that there is any justification for the Solicitor-General's comment.

The Solicitor-General: The hon. Gentleman might not realise what sort of inquiry it is. We are talking about something similar to a judicial inquiry, with all the formality and costs associated with it. It is not just about money, but about taking up the time of a huge number of people. If it is a worthwhile exercise, because it will help safety or clear someone's name, it is obviously worth doing, but it is pointless and expensive if it happens many years later.

11 am

Chris Williamson: I return to the point that the Solicitor-General still has not answered: we are not exactly being inundated with these inquiries. Irrespective of the passage of time, lessons could be learned that would help to improve the safety of vessels. Indeed, in the case of the MV Derbyshire, as the shadow Minister, my hon. Friend the Member for Newcastle upon Tyne Central, pointed out, an inquiry was held a number of years later, which led to improvements in safety. However, that was some considerable time later—and only following a relentless campaign that was heavily resisted by previous Conservative Secretaries of State for Transport. An allegation was made that the Secretary of State was resistant because the Swan Hunter shipyard had been privatised. *[Interruption.]* The Solicitor-General scoffs and laughs. I am not necessarily making an allegation myself; I am merely making the point that that concern was expressed—

The Solicitor-General: Will the hon. Gentleman give way?

Chris Williamson: Let me finish this point. That concern was expressed by relatives and people with an interest in this case. It may or may not have been true, but removing the obligation could lead to such suspicions arising in the future. People might ask what the Government have to hide, but if there is a duty on the Secretary of State there is no hiding place. On that basis, the Solicitor-General—as the shadow Minister pointed out—should reconsider the terms of this clause and remove it altogether.

The Solicitor-General: There was an inquiry in 1986, based on the evidence of two similar vessels that had evidence of damage to them. A formal investigation was launched in December 1986 during the Conservative period in office. The investigation found that the Derbyshire had been overwhelmed by the typhoon. The trade union did not agree and continued to campaign. When new evidence was found—the wreck—the inquiry was reopened. There was never a point where new evidence was found and an inquiry was not either opened, as it was in '86, or reopened, as it was in 1998.

Chris Williamson: Which, coincidentally, was when Labour had come back to power. One wonders what would have happened had the Conservatives still been in office. They probably still would have had to reopen the inquiry because there was a duty there. As the Solicitor-General conceded, new evidence that led to a further inquiry was found only because of the relentless campaign pursued by the trade union movement.

Thomas Docherty: I am sure my hon. Friend would agree that the inquiry was reopened only because we had a Secretary of State—the predecessor of my hon. Friend the Member for Kingston upon Hull East—who was prepared to back it. Is it not right that we tried to take it out of the hands of the politicians? That is the danger of what the Government are trying to do: leave it up to individual Secretaries of State to have a particular interest in the subject, rather than being led by the evidence.

Chris Williamson: That is an incredibly apposite point and I entirely concur with my hon. Friend. It is important that we take the politics out of this issue, because all sorts of allegations and suspicions will arise if an inquiry is called for but is not pursued by the Secretary of State because they have a discretion not to do so. The Act currently gives an obligation; the Secretary of State is under a duty, and so he should be.

Andrew Bridgen: The hon. Gentleman is right that we should take the politics out of this sort of tragic incident, but are the Opposition seriously asserting that, had this clause been in place in 1994 when the wreck of the MV Derbyshire was discovered—a high-profile, tragic disaster—the then Secretary of State, of any colour, given the important and serious new evidence of the wreck, would not have reopened an inquiry?

Chris Williamson: A number of years passed before the inquiry was reopened, but who knows? Nobody can say with certainty what would or would not have happened if there had been a different Administration at the time, but I am concerned that without the obligation, there is an opportunity to ignore evidence for some ulterior motive. Even if there is not an ulterior motive, that opportunity leads to suspicions. As I have already pointed out, it is important that justice is not only done, but seen to be done.

I made the point that a relentless campaign by the trade union movement resulted in the further evidence being obtained. It was a campaign waged by the National Union of Seamen, the RMT, Nautilus, and the International Transport Workers Federation. I am grateful to my hon. Friend the Member for Kingston upon Hull East for raising his point of order about the untimely and sad death of Bob Crow, who was the general secretary of the RMT.

Mr Chope, I hope that you will allow me to pay tribute to Bob Crow. I am a member of the RMT group of MPs in the House and I knew him quite well. He was a tenacious, dedicated and effective trade union leader who certainly looked after his members. He was dedicated to them and secured good deals for them, but he was more than that. He was a man who was dedicated to social justice, and I worked closely with him during the campaign to save Bombardier in Derby. It was, in part, through his relentless campaigning and his assistance to that campaign that we ultimately saw the successful bid by Bombardier for the Crossrail contract. I am certain that it was due in no small part to the campaign that was mounted at that time, which Bob Crow played a significant part in, that we have managed to save the train manufacturing industry in our country. He will be sadly missed by his members and, indeed, by all trade unionists and people concerned about workers' rights and social justice in our country.

To return to the clause, the initial suggestion for the sinking of the MV Derbyshire was that there was some negligence on the part of the crew. Just imagine the

[Chris Williamson]

additional heartache, concern and upset that that caused the relatives of those poor unfortunate seafarers who lost their lives. We now know, thanks to the new evidence, that the ship was caught in that typhoon and overwhelmed by the high seas as a consequence of the closing appliances on nine ventilator openings being missing. That caused the vessel to become inundated and eventually sink without trace. Thanks to the work that was done, the wreck was eventually found and the details of what happened on that fateful night came to light.

If that evidence had come to light and there was no obligation on the Secretary of State to reopen an inquiry, and he denied that opportunity due to the passage of those 35 years—as the Solicitor-General said—and because there was no benefit in reopening it, there would be outrage, and justifiably so. Although a long time had passed, there were significant benefits from that inquiry, which, as I understand it, led to improvements in vessel design. According to the Solicitor-General, there comes a time when it is not worth it. The Secretary of State may have taken a view—

The Solicitor-General: Fifty years.

Chris Williamson: The Solicitor-General may say that. That is his opinion, but a subsequent Secretary of State might say that 20 or 30 years is a sufficient passage of time. Who knows what a future Secretary of State will do or say? If the Government get their way, the obligation will no longer exist. The Solicitor-General has not given a reasonable, justifiable reason, either this morning or previously, to give me the comfort blanket of knowing that justice would be done in those circumstances. It leaves the door open—*[Interruption.]* It is no good the Solicitor-General shaking his head; what the Government are doing leaves the door open for future Secretaries of State to say—in the case of an MV Derbyshire—"I'm not going to reopen this inquiry, because 35 years have passed. Sorry, it's not going to happen."

The Solicitor-General: The hon. Gentleman's case has no substance to it whatever. It was not 35 years later when the Derbyshire was found; it was 18 years later, when other vessels of a similar sort were still ploughing the ocean. It was obviously vital to have that inquiry reopened—it was reopened and still would be—but it would be a different thing if it was 50 years later, because those sorts of vessel would no longer be there. If he cannot see that, and if he still wants to tie up the courts, officials, legal advisers and maritime experts, and waste their time and resources, spending more than £8 million per inquiry, when it is of no practical benefit, then more fool him.

Chris Williamson: I hear what the hon. and learned Gentleman says, but it was the Solicitor-General himself who used the figure of 35 years. I accept, of course, that it was 18 years later; my point is that there will be no obligation on a future Secretary of State.

John Cryer (Leyton and Wanstead) (Lab): The Solicitor-General seems to be arguing that there is a cut-off point—a deadline—after which a certain model of ship stops operating. That is absolutely ludicrous. I used to work on the shipping newspaper *Lloyd's List*, the oldest daily paper in the world. Anyone who reads it on a regular basis will know that there are vessels ploughing the seas that date back to the second world war and earlier.

Chris Williamson: My hon. Friend makes the point I was just about to make. The Solicitor-General talked about 35 years and 50 years, but as my hon. Friend points out, there are ships dating back longer than that. Even if it was 50 years, the Solicitor-General could change his mind and say 60 years or 70 years. He is being unreasonable, and he has been found out. There is no justification for the clause; he needs to take it back to the drawing board.

Kelvin Hopkins (Luton North) (Lab): The Solicitor-General keeps talking about the commercial benefit of an inquiry. He glosses over the fact that many people, and society as a whole, want to know the truth. Discovering the truth about something that happened a long time ago sometimes has its own value, and human beings and society want that.

Chris Williamson: That is a fair point, and it is related to what I said about justice being seen to be done, irrespective of the passage of time.

I remain very concerned indeed. We have taken interventions from the Solicitor-General. One would have hoped that he might have been able to give some reassurance, but he has just reconfirmed my concern. There is no justification for the clause. He has been found out and he knows he cannot justify it.

The Solicitor-General *indicated dissent.*

Chris Williamson: The Solicitor-General shakes his head, but he has not justified the clause to the Committee and certainly not to the wider world. We are under the obligation, are we not, to convince not just ourselves, but the public whom we represent. It is them we need to convince, and he most certainly has not done that. I genuinely hope that, after mature reflection, he will go away, sleep on it, recognise that he has made a mistake, withdraw the clause and make a more sensible proposition.

11.15 am

John Cryer: It is an honour to serve under your chairmanship, Mr Chope. First, I would like to pay tribute to Bob Crow, who I knew for probably the best part of 20 years. He was always a very effective trade union leader and official on behalf of his members. Privately, he was a laugh a minute, which is what I will always remember about him. One complaint about modern politics is that there is perhaps a bit too much ambiguity, but you never had that with Bob. I knew him for nearly 20 years and I cannot remember ever saying to him, "I'm sorry, Bob, I'm not quite sure where you stand on this." Actually, I probably did say that, but I would have been joking.

I rise, like my hon. Friends, to oppose clause 26. I am not impugning the Solicitor-General's motives, but I think he is mistaken. The argument he seems to be putting forward is: "Well, the Secretary of State for

Transport is a very solid sort of bloke and we can trust him to do the right thing." I am sure we can, but I do not think it is our job as Back Benchers—whether as Government Members or Opposition Members—just to say we ought to trust Ministers because they are all terribly solid and they will do the right thing. Our job is to make life difficult for the Government, not easier. I have always been willing to question Ministers, whether from the Government Benches or, these days, sadly, the Opposition Benches.

For example, I have voted against every single change to parliamentary procedure, whatever the Government. I do not believe in making life easier for Ministers; I believe in making Ministers more accountable and, under some circumstances, in making life more difficult for them. The Solicitor-General's rationale is along the lines of Harold Macmillan's response to a question in the 1950s. His answer was: "We have a lot of very clever chaps looking at that." Perhaps people could get away with answers like that in the 1950s—it would be great to be a Minister and to get away with it—but I would hope that Ministers could not get away with it these days.

Toby Perkins: My hon. Friend might well think we cannot get away with answers like that, but surely Alex Salmond is trying to take an entire country independent on precisely that basis?

John Cryer: If I go down that path, I will probably try your patience, Mr Chope. Let me return to clause 26.

As my hon. Friend the Member for Newcastle upon Tyne Central pointed out, the MV Derbyshire was lost in 1980 with the loss of 42 crew and two passengers. When the original investigation reported, Lord Williams of Mostyn said that it was completely inadequate and based on very little evidence. That led a number of trade unions to launch a campaign and to fund their own investigation. That campaign went back so far that it started before the RMT—Bob Crow's union—existed: to a time when the National Union of Seamen and the National Union of Railwaymen, which merged to form the RMT, still existed. The RMT continued the campaign for another investigation into the loss of the MV Derbyshire. The campaign was supported by Nautilus, the seafarers' union, and by the International Transport Workers Federation. The campaign went on for some years, and eventually the then Conservative Government changed the law and introduced the Merchant Shipping Act 1995. That Act was a step forward, and I cannot understand why the Solicitor-General should argue that its provisions were wrong, when it was actually passed by a Conservative Government.

Andrew Bridgen: Does the hon. Gentleman agree that undersea search technologies have improved and will continue to improve? More and more historic wrecks are going to be found as more of the sea bed is analysed and scanned. Does he think that, regardless of the ages of those wrecks, there should be a Government-funded investigation into why they sank?

John Cryer: The idea that we are going to dredge up a Viking longboat from 1,000 ago and say, "We really want an investigation," is absurd. There are very old wrecks that still excite controversy, and people would demand an investigation if the wrecks were found today. There are still pertinent arguments going on about the loss of the Titanic in 1912. The Solicitor-General's point—that somehow there is a cut-off point where, for example, a model of ship made 20 years ago would cease to be in operation, to be replaced by newer ships—just does not stand examination. There are many old ships—some are decades old—still plying the sea.

Thomas Docherty: Is not the problem that the parties in government see the words "trade union", have a Pavlovian reaction and think they must scrap that legislation, no matter what the merits are? Is that not to be regretted?

John Cryer: Yes, it is. I agree with my hon. Friend, as a lifelong trade unionist. I dealt with Bob Crow a lot when I was a political officer for ASLEF—which I always enjoy giving the proper title of, rather than the acronym: the Associated Society of Locomotive Engineers and Firemen, which is a great name for a union. It is a Victorian title, but I am quite fond of it.

Kelvin Hopkins: My hon. Friend is making a good point. The Solicitor-General keeps emphasising that a particular model of ship would have gone of out use, but the failure might have been in a bit of equipment that is used on a whole range of different ships. It is a simple point.

John Cryer: I agree with my hon. Friend; he is absolutely right. It is not just that ships continue to exist: if a ship has been around for 40 or 50 years, the likelihood is that it has had a refit in one form or another. In this country, although we are not particularly prominent in shipbuilding, we are certainly still prominent in ship repairing and refitting. Even when a ship has been extensively refitted, some components and some of the basis of the ship will have existed when it was made 50 or 60 years ago, or however old the ship happens to be.

The relevant section in the 1995 Act says that the Secretary of State has a duty to reopen an investigation

"if new and important evidence which could not be produced at the investigation has been discovered."

That seems a perfectly reasonable proposition today, as it was when it was passed in 1995. With the best will in the world, I have listened very carefully to the Solicitor-General, and I have not heard a justification for it being open to the individual wishes of the Secretary of State or a Minister of State, instead of being a duty. That is why this side of the Committee intends to oppose this clause. If the Solicitor-General had come up with a perfectly rational justification for why the duty should be lifted from the Secretary of State, we would not have a problem, but that argument has not been made.

Kelvin Hopkins: May I apologise to the Committee for my late arrival? I was at a Select Committee meeting, and we were finalising an important report so I wanted to be there. I hope I can be indulged in saying a few words in this important debate, and very strongly support everything my hon. Friends have said. Before I make some additional points, I would like briefly to pay tribute to Bob Crow. He was someone I would call a friend, and I spoke on platforms with him on a number

[Kelvin Hopkins]

of occasions. He was one of the great trade union leaders of the modern era. He may have been an irritant to Governments and employers, but that was his job. He was a man who always spoke his mind truthfully, and we could do with more of that in politics.

There are other fields where Governments clearly do not like reopening investigations. In fact, they do not even like investigations taking place in the first place because there are things they want to disguise, or interests—such as Ministers' reputations—they want to protect. It is our job as parliamentarians to ensure that the Government are forced to support inquiries and to bring out truths. I emphasise the point about truths. Even if, in the end, no damage is done to the economy or no loss of face—

11.25 am

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

Adjourned till this day at Two o'clock.

Written evidence reported to the Houses of Parliament

DB 09 Unite the Union
DP 10 Law Society