PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

DEREGULATION BILL

Tenth Sitting

Tuesday 11 March 2014

(Afternoon)

CONTENTS

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON – THE STATIONERY OFFICE LIMITED

£5·00

PBC (Bill 162) 2013 - 2014

Members who wish to have copies of the Official Report of Proceedings in General Committees sent to them are requested to give notice to that effect at the Vote Office.

No proofs can be supplied. Corrigenda slips may be published with Bound Volume editions. Corrigenda that Members suggest should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Saturday 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

(Afternoon)

[Mr Christopher Chope *in the Chair*]

Deregulation Bill

Clause 26

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

2 pm

Question (this day) again proposed, That the clause stand part of the Bill.

Kelvin Hopkins (Luton North) (Lab): It is pleasure to continue the speech I commenced before lunch in opposition to clause 26 in the hope that we can persuade the Government to withdraw it, as any sensible Government would. My party has a distinguished former Deputy Prime Minister who spent some of his young life at sea. Were he able to speak at our meeting I am sure he would oppose the clause too.

Governments and Government agencies have a worrying track record in inquiries. They sometimes want to shut down investigations. They want to protect vested interests. They even seem to want to defend political reputations and to deliberately mislead. We have had a number of examples of that kind of murky politics over the years. The fact that there will be a duty to reopen inquiries with new evidence would stop Governments taking advantage of inquiries being closed down and not being able to be reopened.

In the last 24 hours it has transpired that it is much more likely that Iran and Syria were involved in the Lockerbie crash than Libya. What was that about? Inquiries went around the world. Someone must have known, I am sure. We have Northern Ireland. Lots of murky politics went on there. I do not personally believe that Lee Harvey Oswald killed President Kennedy. There are so many examples. But coming closer in the transport industry, which I know something about, we have had a number of railway accidents in recent years such as Hatfield and Potters Bar. My friends inside the industry told me things that did not appear to come out, certainly not at the beginning. It was a real problem levering out what actually happened in those accidents.

In the Grayrigg train crash—this did not come out early on but it may have leaked out later—friends in the industry told me that what is known as a stretcher bar, which is a component of the points on railways, was left unattached to the points on the grassy bank at the side of the track. It was also discovered at Grayrigg that someone had screwed down a metric nut on an imperial thread. Those sorts of things should come out and it ought to be discovered who did these things and how much effect they had on the accidents that occurred.

We constantly see attempts by Government agencies, the Government themselves and private companies to disguise things. When new evidence emerges or is leaked out we should be able to have a second inquiry and the Government should have a duty to set up those inquiries as and when that evidence comes to light. I feel very strongly that the clause should be withdrawn. My hon. Friends, each and every one, have made powerful cases as to why it should be withdrawn. I strongly support them and hope very much that the Government will be persuaded to withdraw the clause.

The Solicitor-General (Oliver Heald): We have had a lively debate with contributions from the hon. Members for Newcastle upon Tyne Central, for Derby North, for Luton North, and for Leyton and Wanstead. Formal investigations to apportion blame, to censure officers, to cancel certificates and to give reasons have their place but they are rare. The marine accident investigation branch looks into many incidents to find out what the safety lessons are on the basis that evidence will not be used to prosecute and its focus is to prevent a recurrence.

John Cryer (Leyton and Wanstead) (Lab): As the Solicitor-General says, these sorts of investigations are very rare. In which case, why take away the duty?

The Solicitor-General: It is a point that I am about to make. Formal investigations are like judicial inquiries. They involve courts, court time, officials, legal advisers and maritime experts, and on average they cost about £8 million. To have a formal investigation of that kind is essential if there is an issue about a miscarriage of justice. If we look at the case of the Derbyshire, which I will mention for a moment, it has been said that this was a particularly important case, and I agree with that. It was a terrible incident, the ship sank in September 1980 off Okinawa during Typhoon Orchid. All those on board died: 42 crew and two wives. At the time, because the wreck could not be found, there were calls for a formal investigation, but they were rejected because of a lack of evidence. However, it later emerged that there was evidence of the deck cracking forward of the bridge on two of the Derbyshire's sister ships. Consequently, when this became known, there was, in December 1986, a formal investigation, which determined that the ship had probably been overwhelmed by the typhoon. Following the discovery and survey of the wreck, a reopening was ordered in 1998. The discovery of the wreck meant that it was then possible to do underwater surveys. The report that was then available concluded that the ship sank because of progressive failure of the cargo hatch covers following bow flooding. A total of 24 safety recommendations were made as a result of that formal inquiry. We can all agree that that was a useful process that had a very helpful outcome.

It is a good example of a reopened formal inquiry that was valuable for improving maritime safety. It came 20 years after the accident and, having said that, we can compare that with a case like the Trident where there was a reopened formal inquiry 35 years after the loss of the ship. On that occasion, although there was a very full formal inquiry, only one recommendation was made. It was generally thought to be a less useful process than in the case of the Derbyshire.

The point that I am making is that there is a need for some discretion. The reason that I say that is that, if any of these three tests which I mentioned—the likelihood of lessons being learnt, the likelihood of being able to identify the true cause or causes of marine accidents

when there has been uncertainty previously, or the likelihood of uncovering information that would provide a deeper understanding of the causes of other marine accidents—are engaged, those are the tests that the Secretary of State will be making. One would expect in a case like the Derbyshire, for example, that there would be a reopening of a formal inquiry.

Chris Williamson (Derby North) (Lab): Will the Solicitor-General give way?

The Solicitor-General: I will just finish the point and I will be happy to give way. In a case where none of those tests is engaged and it is many years later, the Secretary of State should have the discretion to say no, we are not going to learn anything from this, nobody is going to be exonerated and it is not a process that will help in the understanding of why such accidents happen or how they can be avoided.

The other point that I would make is that it is, of course, always possible, if it is considered by an individual to be an unreasonable decision, that it can be judicially reviewed in court. There are protections but, I am sorry, I do not agree with saying that there has to be a reopening, however long it is after the event, however pointless the exercise, and I made that point forcefully to the hon. Member for Derby North, to whom I will now give way.

Chris Williamson: The Solicitor-General has, perhaps inadvertently, made my point for me. He said that, in the circumstances that he outlined, one would expect the Secretary of State to order an inquiry but, although one might expect it, it might not happen, because there is discretion. Surely the Solicitor-General can see that?

The Solicitor-General: It may simply be something between us, where we just do not agree. I think that that could be the case. The hon. Gentleman started out by saying that he would never trust a Conservative Secretary of State, and then said, "By the way, it is vital that we are not political." It may be that he is coming from a different place.

I pay tribute to the work that was done by the trade union to highlight the issues in the Derbyshire case. At times when evidence was available the formal inquiry was opened, and when new evidence was available the inquiry was reopened. I think that showed exactly the right approach, and it would not be different in the future. To say that if many years after the event none of those tests are engaged—the hon. Member for Leyton and Wanstead said, "Well, even if it is a 50-year-old ship there may be some lesson to be learnt." Yes, if there is, of course, let us reopen the formal inquiry, but if there is not do we really want to waste all that court time and all that resource on a pointless exercise? *[Interruption.]* I will give way one last time.

Chris Williamson: I am grateful to the hon. and learned Gentleman for giving way, but is he not rather prejudging the situation? It seems to me from his response that he is simply saying that the Secretary of State will determine—before he sets up the inquiry—whether there are lessons to be learnt. Surely one of the purposes of the inquiry is to determine whether there are lessons. Who is the Secretary of State to determine that beforehand?

The Solicitor-General: I cannot take lessons in prejudging from the man who said that he would never trust a Conservative Secretary of State for Justice. We have got to the point where we do not agree. I commend the clause to the Committee.

Chi Onwurah (Newcastle upon Tyne Central) (Lab): It has been a very passionate debate, although I must observe that all the passionate contributions were made by Opposition Members—*[Interruption]*—with the exception of the Solicitor-General. The debate was made all the more poignant by the sad news of the sudden and untimely death of Bob Crow of the RMT union, recalling as it did the contribution the trade unions made to ensuring that the truth about the Derbyshire came to light eventually. My hon. Friends the Members for Luton North and for Derby North—

Kelvin Hopkins: And Leyton and Wanstead.

Chi Onwurah—and for Leyton and Wanstead made excellent contributions; I thank my hon. Friend. They drew on their experience of working in similar industries, as well as their sense of the need to ensure that the duty in areas as important as this—maritime safety and the livelihoods and lives of seafarers—is not overturned into a level of discretion that may not place that safety and those lives high enough. I would therefore like to oppose that the clause stand part.

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

The Committee proceeded to a Division.

Andrew Bridgen (North West Leicestershire) (Con): On a point of order, Mr Chope. The Noes were seven.

The Chair: I will take responsibility. The record is now amended.

The Committee having divided: Ayes 10, Noes 7.

Division No. 9]

AYES

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

NOES

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

Question accordingly agreed to.

Clause 26 ordered to stand part of the Bill.

Clause 27

REPEAL OF POWER TO MAKE PROVISION FOR BLOCKING INJUNCTIONS

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

2.15 pm

The Parliamentary Secretary, Office of the Leader of the House of Commons (Tom Brake): Thank you for ensuring that the record is accurate, Mr Chope.

This reform will remove a power from the Digital Economy Act 2010 to make regulations containing site blocking provisions. The Act gives courts the power to grant injunctions requiring service providers to block access to specified sites to prevent the infringement of copyright. That power was included in the Act to enable copyright owners to tackle sites based outside the UK that offer their copyright material illegally. Copyright owners were unable to take action against the sites in the UK, and found it difficult to pursue them in their home territory. Therefore, it was considered reasonable to provide the ability to block access via internet service providers.

After the Act came into effect, the Government asked Ofcom to carry out a review of the efficacy of such site-blocking injunctions if they were to be made. Ofcom concluded that, in practice, such injunctions were unlikely to be effective, so the Government announced that they had no intention of making such regulations. Subsequently, copyright owners began to utilise the pre-existing provisions in section 97A of the Copyright Designs and Patents Act 1988 successfully to apply for site-blocking injunctions, rendering the regulation-making powers in the 2010 Act unnecessary.

Since section 97A of the Copyright Designs and Patents Act now provides remedies for copyright owners, and in the light of the Ofcom review's doubts about the practical usability of the power in the Digital Economy Act, there is clearly no need for the power to be in the 2010 Act. I commend the clause to the Committee.

Chi Onwurah: I am rather stunned by the brevity with which the Minister sets out his limited case for the withdrawal of the sections. This is a hotch-potch of a Bill; online copyright infringement comes immediately after marine accident investigation. Fortunately, we are at last coming to a subject with which I have some familiarity. This is a complex issue, Mr Chope, and I hope you will allow me to say something about the Digital Economy Act, which the clause seeks to amend, and the report on which it was based.

I must declare an interest. As head of telecoms technology at Ofcom prior to the previous election, I was involved in the development of the "Digital Britain" report, which gave rise to the Digital Economy Act. I worked with Lord Carter's team in the Department for Business, Innovation and Skills to provide the technical basis for some of the provisions in the resulting report.

"Digital Britain" was not without its critics. It is hard to deliver a comprehensive assessment of the country's digital infrastructure, digital future, barriers, opportunities and priorities without disappointing at least some people. However, a comparison of the previous Labour Government's record with the total lack of digital vision from the Government, of which the Minister just gave an excellent example, makes even those who objected to some of the report's recommendations look back at that time with rosy nostalgia—

The Chair: Order. I am going to interrupt the hon. Lady: it is fine for her to set the matter in context, but she must talk specifically about sections 17 and 18 of the Digital Economy Act 2010.

Chi Onwurah: Mr Chope, thank you very much for that direction. It is central to digital industries, and the provisions on digital copyright should be part of an overarching approach to copyright. It is extremely important to understand that were sections 17 and 18 of the Digital Economy Act 2010 to be removed, that would have a significant impact on other areas for which the Government have not legislated and on which they have not even set out a vision.

Under the previous Government, the Communications Act 2003 set out a 10-year vision that brought together the existing communications regulators for telecoms, television and radio to address the then new concept of convergence. After that, we had another review in 2009, which looked forward a further 10 to 15 years. We wanted to ensure that, as far as possible, legislation kept pace with technology. That is a key point in terms of the clause under consideration, because the opportunities and challenges of technology lie at the heart of the malaise that is attacking the value of online copyright. We wanted legislation to keep pace, not to prevent change or innovation—a motive that the Government often ascribe to all regulation—but to provide the certainty and the legislative framework in which competition could flourish, new businesses could be established and innovation could be harnessed to put us in the first place in the global digital economy.

If Committee members agree to delete sections 17 and 18 from the Digital Economy Act 2010, are they confident that they are putting in place the necessary legislative framework to enable our digital economy to grow, reliant as it is on online copyright? One might expect a vision of our future digital economy and the role of online copyright within it to be set out in a communications Green Paper. It is true that we were promised such a publication. Indeed, we had an epic in which the publication of that paper was promised every month of almost an entire year. It is true that in that time, the unhappy comments of the Secretary of State for Business, Innovation and Skills led to a change of responsibilities, and the then Secretary of State for Culture, Media and Sport was moved to replace the damaged Secretary of State for Health. All that ministerial movement could not disguise the void at the heart of Government when it came to copyright, the most critical component of a critical industry, which is even more important as a platform for innovation and value creation throughout many different sectors of our economy, and of our society.

For almost a year, the communications Green Paper was awaited in a plan that was so badly managed that the due publication date lost a month every month. Finally, last August, a White Paper was published, after plans to publish a Green Paper were abandoned. We might have hoped that that would address the concerns of the music and creative industries about online piracy, but no, "Connectivity, Content and Consumers: Britain's digital platform for growth" simply cobbled together a few existing initiatives and said that the Government would work with industry to develop a strategy by the end of 2014.

Will the Minister tell us where we are with this long-term strategy for connectivity, content and consumers, so that we might place this attempt to remove these sections in the context of an overall strategy and approach to safeguarding creative industries through strong enforcement of digital content?

Why does this matter, and why do I want to spend time on these two important sections and the clause that would remove them? It matters because without some kind of vision, the future of our digital economy remains clouded and therefore it is impossible accurately to judge the impact that the removal of those two sections would have. The Government are repealing a provision that they promised to work to replace, although the Minister did not refer to that in his opening remarks. We are in need of another point of clarification. He seemed content with the current workings of the injunctions. As we will hear, I understood there were promises to undertake further work to put in place a more acceptable alternative.

Copyright is a key part of the creative industries and the digital economy that drives them. It is worth remembering just how important the creative industries are. They provide an estimated 1.5 million jobs, 10% of the economy and more than £36 billion of gross value added. However, it would be wrong to think that intellectual property is the preserve only of specific creative industries such as music and broadcasting. As my hon. Friend the Member for Hartlepool (Mr Wright) said during the Committee stage of the Intellectual Property Bill:

"Our value as an economy—our arguably unique value, or second perhaps only to the US—is in the difficult-to-define juxtaposition between creativity and innovation and the impact on production and manufacturing. The fact that we have a strong creative industries sector combined with a strong science and research base and world-beating manufacturing sectors, including automotive, construction, aerospace and pharmaceutical, means that our economic model and future prosperity is very much dependent upon IP."—[*Official Report, Intellectual Property Public Bill Committee,* 28 January 2014; c. 44.]

I echo my hon. Friend's comments and not, by the way, those of the Prime Minister who recently said at CeBIT in Hanover that the future was about UK software and services combined with German manufacturing. We still manufacture in this country and I ask Government Members to recollect that and support measures that seek to protect the important IP that there may be in manufacturing processes, just as in music and pharmaceutical production.

I was talking at lunchtime with a Pfizer employee who emphasised the impact that counterfeit medicines, often obtained online, have on its business model and on the health and well-being of many citizens across Europe and the world. The proper protection of IP is critical for many sectors of our economy; it is not just about one business model but about incentivising creativity and innovation by allowing an appropriate reward for the risk that the inventor, creator, musician or performer takes in generating that IP.

It is in the nature of disruptive new technologies such as the internet that they change how companies need to do business as value chains are disrupted. We certainly we would not want to be in the position of trying to protect obsolete business models or entrench vested interest.

2.30 pm

Sitting suspended for Divisions in the House.

2.55 pm

On resuming—

Chi Onwurah: Before the interruption, we were discussing the nature of the disruption that new technologies often make to the way in which businesses work, and I was saying that protection of IP is not about protecting obsolete business models, but about protecting new and emerging business models from what is effectively criminal activity. As the Library briefing sets out, an industry survey, admittedly published in 2010, found that 29% of a sampled population of internet users were engaged in some form of unauthorised music downloading. The music industry estimated that 1.2 billion tracks were downloaded unlawfully in the UK each year; there were legitimate online sales of 370 million tracks at that time.

Studies by the film and television industries indicate that more than 10% of UK adults consume infringing content online, and that piracy costs those industries more than £535 million per year in the UK. We have more recent evidence from Ofcom, which estimates that in the last three months, 280 million music tracks, 52 million TV programmes, 29 million films, 18 million e-books and 7 million games were illegal downloads. This involves 20% of households. The BPI estimates that this costs the industry £250 million a year. It is worth putting this in the context that half of all musicians earn below £20,000 a year. The industry estimates that over the whole Parliament, the Government's delay in effectively enforcing online IP will cost it over £1 billion.

Despite how it may appear to the contrary, it is my understanding that this Government also believe in protecting IP. However, without an overarching strategy and clear approach, how can we understand how they propose to protect IP? They propose to repeal these provisions in the Digital Economy Act, but give no indication of what they will do to protect IP in consequence. As the Minister said, clause 27 repeals the power to make provisions for blocking injunctions in sections 17 and 18 of the Digital Economy Act. These sections contain powers to make regulations that would grant courts the power to order internet service providers to block websites that enable illegal downloads or host significant material that is not copyright or copyright-infringing.

The court would need to be satisfied that such websites are used, or are likely to be used, to infringe copyright. Section 18 then specifies that any such regulations would be subject to the super-affirmative procedure. That means that the Secretary of State must have regard to representations, House of Commons and House of Lords resolutions, and Committee recommendations that are made within 60 days of laying, before deciding whether to proceed with the order, and if so, whether to do so as presented or in an amended form. An order dealt with under that procedure therefore must be expressly approved by both Houses of Parliament before it can be made. I set all that out to make it clear that there are protections within the sections as they stand to ensure the maximum amount of scrutiny by both Houses.

3 pm

By the way, Mr Chope, I checked the wiki entry for the Digital Economy Act 2010 before coming to the Committee. It says that the sections in question have already been repealed. I do not know whether it is in order to rely on the evidence of an entry in Wikipedia, but either it shows the faith of the wiki authors in the Government's ability to carry through their legislative

programme, such as it is, or perhaps it shows the need for more authoritative internet sources, which can be held accountable for the information provided on them, and which can be rewarded by the maintenance and protection of their copyright.

The clause would repeal sections 17 and 18. I understand that a Liberal Democrat peer introduced the provisions in question into the 2010 Act. However, we cannot expect to hold the coalition to Liberal Democrat commitments. The websites I am concerned with are generally ad or payment-funded. They are a lucrative business. I do not want hon. Members to take away the impression that we are talking about amateur, unpaid enthusiasts. Often they run lucrative businesses that infringe copyright on a criminal scale and pay nothing to musicians and songwriters. It is also more than likely that there will be hardcore pornography alongside such content, as well as malware and trojans, which will infect the devices that access the site.

I am sure that the Minister will address the fact that any proposal to block websites raises concerns about freedom of expression. It is right and proper in that context to consider blocking such proposals. However, we should also recognise that there are circumstances where, for public policy reasons, the Government need to become involved in blocking sites that are no better than organised crime. Indeed, the police already do so in partnership with the content industries. It is no longer generally accepted that the internet is some kind of wild west where the laws of the real world do not apply, as the Home Secretary, I think, has agreed in remarking that the laws of the physical world apply in the virtual world and that citizens have the right to be protected from online harm just as much as from physical harm.

The Government have, however, chosen not to use the relevant sections to set up procedures to enable sites to be blocked. Because of that, the industry has used injunctive relief—which sounds interesting—under section 97A of the Copyright, Designs and Patents Act 1988, to which the Minister referred, to block 24 websites by applying to the High Court. The BPI said in a letter to the shadow Culture Minister, my hon. Friend the Member for Bishop Auckland (Helen Goodman), that industry believes that that has been effective in reducing piracy in the UK and has thus been shown to be justified. However, it is not necessarily effective. Perhaps I misunderstood the Minister, but he implied that the existing practice of using injunctive relief was an acceptable and effective way of blocking access to the websites I have described. Certainly, industry does not think so. Industry believes that there is a need for a quick, cost-effective way to stop illegal websites from trading. Particularly for pre-release music or live sport, a fast process is needed because the damage to the copyright holders happens very quickly.

The Minister briefly alluded to the then Culture Secretary, the right hon. Member for South West Surrey (Mr Hunt), asking Ofcom to review the practicability of the provisions in, I think, 2011. Ofcom noted that none of the blocking techniques

> "is 100% effective; each carries different costs and has a different impact on network performance and the risk of over-blocking…All techniques can be circumvented to some degree by users and site owners who are willing to make the additional effort…The location of infringing sites can be changed relatively easily in response to site blocking measures, therefore site blocking can only make a contribution if the process is predictable, low cost and fast to implement…To be successful, any process also needs to acknowledge and seek to address concerns from citizens and legitimate users, for example that site blocking could ultimately have an adverse impact on privacy and freedom of expression."

Those were the concerns raised by Ofcom, which also acknowledged that

> "site blocking could contribute to an overall reduction in online copyright infringement",

but Ofcom concluded that sections 17 and 18 of the 2010 Act would not be effective in generating lists of sites to be blocked. Effectively, Ofcom said that they were not the full solution.

In August 2011, the Business Secretary said:

> "There are test cases being fought in the courts, so we're looking at other ways of achieving the same objective, the blocking objective to protect intellectual property in those cases, but in a way that's legally sound."

That is where I find what I hesitate to call a disagreement between what the Business Secretary said and what the Parliamentary Secretary said in his introductory comments, where he seemed to imply that the Government were not searching for better ways to achieve the objective of sections 17 and 18 but believed that it had been achieved through existing legislation enabling blocking injunctions.

What is the legally sound, effective way of protecting intellectual property that the Government have found? The House of Lords Communications Committee was invited by the Joint Committee that scrutinised the draft Bill to comment on clause 27. It noted what it described as the Government's undertaking in 2011 to do

> "more work on what measures can be pursued to tackle online copyright infringement…Whilst we make no comment on the merits of sections 17 and 18 of the Digital Economy Act 2010, we are not aware of any further work which the Government has done to identify other measures which could be pursued to tackle online copyright infringement. It seems to us that there might be merit in the Joint Committee on the draft bill firstly ascertaining what further research the Government has carried out on this issue and second exploring with witnesses the merits or otherwise."

At the heart of this is the question whether the Government have done any further work. Are they intending to do any further work? Those questions arise because we have no view of an overarching approach from the Government for securing the future of our digital economy, specifically by tackling online copyright infringement.

I beg your indulgence, Mr Chope. I want to remind the Committee of the other areas in the Government's approach to the digital economy that are under criticism. The National Audit Office's report published last July revealed that the delivery of the Broadband UK programme will be 22 months later than planned. The project has been criticised for not promoting any market competition; BT was the winner of all 44 contracts put out to tender.

In the absence of a vision for the future of the digital economy, and having abolished our commitment to universal broadband coverage, broadband coverage is being rolled out more slowly than even the Government intended. That increases the uncertainty suffered by the industry. In that context, repealing sections 17 and 18 might have detrimental consequences in terms of both perception and reality for the digital economy.

Before coming to this debate and hearing the Minister's remarks, I had believed that the Government were promoting a voluntary code to address blocking—or at least that a voluntary code was under discussion. The Minister made no reference to that. There have not even been so much as smoke signals from the Government to set out where we are with the voluntary code or what it contains. Perhaps the Minister's silence points to the fact that those discussions have failed, or that the Government are no longer engaging with the matter.

Given the disarray in the Government's approach to the digital economy, and the ad hoc series of measures that are put forward and then suggested for repeal, we would find it difficult—indeed impossible—to support the repeal of sections 17 and 18. The contrast between the Labour Government, seeking out the future, looking forward and acting in advance of the technology to secure and protect jobs in the valuable digital economy, and this Government, waving the banner of deregulation to hide their inability to act, could not be greater.

Tom Brake: There are quite a few points to respond to. The first is the hon. Lady's complaint about the brevity of my opening remarks. I would prefer to see that as being about relevance to the debate before us.

I know that you, Mr Chope, would not have allowed the hon. Lady to stray from clause 27, but she seemed to have succumbed to talking a little more widely about her party's vision. I would like to touch briefly on that subject.

The hon. Lady also complained that the Bill was a hotch-potch. I suppose that, almost by definition, when the Government go and identify areas of redundant regulation, it is not necessarily going to be placed in one specific Department; clearly, the exercise would be cross-departmental. I am afraid that she will have to get used to that.

Kelvin Hopkins: I think my hon. Friend the Member for Newcastle upon Tyne Central was quite right to describe the Bill as a hotch-potch. It is a question not just of the variety of measures in the Bill, but of their quality, which is rather poor.

Tom Brake: I am sorry that the hon. Gentleman thinks that. If he thinks that reducing burdens on businesses by £300 million over 10 years and on the public sector by £30 million over 10 years is not worth the Government doing, that simply reflects the rather profligate attitude that his Government had to spending taxpayers' money and on impositions on business.

3.15 pm

Chi Onwurah: I know that the Minister is well aware that the process of identifying legislation and regulation that is out of date or obsolete is of course varied, which is why the Law Commission does that as part of its remit, and when it brings regulations to Parliament to be removed and repealed, it does so successfully without the need for so much debate, because that is its role and its expertise. It is the fact that the Government have resorted to spending so much time on identifying items that could have been identified by the Law Commission that has created such a hotch-potch.

Tom Brake: I thank the hon. Lady for that intervention. Obviously, I am aware of what the Law Commission does in relation to legislation, but she might want to reflect on how long it might have taken it to address the issues that we have identified. The commission has a very detailed programme of activity, which we welcome, but I suspect that it might have taken it a number of years to pick up all the items that we have identified in the Bill.

The hon. Lady accused the Government of lacking a digital vision. No doubt she had in mind the sort of vision that the previous Government had, which, if we focus specifically on IT, was a vision that gave us NHS projects on which the Government spent, depending on the newspaper reports, £10 billion, £11 billion or £12 billion, which then had to be abandoned because they did not work. If that is her vision, I would certainly not like this Government to adopt it. I am afraid that although her party's Government may have shown vision, they certainly lacked on the delivery front. They were apparently "seeking out the future" when they were in government in relation to the digital economy. I do not know whether they found the future when they were looking for it, but she might want to update the Committee now on what that future looks like.

Chi Onwurah: I am talking about the Communications Act 2003, which was passed under the previous Government. It looked 10 years into the future and predicted the trend of convergence, and it created the regulator Ofcom, which is one of the most admired in the world precisely because it has converged powers to regulate such a rapidly changing industry. That is what I meant by seeking out the future. We can contrast that with the current Government, who cannot even produce a White Paper that looks more than a year ahead.

Tom Brake: All I can say is that it is a pity that when the Labour Government were seeking out the future, they did not identify, for instance, that boom and bust had not in fact been abolished. I will not continue along this line of argument, because I am sure that you will bring me to order, Mr Chope.

Kelvin Hopkins: I was on the pre-legislative scrutiny Committee, and it became clear to me that the Law Commission does an excellent job of getting rid of redundant legislation that is sometimes decades, possibly even hundreds of years old, about which there is no controversy. Its Bills, which are typically introduced every couple of years, generally pass through the House without opposition. The Government are now trying to pretend that some of their proposals are uncontroversial, like those dealt with by the Law Commission. They are not; they are things that should be debated and legislated upon, and indeed opposed by us if we feel inclined to do so.

Tom Brake: I thank the hon. Gentleman for those comments. As I understand it, the Bill is a deregulation Bill, and only schedule 17 contains any Law Commission-type work. We are quite rightly using the Bill to deregulate in a way that will be of benefit to business, local authorities and others, and I welcome that fact.

[Tom Brake]

The hon. Member for Newcastle upon Tyne Central rightly talked about the benefits of the creative industries, which the Government support. We welcome the jobs that are created in those industries and the fact that, as we have seen with the film "Gravity", they are world leaders. We want that to continue. She also mentioned the software industry. Having done her studies at Imperial, she went on to join, to some extent, the technology world. Our paths are parallel, as I did so as well. I welcome the role that the software industry, in which I was involved before being elected, plays in providing jobs and being a world leader.

The hon. Lady made a number of specific comments to which I would like to respond by clarifying some of the things that the Government are doing. She referred to the fact that the Government are seeking a voluntary arrangement with industry to supplement what is already happening in legislation. That is certainly the case, because that situation would be more responsive to the technological challenges to which she referred. She will be aware that any process that requires the Government to update legislation to keep up to date with technological changes is challenging. Anything that the industry can do on a voluntary basis is therefore welcome, such as a voluntary copyright alert programme. That is likely to be able to act more quickly than any alternative approach.

The hon. Lady suggested that what I referred to in my opening remarks was the only thing the Government had in mind in order to address copyright infringement and IP issues. That is clearly not the case. As she would expect, the Government are pursuing criminals, educating consumers and encouraging new business models. We work closely with industry, as is appropriate for the Government to do.

Contrary to what the hon. Lady says, we think that section 97A of the 1988 Act is working well. We have financed a follow-the-money approach via the City of London, in which we have invested £2.5 million. She referred to 26 sites having been blocked, but my figures suggest that 40 sites have been blocked through that approach. I am sure that would be welcomed by the businesses whose copyright was being infringed.

The hon. Lady also suggested that the Government's action would remove protections from all manner of companies with regards to IP. It will not. The legislation is not in force, and there would not have been any additional value to it due to the slow court processes that would have been needed for injunctions to be granted. That is why we—and, I think, industry as a whole—are confident that section 97A is the right approach.

Chi Onwurah: Is the Minister planning to say a little bit more about the voluntary copyright alert or code of conduct that is being worked on? Otherwise, we will be left with the conclusion that, although the Minister said that the implication was wrong, the Government is relying entirely on section 97A, at least in terms of legislation.

Tom Brake: Clearly, we are not relying only on section 97A to take action. We want the voluntary copyright alert programme to be introduced and to be successful. As I stated earlier, we believe that it will be quicker, more flexible and cheaper than anything introduced by the DEA. As the hon. Lady must and did acknowledge, the technology moves at such a pace that a voluntary arrangement, by which those who are most affected by infringement can respond almost instantly, is likely to deliver an effective, immediate response. It is difficult for legislation to respond with that degree of speed.

Finally, the hon. Lady accused the Government of not having a vision, as I briefly referred to earlier. The Government strategy paper, "Connectivity, Content and Consumers", was published in the summer and is being taken forward by the Government. It will provide the sort of vision that this country needs to ensure that the digital economy continues to grow and that businesses specialising in that area make a significant contribution to UK plc.

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

The Committee divided: Ayes 11, Noes 8.

Division No. 10]

AYES

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

NOES

Cryer, John	Perkins, Toby
Docherty, Thomas	Shannon, Jim
Hopkins, Kelvin	Turner, Karl
Onwurah, Chi	Williamson, Chris

Question accordingly agreed to.

Clause 27 ordered to stand part of the Bill.

Clause 28

REDUCTION OF DUTIES RELATING TO ENERGY AND CLIMATE CHANGE

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

The Solicitor-General: The purpose of this clause is to remove legislation that has been superseded elsewhere. The effect is to tidy up the statute book with regard to duties relating to energy and climate change.

Question put and agreed to.

Clause 28 accordingly ordered to stand part of the Bill.

Clause 29

HOUSEHOLD WASTE: DE-CRIMINALISATION

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

Tom Brake: Under section 46 of the Environmental Protection Act 1990, a local authority can require by notice that householders present their waste for collection in a specified way. Householders who fail to do so can at present face a criminal conviction and a fine of up to

£1,000. It is wrong to treat someone like a criminal for making such a mistake, and the sanctions are clearly disproportionate. The purpose of clause 29 is to introduce a fairer system of penalties in England by amending section 46 of the 1990 Act. The changes provide that waste collection authorities can impose a fixed penalty if someone fails to present their household waste in the required manner. If that failure could cause a nuisance or be detrimental to the locality, such as leaving bin bags out for days on end, the intention is for fixed penalties to be between £60 and £80. Criminal sanctions will no longer be available.

Our proposals do not impose significant new burdens on local authorities. Many authorities already work with residents and educate them if they are having such problems. The clause provides clarity on the process local authorities will need to follow when pursuing civil sanctions. It also amends the law to recognise the difference between someone who makes a genuine mistake that his little impact and someone whose behaviour damages their local neighbourhood. I know that some local authorities have concerns about removing the criminal sanction. We believe that people should be supported in their efforts to do the right thing, rather than have the weight of criminal law turned on them. We are looking for local authorities to promote recycling through effective communication and through making it easier for householders to know which plastics can go in the recycling bin.

I am also aware that some local authorities would like guidance on how the harm to local amenity test should be applied. We intend to work with local government to produce advice to help local authorities implement the test competently and consistently. The harm to local amenity test will cover putting waste out in a way that causes obstruction to neighbours, impedes access, attracts vermin or is an eyesore. Introducing the test makes it clear that those are the behaviours we want to address, not because we want to penalise people who have made a minor error but because we want to defend the quality of residents' local environments. I commend the clause to the Committee.

Thomas Docherty (Dunfermline and West Fife) (Lab): I will be brief, because I note that the hon. Member for North West Leicestershire was taking copious notes when the Minister was explaining the case for decriminalisation, which is a subject to which we will return when we consider the new clauses.

The Minister is keen to decriminalise the matter, and we understand the purpose behind that, but will he confirm whether the Government have considered the case studies on parking, which has been decriminalised? Many of us are familiar with the huge amount of correspondence about cases where private parking companies are bringing outrageous claims against individual law-abiding citizens. Perhaps the Minister could briefly set out what impact assessment has been made in the light of that issue.

3.30 pm

Chris Williamson: Here we go again, with very little evidence, if any, for a legislative proposition from the Government. I will be interested if the Minister, when he winds up, can give us evidence that these powers are being abused. I have spoken to the Local Government Association prior to the sitting today—I do not know whether the Minister has taken the trouble to consult local government himself. He talks about wanting local authorities to promote recycling, but as we know—anybody who is familiar with local government knows, anyway—councils are on the front line of encouraging recycling, raising awareness, providing information to residents and increasing recycling as a consequence. Local authorities around the country, of whichever political persuasion, have been pretty effective at increasing recycling. There are, as we know, a limited number of households that persistently fail to separate out their waste and cause a nuisance.

If the Government are serious about promoting recycling and ensuring that we get recycling levels up, I wonder why they feel it necessary to embark on this legislative change when there is no evidence that local authorities are abusing the powers that are currently vested in them. I thought that the Government were in favour of localism, giving local authorities their head and allowing them to determine the priorities on the ground. I thought that that was what they claimed the Localism Act 2011 was all about.

It seems to me, having spoken to the Local Government Association, that there are limited powers available to local authorities at the moment to issue fixed penalties for persistent misuse, and that they are used only as a last resort. Unlike the Government, who do not seem to have taken the trouble to find any evidence, I have established—through the Local Government Association—that there are, on average, two penalties issued per local authority per year. That hardly seems to me to be an abuse of those powers. It certainly does not seem to be justification for new legislation to remove them. It is another example of the Government using a sledgehammer to crack a local government nut.

If the Government want to support recycling, they ought to think again about whether the change is really necessary. Having spoken to colleagues in the local government world, I fear that it will reduce recycling and increase landfill. That will mean that pollution will go up as well, because as we know, landfill is a significant source of methane gas in the atmosphere, and methane is a far more toxic emission than carbon in its effect on climate change. I will be interested to hear what evidence the Minister has identified. The Government seem to be taking an excessive route to dealing with a limited problem in taking away the limited powers that are available to local government, which are clearly not being used in an excessive way.

Kelvin Hopkins: I wish to touch briefly on the part of the clause that refers to section 4 of the Climate Change and Sustainable Energy Act 2006, about incentives for microgeneration systems. I have just this week installed photovoltaic solar panels on my roof, and now that I am helping, in a sense, to light this room with the little power station on my roof, I am worried that the Bill states that getting rid of incentives is not a problem because of the feed-in tariffs. The Government have been threatening to reduce feed-in tariffs—indeed, they have been reduced. My own local authority was going to put photovoltaic panels on all its remaining council houses, but then the feed-in tariff was substantially reduced.

Tom Brake: On a point of order, Mr Chope. I may be wrong, but I think the hon. Gentleman is referring to a different clause.

Kelvin Hopkins: That is possible. I thank the Minister, but my concern is to make sure that we continue to incentivise microgeneration in all its forms and do not reduce the legislation that promotes it. I know what has happened to my local authority, which has decided not to proceed with photovoltaics.

Tom Brake: Further to my earlier point of order, Mr Chope. The hon. Gentleman is still referring to a different clause.

The Chair: I think Mr Hopkins has finished.

Kelvin Hopkins: I have made my point, Mr Chope.

Tom Brake: The hon. Gentleman might want to return to his comments in a later debate.

To respond to some of the points that have been made, the hon. Member for Derby North challenged whether the Government were committed to localism. I do not know whether he was in his place earlier today—I believe that he was—when we debated, for instance, clauses 23 and 24. They are about giving local authorities a greater degree of control over local matters in relation to traffic, transport and so on. That is very much in keeping with the Government's commitment to localism.

The hon. Gentleman suggested that we were pursuing an excessive route by taking action to decriminalise the offence in question. However, he went on to refer to the fact that there were two penalties a year, so I am not sure how it can both be excessive and be relevant to the relatively small number of cases to which he referred.

Chris Williamson: If it is not being used in an excessive way, it is a reserve power that local government has at its disposal in the extreme cases for which it is needed. When the power is not being used on the general public in an overly burdensome way, I do not understand why the Minister feels it is necessary to take it away. Did he consult the Local Government Association before he moved down that road?

Tom Brake: I am happy to respond to that point. We consulted on the issue back in 2012, and some local authorities requested guidance, for instance, on the point about harm to local amenity. I accept that in response to the consultation, the respondents from local authorities were not particularly supportive of the proposals, in that they wanted to keep an underpinning criminal offence as an effective deterrent of last resort. However, we also noted the experience of several local authorities that found that a decriminalised approach worked well and others that said that the vast majority of breaches were solved by communicating with householders. The hon. Gentleman referred to that, and we would all welcome such education.

One authority has stopped sending out notices and started using informal interventions instead, without any apparent increase in contamination. I think that in another contribution there was a suggestion that such a move would lead to more contamination, but that has not been borne out by the experience of local authorities that have adopted a different approach.

Jim Shannon (Strangford) (DUP): First, I should state that the relevant legislation refers to England, Wales and Scotland. In Northern Ireland it is a devolved matter, and Northern Ireland has its own system of looking at it. In his discussions with councils here, has the Minister had any opportunity to discuss the matter with the Northern Ireland Assembly, which has responsibility for local government? If so, has the good practice in Northern Ireland been considered in drawing up the clause? I am not against the idea, by the way—absolutely not, because I think it is workable—but in Northern Ireland we already have it.

Tom Brake: I am afraid I do not know whether those discussions have taken place, but I will get back to the hon. Gentleman and confirm whether that is the case. I welcome the fact that he welcomes the proposal we are bringing forward.

I was going to address the points made by the hon. Member for Luton North, but I will leave that to my hon. and learned Friend to deal with shortly. This measure will not be used as a means to generate revenue. As I suggested, the value of the fixed penalty notices will be between £60 and £80, and could fall to £40, along the lines of the parking fine arrangements. We do not expect that local authorities would make money by going through the process needed to receive penalties at this level. We do not expect the amount of receipts to be significant once administrative costs incurred by local authorities are taken into account.

Questions were asked about whether people had been prosecuted. I will give the most recent figures. In 2012, 198 people were prosecuted in England for failure to comply with waste collection requirements, 152 of whom were found guilty and the average fine was £229.25. I can confirm for the hon. Member for Strangford that we have discussed the matter with Northern Ireland.

Chi Onwurah: The comparison between this measure and parking measures is unfortunate, as they are used to generate income and do present a burden on many drivers. As the decriminalisation of car parking offences led to the situation we are in, will the Minister reassure us that protections and measures are in place to ensure that this decriminalisation will not lead to the ability to generate income in that way?

Tom Brake: I can simply repeat what I said earlier. We do not expect the amount of receipts to be significant once the administrative costs incurred by local authorities are taken into account. As I understand it, I thought such penalties were supposed to be ploughed back into transport and not used as a means to generate income. Clearly, there are regular arguments in papers about whether targets are set to drive the number that are issued.

I think we have had a fairly comprehensive discussion—

Toby Perkins *rose*—

Tom Brake: But before I complete my remarks, I will give way once more.

Toby Perkins: It would be helpful if the Minister could tell us, on the basis of his study of the matter, whether he expects that the fines levied will be more than under the current regime when we review the figures in a year's time. If he does not expect them to be more, will that be a success or a disappointment?

Tom Brake: I am not going to try to second-guess the outcome of the policy, other than to say that the Government have identified the importance of not criminalising people simply as a result of making a mistake about their refuse. We welcome that. Government Members clearly do not have the benefit of seeing the future in the way that Opposition Members do; therefore, it is difficult for me to predict the outcome precisely.

Question put and agreed to.

Clause 29 accordingly ordered to stand part of the Bill.

Schedule 10 agreed to.

Clause 30

OTHER MEASURES RELATING TO ANIMALS, FOOD AND THE ENVIRONMENT

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

The Solicitor-General: It might be convenient if I propose clause 30 formally, as it introduces schedule 11, and then outline the details on stand part for the schedule.

Question put and agreed to.

Clause 30 accordingly ordered to stand part of the Bill.

Schedule 11

OTHER MEASURES RELATING TO ANIMALS, FOOD AND THE ENVIRONMENT

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

3.45 pm

The Solicitor-General: The schedule amends the Destructive Imported Animals Act 1932, as applied by the Grey Squirrels (Prohibition of Importation and Keeping) Order 1937. The order requires occupiers to report the presence of grey squirrels on their land to facilitate the eradication of that species. However, it is no longer considered feasible to eradicate grey squirrels, so the requirement to report their presence on one's land is no longer useful or observed.

The schedule will enable the Secretary of State or Welsh Ministers to make or amend an import or keeping prohibition in respect of destructive non-indigenous mammalian animals, without first needing to be satisfied that it is desirable to destroy all such animals. It will be enough for them to be satisfied that it is desirable to keep the possibility of their destruction under review. They will no longer have to fulfil the precondition that they are minded to eradicate every specimen of the species at large; it will be sufficient for the Secretary of State or Welsh Ministers to be satisfied that there will be an ongoing management review. The schedule also amends the Grey Squirrels (Prohibition of Importation and Keeping) Order 1937, so people will no longer be required to report sightings of grey squirrels on their land. It will remove the offence of their failing to do so.

Jim Shannon: I thank the Minister for this interesting clause. What discussions has he had with the shooting and sporting bodies, the National Trust and the National Farmers Union about the fact that red squirrel numbers are being disadvantaged by the increase in the number of grey squirrels? Will the change decrease red squirrel numbers by allowing grey squirrels to thrive?

The Solicitor-General: The organisations and landowners concerned are making excellent, co-ordinated efforts to protect red squirrels in the parts of the country in which they still exist. However, the use of this power is not thought necessary or helpful in that process. Nevertheless, if following the reform it was thought that making a destruction order would be useful in a particular part of the country, the Secretary of State will still have that power. However, at the moment nobody is suggesting that it would be helpful.

There have been a lot of discussions. There is no question but that this matter is important to the Department for Environment, Food and Rural Affairs. The red squirrel is an important native species and the grey squirrel is a powerful competitor. There was a working group on this important issue in 2003, and there have been many other reports.

Chi Onwurah: I want the Minister to recognise the fact that red squirrels are still present in Northumberland—I understand that it is the only English county in which there are still red squirrels in significant numbers. What discussions has he had with stakeholders in Northumberland on the impact of the measure?

The Solicitor-General: There are still red squirrels in two parts of the country. The hon. Lady rightly says that Northumberland is one of them, and I believe that there are still red squirrels in the Lake district—

David Rutley (Macclesfield) (Con): And in Lancashire.

The Solicitor-General: And in Lancashire, I hear, but basically they are in the north of England and Scotland.

There have been a lot of discussions. There is a policy on grey squirrels, entitled "Grey Squirrels and England's Woodlands: Policy and Action", which sets out the Forestry Commission's approach. It was supported by DEFRA and was heavily consulted upon. The Secretary of State recently asked the Forestry Commission to review the grey squirrel control strategy. It has looked at methods to control the greys in woodlands: the grant scheme, the red squirrel conservation approach, the governance and co-ordination measures, research looking at particular parts of the country and particular illnesses, and the EU regulation on invasive alien species. That work is part of a strategy that is continually updated.

Kelvin Hopkins: Some time ago, a well-spoken lady who was a constituent of mine telephoned to ask my office whether Mr Hopkins could get rid of the squirrels from her garden. Will the changes have any bearing on MPs' ability to get rid of squirrels from constituents' gardens?

The Solicitor-General: It has to be said that, as the hon. Gentleman probably knows, my constituency is a hotbed of black squirrels, and we are keen that they should get a fair go as well. *[Interruption.]* Black squirrels, yes—there are such things around Letchworth and over the border in Bedfordshire, and they are widely supported and much loved in my constituency.

In addition to the Forestry Commission's efforts, the English woodland grant scheme for grey squirrel control is an important part of the picture. There are buffer zones surrounding the red squirrel reserves, including, apparently, on the Isle of Wight, and there is an important, if small, budget for that purpose. I believe that there is popular support for the proposal on grey squirrels, and I hope that there are no fears to be assuaged.

Part 2 of the schedule, on the Farriers Registration Council, is really just about bringing matters up to date. Five named organisations appoint the lay members of the council, two of which have had changes. The Jockey Club has passed its responsibilities to the British Horseracing Authority, which should therefore be the appointing body, and the Council for Small Industries in Rural Areas is no longer with us and therefore cannot appoint. The changes in the schedule recognise that reality.

Joint waste authorities were provided for but have never been used by local authorities, which have found other ways of co-operating, so the schedule abolishes the power to establish them.

The schedule also removes the provision for what is known as a further assessment in relation to an air quality management area, because such assessments slow up the process of actually doing something about air quality.

Finally, only two noise abatement zones are actively managed, and it is thought that they are no longer necessary given the wide powers that are now available to local authorities to tackle noise, so it is proposed that they should be repealed.

Thomas Docherty: I will be suitably brief. I was slightly surprised that part 1 of the schedule did not mention the muskrat, which of course was the original reason for the 1932 Act. The grey squirrel was added later, I believe in 1937. I am slightly disappointed that we have not had an opportunity for a full and thorough debate on the merits of the muskrat in England, but I hope there will be such an opportunity in due course.

On part 2 of the schedule, I am slightly disappointed that it has taken 26 years, by my reckoning, for the civil service to catch up with the fact that the Council for Small Industries in Rural Areas has been abolished. I guess that Margaret Thatcher was still Prime Minister when the council was abolished—has the civil service moved with its customary speed in taking 26 years to bring forward the provision?

Parts 4 and 5 of the schedule are reasonable tidying-up measures. As I think the Committee knows, my hon. Friend the Member for Brent North (Barry Gardiner) is leading an excellent campaign on improving air quality, which is a problem for too many people in urban constituencies. The Opposition will therefore support anything that speeds up the process of managing it, so we do not oppose those measures.

The Solicitor-General: Would the hon. Gentleman not say that muskrats have been eradicated?

Thomas Docherty: I did not say that they had not been eradicated; I was simply surprised that no comment had been made on the history of the muskrat. I think the hon. and learned Gentleman misspoke when he says that it has been eradicated. It has perhaps been eradicated in England, but it is certainly alive and well in other parts of the world. The world does not begin and end in England. The muskrat is still going in some of our former colonies. My point was that we did not have a debate on the muskrat when we really should have done.

Chris Williamson: I rise to make a brief speech. I find myself in the rather curious position of agreeing with the Solicitor-General, which must be a first in this Committee—and probably the last. I suppose that the law of averages dictates that the Solicitor-General will occasionally get it right, and, on this occasion, he possibly has.

I want to respond to the comments of the hon. Member for Strangford, who implied that the decline of the red squirrel was in some way related to the introduction of the grey squirrels back in the Victorian era. There is no evidence whatsoever to suggest that the grey squirrel is responsible.

Andrew Bridgen *rose—*

Jim Shannon *rose—*

Chris Williamson: I will give way in a moment.

The red squirrel population was already in decline, which had more to do with loss of habitat, disease and modern farming practices, rather than the grey squirrel.

Jim Shannon: We will have to disagree here. There is a great deal of evidence to indicate that grey squirrels have had a direct impact on red squirrels. They carry a pox that red squirrels can catch and succumb to, so their numbers have decreased as a result. Grey squirrels are aggressive and tend to want everything for themselves—much like some people in this room. Whether the hon. Gentleman likes it or not, those are the facts.

Chris Williamson: I accept the point about the pox carried by the grey squirrel, but I reject the suggestion that grey squirrels, because they are somewhat more aggressive, attack the red squirrel. There is no evidence for that whatsoever. If the hon. Gentleman cares to look at the evidence, he will find that what I am saying is correct.

Before I give way to the hon. Member for North West Leicestershire, it is worth saying that it is also correct that an eradication programme to kill the grey squirrel population simply would not work. We know from other efforts that population numbers of wild animals is determined by other factors, such as the availability of food and habitat, pollution and intensive farming methods, which can have much more serious implications.

Although I agree with the Solicitor-General on this point, I do not know whether he is developing a compassionate streak. I look forward to his support if Conservative Members attempt to vote on the Hunting Act 2005 and to his joining us in the Lobby to protect the Act from any appeal or amendment.

Andrew Bridgen: My degree is in biological sciences and I support the intervention of the hon. Member for Strangford, which was completely correct. The grey squirrel is an alien species and has had a severe impact on the ecology of natural England and our indigenous species. I am surprised that the hon. Member for Derby North does not support British trees for British squirrels.

Chris Williamson: Of course I support British trees for British squirrels, but I do not think that the hon. Gentleman was suggesting that the grey squirrel was responsible for the decline of the red squirrel, so I think we agree on that point. We also in agreement that the introduction of the grey squirrel has had an impact on the ecology of the United Kingdom, but the cat—or the squirrel in this case—is out of the bag. The grey squirrel is part of the British countryside—and, indeed, the urban scene. Efforts to control it by shooting, trapping or whatever else are doomed to fail. The Solicitor-General has acknowledged that.

4 pm

Thomas Docherty: The Solicitor-General's point about the muskrat in Great Britain shows that an animal can be eradicated by shooting, so I do not think my hon. Friend and I agree on this point.

Chris Williamson: We will have to agree to disagree. There have been efforts to eradicate species over the years, and the evidence tends to support my proposition that the decline of animal species is, by and large, down to the availability of habitat and food. We have seen efforts to persecute foxes in this country over the years and, far from having any impact on numbers, the population has remained static and, in some circumstances, increased. We can debate these points until the cows come home. I simply wanted to say that I am delighted that, at long last, the Solicitor-General and I are in agreement on at least one point, and I look forward to other circumstances where we may be in agreement, although I doubt there will be many of them.

The Solicitor-General: We have had a lively debate again. Research work is happening on the squirrel pox virus at the Moredun research institute. Although it is thought to be some distance away, it is working on a vaccine that might be of use on the virus. It is perhaps also worth mentioning, although I hope it will not put anyone off, that the red squirrel is listed on appendix III of the Bern convention, which means that it has an element of European protection. The populations on Anglesey, Isle of Wight and the Poole harbour islands are subject to local action plans. The populations in northern England are under threat by the advancing grey squirrel. I apologise to the hon. Member for Derby North for that.

It is worth mentioning, however, that Red Squirrels Northern England is a partnership project between the Red Squirrel Survival Trust, Natural England, the Forestry Commission and the Wildlife Trusts. It is focused on seven red squirrel strongholds in the north and has Government funding and is doing a good job. A project manager has been employed by the Red Squirrel Survival Trust to strengthen efforts and there is the Forestry Commission's English woodlands grant scheme, so we are doing our bit for the red squirrel.

Jim Shannon: If the Solicitor-General had the information in front of him, it would indicate that red squirrel numbers are increasing where direct action is being taken by a number of organisations. Their methods include the shooting, trapping and eradication of the grey squirrel.

The Solicitor-General: The hon. Gentleman makes his point in his own way. I mentioned a whole range of different actions that are being taken. It is certainly true that some of those actions were ones that he mentions, but they were not the only ones.

Thomas Docherty: The Solicitor-General got so excited about the various merits of shooting at other forms that he did not answer my question about part 2 of the schedule. It has taken 26 years for the civil service to catch up with the law change. Is it an example of the civil service showing great speed, or is it an example of where the civil service could go a bit faster in the future?

The Solicitor-General: I am a bit shocked that the hon. Gentleman is attacking the civil service. They work extremely well for the coalition and, no doubt, they did their best during the 13 years of the previous Government. The change was not made in that period and here we are, a few years into the coalition, and already we have legislation to make the change he so desperately wants.

Thomas Docherty: I am sorry, but by my maths—unfortunately, my education was under Mrs Thatcher, so it was not as good as it might have been—there have been more years under a Conservative Government since 1988 than there have been under a Labour Government. Given that the Solicitor-General does not have the answers at his fingertips for a change, we see no point in dragging this out any longer.

The Solicitor-General: I would just make the point that if Mrs Thatcher had ever known about this matter, no feet would have touched the ground before it had been amended.

Question put and agreed to.

Schedule 11 accordingly agreed to.

Gavin Barwell (Croydon Central) (Con): That was a debate on squirrels that I will never forget—I was not entirely sure whether the red squirrel was a metaphor for socialism.

Ordered, That further consideration be now adjourned. *—(Gavin Barwell.)*

4.5 pm

Adjourned till Thursday 13 March at half-past Eleven o'clock.