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HOUSE OF COMMONS
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GENERAL COMMITTEES

Public Bill Committee

JUDICIAL REVIEW AND COURTS BILL

Tenth Sitting

Thursday 18 November 2021

(Afternoon)

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Monday 22 November 2021

The Committee consisted of the following Members:

Chairs: Sir Mark Hendrick, † Andrew Rosindell

† Barker, Paula *(Liverpool, Wavertree)* (Lab)
† Cartlidge, James *(Parliamentary Under-Secretary of State for Justice)*
Crawley, Angela *(Lanark and Hamilton East)* (SNP)
† Cunningham, Alex *(Stockton North)* (Lab)
† Daby, Janet *(Lewisham East)* (Lab)
Fletcher, Nick *(Don Valley)* (Con)
† Hayes, Sir John *(South Holland and The Deepings)* (Con)
† Higginbotham, Antony *(Burnley)* (Con)
† Hunt, Tom *(Ipswich)* (Con)
† Johnson, Dr Caroline *(Sleaford and North Hykeham)* (Con)
Longhi, Marco *(Dudley North)* (Con)
McLaughlin, Anne *(Glasgow North East)* (SNP)
† Mann, Scott *(Lord Commissioner of Her Majesty's Treasury)*
† Marson, Julie *(Hertford and Stortford)* (Con)
† Moore, Damien *(Southport)* (Con)
† Slaughter, Andy *(Hammersmith)* (Lab)
† Twist, Liz *(Blaydon)* (Lab)

Huw Yardley, Seb Newman, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 18 November 2021

(Afternoon)

[Andrew Rosindell *in the Chair*]

Judicial Review and Courts Bill

Clause 38

Power to conduct non-contentious inquests in writing

Amendment moved (this day): 73, in clause38, page 50, line 18, after "hearing" insert—

"(e) the coroner has considered the views of any of the interested persons named at section 47(2)(a) or (b) of this Act who are known to the coroner,

"(f) all of the interested persons named at section 47(2)(a) or (b) of this Act who are known to the coroner consent to a hearing in writing.".—*(Andy Slaughter.)*

This amendment will ensure that inquests are not held without a hearing if that is against the wishes of the deceased's family.

2 pm

The Chair: I remind the Committee that with this we are discussing the following:

New clause 10—*Publicly funded legal representation for bereaved people at inquests—*

"(1) Section 10 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 is amended as follows.

(2) In subsection (1), after "(4)" insert "or (7)."

(3) After subsection (6), insert—

"(7) This subsection is satisfied where—

(a) The services consist of advocacy at an inquest where the individual is an Interested Person pursuant to section 47(2)(a), (b), or (m) of the Coroners and Justice Act 2009 because of their relationship to the deceased; and

(b) One or more public authorities are Interested Persons in relation to the inquest pursuant to section 47(2) of the Coroners and Justice Act 2009 or are likely to be designated as such.

(8) For the purposes of this section "public authority" has the meaning given by section 6(3) of the Human Rights Act 1998."".

This new clause would ensure that bereaved people (such as family members) are entitled to publicly funded legal representation in inquests where public bodies (such as the police or a hospital trust) are legally represented.

New clause 11—*Removal of the means test for legal help prior to inquest hearing—*

"(1) Schedule 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 is amended as follows.

(2) In paragraph 41, after sub-paragraph (3), insert—

"(4) For the purposes of this paragraph, the "Financial resources" provisions at section 21 (and in The Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013 do not apply."".

This new clause would remove the means test for legal aid applications for legal help for bereaved people at inquests.

New clause 12—*Eligibility for bereaved people to access legal aid under existing provisions—*

"(1) Section 10 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 is amended as follows.

(2) In subsection (4)(a), after "family", insert—

"or where the individual is an Interested Person pursuant to section 47(2)(m) of the Coroners and Justice Act 2009 because of their relationship with the deceased."

(3) In subsection (6), after paragraph (c), insert—

"(d) or they fall within any of the groups named at section 47 (2)(a), (b) or (m) of the Coroners and Justice Act 2009."

(4) Schedule 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 is amended as follows.

(5) In paragraph 41, after sub-paragraph (3)(c), insert—

"(d) or they fall within any of the groups named at section 47 (2)(a), (b) or (m) of the Coroners and Justice Act 2009."".

This new clause would bring the Legal, Aid, Sentencing and Punishment of Offenders Act 2012 into line with the definition of family used in the Coroners and Justice Act 2009.

Andy Slaughter (Hammersmith) (Lab): It is a pleasure to serve under your chairmanship, Mr Rosindell. I am sure you have been told that, before the short adjournment, I had made my remarks on amendment 73 and new clause 10. I will deal with new clauses 11 and 12 briefly because I dealt with most of the points on new clause 11 in my opening remarks on the group.

New clause 11 asks for the removal of the means test for legal help prior to an inquest hearing. It is complementary to new clause 10, which deals with representation. As I indicated, the Government have given certain assurances on legal help and on representation for bereaved families at inquests. We are keen to hear more details on that. However, what we have heard so far does not go far enough, or in this case, fast enough. Legal help is important, because as soon as a death occurs, complex legal processes are triggered involving multiple interested persons and agencies. Families often need expert advice on areas such as access to and release of the body, post-mortems, communication with investigation teams, securing of evidence, inquest scope, witnesses, article 2 inquests, criminal investigations and so on. As previously highlighted, legal help can significantly impact the scope and quality of an inquest. It is imperative that families secure specialist legal advice at the earliest possible stage. Until the Government remove the means test for legal help, that will not be possible for a significant number of families. I therefore propose new clause 11, which would remove the means test in legal aid applications for legal help for bereaved people at inquests, as the Government have committed to doing for advocacy services.

New clause 12 would bring the definition of family in the Legal Aid, Sentencing and Punishment of Offenders Act 2012 in line with the definition used in the Coroners and Justice Act 2009. Article 10(4) of LASPO refers to services offered only to members of the deceased's family. The amendment would bring that definition of family in line with that used in the 2009 Act, ensuring that the eligibility for those services includes an "Interested Person", which as per that definition can be a spouse, child or sibling, but can also be a child of a sibling, a partner, civil partner, grandparent, step-parent or half-sibling. Crucially, that definition also covers a personal representative of the deceased and others acting in an official capacity on behalf of the deceased. That will apply where there is a personal representative who may not be directly related. This change has the common-sense advantage of making the legal aid eligibility under LASPO consistent with the 2009 Act.

An example of why that is important comes in the case of an ex-prisoner who had no or very little contact with her family owing to her time in prison and other

factors. The only person who could represent her interests was someone she had become close to in her community, and whom she had named in a letter to her probation officer as next of kin. The coroner and all the interested parties treated this person as next of kin, but despite that, the Legal Aid Agency maintained that funding could not be provided because the person was not family under the definition set out in LASPO. I therefore propose new clause 12, which would bring the definition of family in LASPO in line with the definition used in the 2009 Act.

The Parliamentary Under-Secretary of State for Justice (James Cartlidge): It is a pleasure to serve under your chairmanship, Mr Rosindell. Amendment 73 proposes to set out in primary legislation the requirement for a coroner to seek consent from interested persons before deciding on whether to hold an inquest without a hearing. The intention of clause 38 is to allow coroners flexibility to hold cases without a hearing where they determine there is no requirement to hold one. The clause is focused on non-contentious cases, and while it will be for the coroner to determine what constitutes a non-contentious case, we expect that these will be cases in which the bereaved family is content not to attend a hearing.

I understand that the vast majority of the 30,000 inquests heard each year are held with only the coroner and their officer in the courtroom, speaking into a recording device. In these cases, it is simply unnecessary to hold hearings and to prolong the process for bereaved families. Safeguards for clause 38 are already set out clearly in subsection (2), which states that the coroner has to have

"invited representations from each interested person known to the coroner",

and cannot decide that a hearing is unnecessary if an interested person

"has represented on reasonable grounds that a hearing should take place".

Coroners also cannot proceed without a hearing unless they think the public interest would not be served by having one. As I said on previous clauses, coroners are independent judicial office holders. How they conduct their investigations and inquests is a matter for them. Introducing the concept of consent into the coroner's decision-making process is tantamount to fettering a coroner's discretion. Notably, amendment 73 does not address the entirely possible eventuality that consent may be unreasonably withheld.

I turn to the motions relating to legal aid. As hon. Members know, I am sympathetic to the difficulties facing all bereaved families. The Government believe that affected families should be at the heart of any inquest process. The coroner's investigation, including the inquest, is generally an inquisitorial, fact-finding process; a narrow-scope inquiry to determine who the deceased was and how, when and where they died. This means that, for the vast majority of inquests, legal representation and legal aid are not necessary. New clause 10, which would expand access to legal aid at inquests, would run counter to that approach. There is a risk that additional lawyers at an inquest will not provide an overall improvement for the bereaved and could have the unintended consequence of turning an inquisitorial event into a complex defensive case, which could prolong the distress of a bereaved family.

The hon. Member for Hammersmith made some perfectly reasonable points. He referred to the oral evidence that we heard from André Rebello. I remind Members that André Rebello is a senior coroner operating in the north-west of England and the honorary secretary of the Coroners' Society of England and Wales. As he said:

"A coroner's jurisdiction is inquisitorial. It is an inquiry; it is not litigation."

He also said:

"Where there is representation…where the properly interested persons are identified, they have rights with regard to disclosure of advance information, but thereafter their duty is to assist the court in finding the true facts as to who the deceased was, when and where they died, and by what means and in what circumstances they came by death in certain cases. That is all done without determining criminal liability by a named person or any question of civil liability. This is an inquest, not litigation."—[*Official Report, Judicial Review and Courts Public Bill Committee,* 2 November 2021; c. 35-36, Q36-38.]

It is worth pointing out that witnesses are examined, not cross-examined, for precisely that reason.

The Government recognise that this is a difficult time for bereaved families and have been working on several measures to make inquests more sympathetic to the needs of bereaved people. We have engaged with the Chief Coroner on training for coroners and officers; published new guidance on coroners' services for bereaved people; developed a protocol that, among other matters, ensures that where the state is represented it will consider the number of lawyers instructed so as to support an inquisitorial approach; and building on that protocol, supported the legal services regulators—the Bar Standards Board and the Solicitors Regulation Authority—in their work to develop inquest-specific information to guide lawyers who represent at inquests. The regulators published a toolkit and competences for practitioners on 13 September.

For bereaved families who need legal help, advice and assistance is always available under the legal aid scheme, subject to a means and merits test. This can help preparation for an inquest, including help for families to decide what questions to ask. For legal representation at an inquest, legal aid may be available under the exceptional case funding scheme where certain criteria are met. Where these criteria are met, the Government are of the view that the process should be as straightforward as possible. With that in mind, we have already committed to removing the means test for exceptional case funding applications for representation at inquests and for legal help at an inquest where representation is granted. I said in Westminster Hall, and will say again in answer to the hon. Gentleman's question, that we are in the process of drafting the clauses for a statutory instrument, which I believe will be legislated for early in the new year. I am afraid that I cannot give more detail than that, but it does mean that we will be bringing this measure forward relatively imminently.

Andy Slaughter: I am grateful for that, and I will not press the Minister further on timing beyond "the new year", although we know that that could last up until December. However, is he saying that the measures on legal help will be dealt with at the same time and in the same way as those relating to exceptional case funding?

James Cartlidge: I was just about to come on to the issue of legal help, because the hon. Gentleman asked about that earlier. Legal help and advice in relation to

[James Cartlidge]

inquests is already in scope of legal aid, and the Legal Aid Agency has the discretion to waive the eligibility limits if it considers it equitable to do so. However, the legal aid means test review is considering the legal aid means test as a whole, including in relation to legal help for inquests. That review will be published shortly.

New clause 11 would remove the means test for legal aid applications for legal help for bereaved people at inquests. As I said, we have recently announced our intention to amend regulations to remove the means test for applicants for exceptional case funding for legal representation at inquests. That change will also provide non-means-tested legal help in relation to an inquest for which ECF has been granted for legal representation. As was said in relation to legal help specifically, we are also carrying out a review of the legal aid means test as a whole, and that review will be published shortly.

New clause 12 would amend the definition of "family" for the purpose of applications for legal aid at inquests. As I said in response to new clause 10, the Government recognise that this is a difficult time for bereaved families, and have already made a number of changes to make inquests more sympathetic to the needs of bereaved people. However, that does not mean that legal aid is required in all cases. The coroner's investigation is generally an inquisitorial and fact-finding process. This means that for the vast majority of inquests, legal aid is not necessary. For bereaved families who do need legal help, advice and assistance is already available under the legal aid scheme, which is of course subject to a means and merits test.

Again, as I have already said, for legal representation at an inquest, legal aid may be available under the exceptional case funding scheme where certain criteria are met, and the Government have already committed to removing the means test for those applications. Given the ongoing work that this Government are undertaking to support families at inquests, I urge the hon. Gentleman to withdraw his amendment.

Andy Slaughter: I hear what the Minister has said in relation to the amendment and the new clauses. Notwithstanding his comments on amendment 73, it is not our intention to press that amendment to a vote, or indeed to oppose the clause as a whole when we come on to clause stand part. I accept—although it is far from perfect—that there are some caveats built into the text of the clause, which are not built into clauses 37 and 39 in the same way.

As for the legal aid clauses and new clause 12, I hope the Minister will at least see that there is a logic and a consistency to adopting the same definitions as are in the Coroners and Justice Act 2009, and notwithstanding his comments, I hope that the Government might look at this issue again. I hear what he says about legal help: he has made essentially the same point that he made about new clause 10, which is that this is an inquisitorial process and additional lawyers could complicate the matter, so in that sense, the new clause is not necessary. I will not push new clause 11 to a vote—let us see what the Government come up with—but we will wish to vote on new clause 10.

Frankly, the arguments that the Government are repeating in a rather tired way have been completely debunked now. As the Minister has said, we did hear from Mr Rebello, who is a senior coroner, but there are many coroners who do not share Mr Rebello's view. As I indicated at some length this morning, this is the overwhelming opinion of not just practitioners but practitioner organisations, family organisations and all those who have done these reports for 20 years, and the Government are conceding that in part. This is an area on which the Government have moved, and I respect the fact that they have done so, but if they really believe in equality of arms in these matters, they have to put families at inquests on the same footing as those parties who are fully represented. It still will not be equality of arms. Frankly, in many cases, there will still be a number of different parties reinforcing each other. I have appeared in many inquests of that kind against a family, often a single family, and their lawyer.

2.15 pm

However, for all the reasons I have given—I will not repeat them—it is certainly the minimum position that families in these circumstances when they are up against the state—not just in article 2 cases but in others as well—should have the right to representation. We will lose the vote today, but I hope the Government think again on the matter and are finally persuaded to go a little further when they bring their proposals forward in the new year. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

The Chair: Just for clarification, votes on new clauses come at the end of the proceedings.

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

James Cartlidge: Each year, around 30,000 inquests are held in England and Wales. Indeed, 32,000 inquests were opened in 2020. A significant number of the cases are non-contentious and those most likely to attend, such as the bereaved family, are content not to attend. Despite that, the coroner still has to hold a hearing, often in an empty courtroom with just a recording device. The clause will enable the coroner to determine when an inquest can be held without a hearing, for example, where there is no practical need or public interest to do so. That would, in turn, free up physical space and resources for inquest cases that do require a hearing.

There will, of course, be cases that genuinely need a full public hearing, and coroners will still be expected to hold these as usual. There will also be cases where the family would like a hearing, and the coroners will be expected to judge each case on merit, working with families sensitively. The Chief Coroner will provide further guidance to coroners to ensure that there is consistency of approach across coroner areas. The clause will reduce the need for unnecessary procedures, bringing efficiency to the coroner's courts and supporting bereaved families by reducing the need for unnecessary inquest hearings, which add to their distress.

Question put and agreed to.

Clause 38 accordingly ordered to stand part of the Bill.

Clause 39

USE OF AUDIO OR VIDEO LINKS AT INQUESTS

Andy Slaughter: I beg to move amendment 74, in clause 39, page 51, line 10, at end insert—

"(2B) Coroner rules that provide for the conduct of hearings wholly or partly by way of electronic transmission of sounds or images must not allow the conduct of hearings wholly or partly by sound only."

The purpose of this amendment is to prevent an inquest from being conducted by telephone or other means which are audio only.

The Chair: With this it will be convenient to discuss the following:

Amendment 75, in clause 39, page 51, line 10, at end insert—

"(2C) Coroner rules that provide for the conduct of hearings wholly or partly by way of electronic transmission of sounds or images must provide for all interested persons to have to give their agreement to the conduct of hearings wholly or partly by way of electronic transmission of sounds or images."

The purpose of this amendment is to ensure the agreement of families is secured before an inquest is conducted remotely.

Amendment 76, in clause 39, page 51, line 10, at end insert—

"(2D) Coroners rules that provide for the conduct of hearings wholly or partly by way of electronic transmission of sounds or images must specify that, other than for any pre-inquest hearing, such a hearing, may only be held if—

(a) all interested persons known to the coroner named at section 47(2)(a) or (b) of this Act 2009 consent to such a hearing,

(b) the coroner is satisfied, and continues to be satisfied until the conclusion of any such hearing, that such a hearing is in the interests of justice, considering all the circumstances of the case,

(c) the coroner has considered the likely complexity of the inquest, and

(d) the coroner has considered the ability of interested persons known to the coroner to engage effectively with the hearing by way of electronic transmission of sounds or images."

This amendment would ensure that certain safeguards are met before a remote inquest hearing is held.

Amendment 77, in clause 39, page 51, line 10, at end insert—

"(2E) Coroners rules that provide for the conduct of hearings wholly or partly by way of electronic transmission of sounds or images must require coroners to set out to all interested persons the reasons for why such a hearing, other than for any pre-inquest hearing, is to be held—

(a) at the conclusion of any pre-inquest hearing where any such hearing is ordered, if applicable, and

(b) in writing as soon as practicable after a decision has been taken for such a hearing to be held and prior to the commencement of the hearing."

This amendment would ensure that interested persons are provided with the reasons for any remote inquest hearings.

Amendment 78, in clause 39, page 51, line 10, at end insert—

"(2F) Coroners rules that provide for the conduct of hearings wholly or partly by way of electronic transmission of sounds or images must provide for such hearings to comply with, and be subject to, Rule 11 of The Coroners (Inquests) Rules 2013 (Inquest hearings to be held in public)."

This amendment would ensure that remote inquest hearings and pre-inquest hearings are still held in a manner accessible to the public.

Amendment 79, in clause 39, page 51, line 10, at end insert—

"(4) Before this Clause may be commenced, the Lord Chancellor must—

(a) commission an independent review, including a consultation, of the potential impact of the conduct of inquest hearings wholly or partly by way of electronic transmission of sounds or images, considering in particular the impact on the participation of interested persons, and open justice,

(b) lay before Parliament the report and findings of such independent review, and

(c) provide a response explaining whether and how such issues which have been identified would be mitigated."

This amendment would require a review, including a consultation, of the potential impact of remote inquest hearings before Clause 39 comes into effect.

Andy Slaughter: The Committee will see that we have a number of concerns about the way in which the amendment is presented, but not about the principle. We covered the role of technology and so forth in a previous part of the Bill, but we repeat some of those concerns and we have additional concerns in relation to the coronial process.

Clause 39 would enable remote attendance at inquest hearings by amending the coroners rules to allow provision for the conduct of hearings either wholly or partly by way of electronic sounds or images. Proposed new subsection (2A) sets out a provision to allow members of the jury to take part in a hearing virtually. It clarifies the fact that all members of the jury must take part in the same way and from the same place. There is much to be said for support measures to make pre-inquest reviews more readily available remotely, and we have seen this working well in many instances. In some cases, it is true that remote inquest hearings will be appropriate and some families have welcomed them during the covid-19 period.

There can be additional benefits of remote hearings in facilitating wider participation for public and media access, but only if arranged in a way that ensures that is established. Given the way in which the clause is drafted, I have significant concerns about accessibility, transparency, participation and open justice with remote hearings.

Amendment 74 does not dispute the fact that there is a place for remote hearings, either partly or in full, but I argue that it would be inappropriate for an inquest to be conducted by audio only. It can be vital to see a witness who is being questioned during the inquest; otherwise it is impossible to know whether that person is being prompted on what to say by someone else, for example. Furthermore, if a hearing is audio only, neither the coroner nor anyone else will be able to get a sense of the body language of the witness, which could help to establish credibility. The amendment would prevent an inquest from being conducted by telephone or by other means that are audio only.

Inquests can help to provide closure for grieving families and, according to families who have been through this experience, part of that closure can be achieved by physically being in court. It is the opposite point to the one that the Minister made on families who may find it more comfortable not to be in court for various reasons. Every case and every family is different, but being in court allows families to be supported by their legal representatives not just professionally but emotionally. That could be difficult if they are in different locations. Some families may not have internet access, or an internet connection that is good enough to allow them to take part in an online hearing. Amendment 75 will ensure that those families are not excluded from an inquest by ensuring that their agreement is secured before one is conducted remotely.

[Andy Slaughter]

The Government's rationale for clause 39—that it would bring inquests to

"the same position as civil courts"—

fails to recognise the specific nature of inquests, which often differ from mainstream courts and tribunals because of the highly sensitive and distressing nature of the issues addressed and their potential complexity, especially for state-related deaths. Whether remote inquests are appropriate depends on a case's circumstances: its facts, complexity and attendees, and their ability to participate electronically in the proceedings. The introduction of remote inquest hearings without considering the needs and wishes of bereaved families, who already face many barriers to effective participation in the inquest process, is extremely concerning.

As with any remote hearing, myriad issues, including health conditions and disabilities, may make it difficult for individuals to follow or engage with a virtual hearing. Those same issues may make it difficult for them to explain to the coroner why they would prefer to attend in person. Furthermore, inquests can be highly distressing and re-traumatising for bereaved family members. The Government state that remote hearings will reduce the additional distress of the inquest process for bereaved families; however, it is unclear what evidence there is for that statement.

It is possible that some families may welcome a remote hearing, including the practical benefit that it can provide for some participants; however, it is very possible that requiring bereaved families to attend inquests remotely from their own home, which may make it more difficult to detach the inquest from their personal lives, will risk increasing unnecessarily the distress for bereaved families. In addition, bereaved families who attend from home risk not having the same level of support, including vital in-person support from charities such as the Coroners' Courts Support Service. They will also be required to navigate the additional technological challenges that remote hearings can pose.

Inquests play an important role in allowing bereaved families to understand the circumstances around their family member's death; however, if family members have difficulty engaging with the inquest remotely, that may disconnect families and key witnesses from this important process. Given the highly personal and distressing nature of inquests, it may be difficult for family members to put forward arguments and explanations to a coroner of why they do not want a remote hearing, especially since many bereaved family members do not have access to legal advice and representation, and may be faced with competing arguments from other interested persons. A remote inquest hearing should occur only if family members have consented to it. To help to mitigate those risks, clause 39 could be amended to ensure that certain safeguards are met before a remote inquest hearing is held.

Turning to amendment 77, it is important that interested persons, including bereaved family members, are provided with the reasons why an inquest hearing is to be held remotely. That helps to ensure that, if necessary, they have a basis on which to contest a decision to hold an inquest remotely. It is crucial that bereaved family members are engaged throughout the inquest process and provided with regular updates on what decisions are being made by the coroner and why. Without this communication, bereaved families, who often find the inquest process complex and alienating, risk experiencing further alienation, confusion and distress.

"Chief Coroner's Guidance No. 38", on remote participation in coronial proceedings, recognises that need, specifying that where coroners order a partially remote hearing, they should set out their reasons to interested persons at the conclusion of any pre-inquest review or in writing, by letter or email. It is important that this important step is not misplaced by clause 39. Amendment 77 would ensure that interested persons are provided with the reasons for any remote inquest hearing.

Turning to amendment 78, hearings in public are a central and cardinal feature of the coronial system, and there is an obviously public interest in ensuring transparency and openness. Since the beginning of the pandemic, practice with regard to the ways in which inquests are held has become extremely variable. Coroners have been sitting in court throughout the pandemic, because pre-inquest reviews and inquest hearings must be held in public. The current variation in wider access relates directly to the availability of premises and the very different approaches taken by different coroners. This has meant that families face extremely different experiences.

The same relates to access for journalists and other members of the public, who have at times been denied remote access to hearings on various grounds. Remote hearings have a negative impact on access for the wider public and media, as shown in a recent survey of journalists' experiences of remote coroners' courts during the covid-19 pandemic. The survey highlighted the difficulties that journalists had experienced in gaining access to remote inquest hearings and the technical difficulties faced.

The Bill is unclear on the precise circumstances in which inquests would sit remotely and provides no stipulations on the way in which interested persons and the wider public should be able to access hearings. As a result, there is a risk that these measures will crystallise the gradual process towards reduced access, rather than being motivated by the opportunities of new technologies to increase it. That would row back on the important principle outlined by the Chief Coroner:

"In public means not just open to the public but arranged in such a way that a member of the public can drop in to see how an inquest is conducted."

It would appear that clause 39 amends section 45 of the Coroners and Justice Act 2009 to allow coroners more generally to attend hearings remotely. That must be clarified. The proposed new section does not say explicitly that coroners can attend remotely from outside court, or that they can attend remotely from outside court as long as the hearing is still held in public. That may be appropriate where an inquest is set to take place otherwise remotely with the family's consent, but we have concerns about where that is not the case.

Public hearings are a fundamental element of the coronial system, ensuring that there is public accountability, investigation and explanation where an individual has died. There must be public access to hearings and, as I have said, although we recognise that in some circumstances a remote hearing can increase availability for members of the public and media to attend the inquest, we are concerned that the Bill does not provide any assurance that continued public access to inquests will not be limited in a remote setting.

Clause 39 should therefore be amended to ensure that remote inquest hearings, including pre-inquest reviews, continue to comply with rule 11 of the Coroners (Inquests) Rules 2013, which requires hearings to be held in public. Amendment 78 would ensure that remote inquest hearings and pre-inquest hearings are still held in a manner that is accessible to the public.

Turning to amendment 79, I can support measures to conduct pre-inquest reviews remotely, as we have seen that working well in many instances. I note that many organisations that support the legal profession have said the same. The Bar Council said in its brief: "In line with our tradition regarding criminal trials, we are in favour of a presumption that proceedings for a jury are conducted in a room in which key interested persons are able to be physically present, and in which the coroner also sits." However, there may be some sense in allowing pre-inquest review hearings to be conducted wholly remotely.

The Government state that remote hearings will reduce the "additional distress" of the inquest process for bereaved families—a claim for which they provide no concrete evidence. I have not been made aware of any evidence base in academic or other research to support this move. Indeed, it seems that remote or partly remote inquest hearings can, in fact, add to the distress of bereaved families. The only research into the experience of remote juries was a limited pilot study by Justice, which did not look specifically at inquests. As a result of the pilot, Justice concluded that whether remote inquests are appropriate is highly dependent on a case's circumstances facts, complexities and attendees, and, vitally, on the impact of a remote hearing on access to justice for the bereaved family, who already face barriers to effective participation. Justice also concluded that vital safeguards for families, greater investment in technologies, and a pilot and evaluation are essential.

I share that view, because the Government must be asked to produce evidence to support these dramatic changes, or be asked to conduct further research and consultation with bereaved families on the implications of remote hearings, prior to enacting clause 39. The research must consider the positive and negative consequences of both fully and partially remote hearings and inquests. The review must include a consultation with bereaved families, to ensure that all concerns are fully considered and, where necessary, addressed. That would also highlight any gaps in the technology required for remote hearings and ensure the necessary investment.

2.30 pm

The Government must outline the rationale for the precise implications of clause 39 and halt the introduction of these provisions, beyond those in pre-inquest reviews, until further research on the risks and benefits, as well as a public consultation, has been carried out. I therefore tabled amendment 79, which would require a review, including a consultation on the potential impact of remote inquest hearings, before clause 39 comes into effect.

Sir John Hayes (South Holland and The Deepings) (Con): I am very grateful to you, Mr Rosindell. Your stewardship of our deliberations adds lustre to our proceedings.

The hon. Member for Hammersmith has done the Committee a service by tabling the amendments. I do not think even his greatest fan would say that he is an exciting performer on the Committee, but he is certainly a diligent one. His diligence has allowed us to consider again the issue of court users who may be disadvantaged in some way by the drive for efficiency. There is a barely a sin that has not been committed in the name of efficiency somewhere and at some time, and it is vital, as the amendments make clear, that we move forward with a careful consideration of the interests of all court users.

I will not rehearse the arguments that the hon. Member for Hammersmith has made very well. The amendments would ensure that consent is at the heart of the process, which I think would be welcome. Furthermore, they would guarantee that coroners will take full account of the character of hearings, which again I think the whole Committee would welcome. Moreover, they are clear that consideration must be given to those involved in an inquest who might be put at a disadvantage by the drive towards communications of a new kind, as proposed in the Bill. I appreciate that the Minister wants to make the process as convenient as possible but, my goodness, in the name of convenience, are we as a House and a people to cast aside all the sensitivities and sensibilities that characterise the way we go about our proceedings in courts, in this place and elsewhere? It is important that we recognise that the cause of utility, justified by convenience, is not the only consideration in these matters.

As I have said before, the Minister has been extremely sensitive to this issue in his responses. It is a case that I have made repeatedly on behalf of disadvantaged people, particularly disabled people, who will come before courts with all the doubts, fears and apprehension that anyone would have, but with the added challenges of having to navigate a system without the advantages that most of the people in this Committee have. It is really important that in trying to make the system more cost-effective, convenient and efficient, we take full account of disadvantaged people's interests and needs. That is my purpose in adding my voice to this debate.

I pay tribute to the Minister for the way in which he has responded to the sensible arguments that have been made by Members on both sides of the Committee, and for his willingness to listen and take these things back and consider them further. I leave him simply with this thought. All my experience of life, which is not as long as it is going to be but is longer than some, is that as we journey through it, with all the joys and sorrows, all the trials and tribulations, all the triumphs and so on, it is perhaps the things that are inconvenient that take us closest to the sublime. I therefore long for the inconvenient life, and I hope that the Minister will recognise, in his very sensitive handling of these considerations, that convenience must not make us less caring.

James Cartlidge: I am grateful to my right hon. Friend the Member for South Holland and The Deepings for another very interesting contribution. His point that he is not as experienced as he will be in the future was an interesting chronological observation that it is impossible to dispute in any way, shape or form.

Sir John Hayes: That presupposes, of course, that I do not face an imminent decline or departure, which is not entirely impossible, although I am not hoping for it. I am glad that the Minister is wishing me a long and prosperous life—if that is what he is doing.

James Cartlidge: Not least because we do not want to have to put a further burden on the coroner's office should any question marks be raised about the circumstances—*[Laughter.]* Or, indeed, a further by-election. These are not simple matters—and all that notwithstanding the fact that my right hon. Friend is a great man, who is bordering on a regional treasure if not yet a national one. The only point that I make is that, in many ways, in craving inconvenience, he has made an ode to traffic jams. There are many inconvenient things in life that I think all of us find a great displeasure.

Let me make a serious point about efficiency. I said on Second Reading that the streamlining of the courts is the thread that runs through the Bill. Almost every measure in it is, in one way or another, streamlining, and therefore about efficiency, but it is not efficiency for efficiency's sake. If we take the measures to do with coroners, I very much regret that many cases are backlogged in the coroners' courts, and inevitably they are the most serious cases—cases that will require inquests, possibly with a jury. We have to remember that that causes great distress for the families concerned. These efficiency measures will help us to reduce those backlogs so that we can deliver those cases in a more timely fashion, which I would argue is in the interests of supporting bereaved families and is therefore in itself compassionate.

By the same token, as I have said repeatedly throughout our consideration of the Bill, when one talks about the virtual sphere, measures such as remote participation and digitisation are not taken for the sake of it. They enable justice to happen in ways that it might not have done during the pandemic, for example. I accept my right hon. Friend's point, but we have to remember that there is a very important reason why we are seeking to streamline these measures, and ultimately it is in the interests of our constituents.

Of course, if one is seeking to streamline and have efficiency—I have said this throughout, and I have agreed with the hon. Member for Hammersmith—one has to have safeguards in place. The amendments in this group all seek to provide additional safeguards for audio and video-link provisions in clause 39.

To be clear, clause 39 is intended to provide coroners with the flexibility to hold remote inquest hearings where all participants, including members of a jury, where applicable, participate remotely. During the pandemic, remote elements of inquests have worked well, with interested persons and witnesses attending virtually, so this is not unprecedented by any means. Other courts and tribunals have been holding wholly or partly remote hearings where participants have the option to participate remotely. The clause is intended to bring coroners' courts in line with other jurisdictions. I would like to assure members of the Committee that we introduced the clause with bereaved families in mind. Giving coroners flexibility on how they hold their inquest hearings will ensure the timely hearing of cases and help to reduce unnecessary distress to families, not least by reducing delay.

Amendment 74 proposes to set out in primary legislation the requirement that remote hearings must not be conducted by audio only. The clause is intended to provide coroners with the flexibility to hold remote inquest hearings with the use of either audio or video links. It is important that coroners have the flexibility to conduct hearings by audio, as there may be occasions where that is the only means by which participation is possible—for example, if someone's wi-fi is not strong enough for a video link. We have all been there, on Teams or Zoom, where we have had to go audio-only because things start breaking up. It is a fall-back position that we have all made use of, and I would argue that it is sensible.

It is similar to the situation in other courts and tribunals where, for instance, parties to a civil case can join via audio-only. Indeed, many courts ask parties who will not be speaking, as well as counsel waiting to respond to submissions, to switch their cameras off so that the transmission is more stable. After all, we want to be accessible online throughout the country. Unfortunately, although their number reduces every day, there are still parts of the country that have less effective broadband access than others.

Dr Caroline Johnson (Sleaford and North Hykeham) (Con) *rose—*

James Cartlidge: I give way to my other Lincolnshire colleague.

Dr Johnson: I thank the Minister for giving way. Could he clarify a point on the use of audio as opposed to audio and visual evidence? When one is listening to someone give evidence in court, surely their facial expressions and the way they present themselves are also part of one's understanding of their evidence, their believability and the emotions behind what they are saying.

James Cartlidge: Although not a lawyer, my hon. Friend, given her medical background, understands very much how we deal with people day to day, but I would argue that one could say that of any remote participation.

Sir John Hayes: Exactly.

James Cartlidge: My right hon. Friend is furthering his cause of unravelling progress towards remote participation and so on.

On the basis of what my hon. Friend says, we could question almost all remote participation, in that we would have to therefore argue that it could only be possible if we could keep the camera on or, alternatively, that we wanted to see them face to face.

I think I made it clear to colleagues—I cannot remember if it was during the previous sitting or the one before—that one big advantage of more digitisation is that it frees up resource for the most important in-person procedures. In criminal, that is clearly trials—in particular, jury trials, which I accept will remain in person. So there is a consistent logic to this.

Sir John Hayes: Will the Minister give way on that point?

James Cartlidge: I want to make progress, but I will give way one more time.

Sir John Hayes: I appreciate that the Minister wants to make progress. However, amendment 76, tabled by the hon. Member for Hammersmith—he is not with us at the moment, but he has done a diligent job—says:

"(c) the coroner has considered the likely complexity of the inquest, and

(d) the coroner has considered the ability of interested persons known to the coroner to engage effectively with the hearing by way of electronic transmission of sounds or images."

I am sure the Minister agrees—I am not making an antagonistic point—that it is important that the effects of that kind of communication are measured on the basis of those who might struggle. I do think that the point about disabled and disadvantaged people is very important—*[Interruption.]* I see that the hon. Member for Hammersmith has returned. I was again praising him; some may think he is more a bridge than a palais, but on this subject he is right on the button. There are people who could find the processes we are debating more intimidating, more unreasonable and less fair as a result of these changes. That is what we are all trying to get at. I know that the Minister is trying to do the right thing on this issue, but I hope he might think again, particularly about disadvantaged and disabled people.

James Cartlidge: My right hon. Friend speaks with great expertise and, indeed, with more experience than when he made his last intervention, based on his earlier comments.

Sir John Hayes: And consequently more wisdom.

James Cartlidge: The hon. Member for Hammersmith asked for evidence. It is obviously a difficult area. The procedures are new, so having very clear evidence on certain types of remote proceedings—

Andy Slaughter *rose—*

James Cartlidge: I am just responding to one intervention at the moment.

I stand by the point that I made earlier: overall, remote access digitisation enhances access to justice. For many people who are disabled, for older members of society for whom getting around and travel are not easy or straightforward, or for those who live in more remote areas, being able to access the process online will make it more accessible. It is simply about being reasonable. I want to make some progress on the amendments, but I will give way to the hon. Gentleman after making another point.

2.45 pm

Holding remote inquest hearings will help bereaved families participate in the process, as they will not need to make long, costly journeys to courtrooms to attend inquest hearings, if they can be heard in the comfort of their homes. We understand that some bereaved families will prefer to attend in-person inquest hearings, and I expect coroners will work sensitively with bereaved families to ensure that any concerns are addressed. Equally, some bereaved families will prefer to use audio links only, and that should remain an option.

Andy Slaughter: Earlier, the Minister quoted with approval Mr Rebello's evidence, which we took at the start of the Committee proceedings. The Minister agreed with him on the issue of representation, which one might think is more of a point to be debated. Mr Rebello is an experienced coroner and his evidence was persuasive on whether it was as acceptable to have people remotely as it was to have them in the room, in terms of not just the individual parties—there are many different parties—but the collective impact. I wonder why the Minister was not persuaded.

James Cartlidge: What I hope I have set out is that we are simply introducing flexibility. One should not underestimate the fact that the powers are in the hands of a judicial figure—the coroner is in effect a judge—who in all the provisions has discretion in how such matters operate. I have great faith in the judiciary. One needs to apply common sense. What cannot be done is something that the law does not allow, and we are enabling something to be possible.

Amendment 75 proposes to set out in primary legislation the requirement for the coroners to obtain consent from interested persons before making a decision on whether to conduct an inquest hearing remotely. As I said, coroners are independent judicial office holders and how they decide to conduct an inquest hearing should be a matter for them. In line with other courts and tribunals, the final decision will lie with the judiciary.

It is expected, however, that the rules to govern remote inquest hearings will provide that coroners should seek views from interested persons and take those into consideration as part of their decision making. I assure hon. Members that coroners will continue to act sensitively to ensure that bereaved families' concerns are considered when making decisions about the investigation, including the pre-inquest and inquest hearings.

Amendment 76 proposes to introduce additional requirements into the clause when a coroner proposes to hold an inquest hearing remotely, including the requirement that the coroner obtains the consent of interested persons. Amendment 77 would require coroners to notify the parties before the intention to hold a hearing remotely.

As I said, the clause enables rules to be made permitting remote hearings to be held in coroner's courts. Detailed rules will be brought forward to govern the conduct of remote hearings to guide how they will work in practice. As such, I am not convinced the amendments are necessary.

Again, I stress that remote elements of the coroner's inquests worked well during the pandemic with interested persons and witnesses attending virtually. I assure all colleagues that coroners will continue to work sensitively with bereaved families, acknowledging their concerns and working in their best interests to ensure that justice is seen to be done.

Amendment 78 seeks to ensure that remote hearings are held in a way that is accessible to the public. Clause 39 needs to be read in conjunction with clause 167 of the Police, Crime, Sentencing and Courts Bill which is in the other place. That provides for the remote observation and recording of proceedings by direction of the court in a number of courts, including the coroner's courts. I understand the concerns of the hon. Member for Hammersmith, but his amendment is not necessary, as clause 167 of that Bill will ensure that justice remains open and accessible to the public regardless of how the hearing is conducted.

In addition, it is expected that the rules to govern remote inquest hearings will provide sufficient guidance to ensure that coroner's inquest hearings remain accessible to the public. The Chief Coroner will provide additional guidance on any law changes, and we expect coroners to follow that guidance.

[James Cartlidge]

Amendment 79 proposes to set out in primary legislation the requirement for the Government to review, and consult with relevant stakeholders on, the potential impact of remote inquest hearings before any changes are introduced. To reassure the hon. Gentleman again, let me say that clause 39 only enables the coroner to hold remote hearings. The Coroners (Inquests) Rules 2013 will need to be revised to set out the detail of how remote hearings will operate in practice, and we will seek stakeholder input, including from the Chief Coroner, coroners and the Ministry of Justice-chaired stakeholder forum to ensure that the rules are appropriate. I hope that I have therefore provided suitable reassurance to the hon. Gentleman and I urge him to withdraw the amendment.

Andy Slaughter *rose—*

Sir John Hayes: I apologise to the hon. Gentleman. What my hon. Friend the Minister has just said is important, because if there is a genuine consultative process of the kind that the hon. Gentleman has emphasised, which I must admit I had not recognised in my earlier remarks, and it involves those groups about which I am particularly passionate and which might be disadvantaged, then, while this legislation enables the things the Minister has described, it will not necessarily mean that they are imposed wholesale. I still think that the hon. Gentleman has done a great service to the Committee by allowing us to have this debate, and it is important that we have done so, but that consultation is critical. Will the Minister give me an absolute assurance that representatives of disabled people and disadvantaged people will be part of this process?

James Cartlidge: I know that my right hon. Friend takes a passionate interest in the subject. I am due to write to him on the position of children in care. I do not think that we have sent that letter quite yet, so I will add to it information about the make-up of our stakeholder group. It is MOJ-chaired and I am sure that it is broad. I cannot tell him who every single person on it is at this moment, but I will try to list for him all the information that I can.

I stand by my point. I think that these measures, just as with other technology, will enhance accessibility for disabled people and many others in society. I would be extremely surprised if, in future, any Government were to wind back this measure, even a Labour Government.

Janet Daby (Lewisham East) (Lab): Will the Minister give way?

James Cartlidge: I had finished my speech—for the second time. But it is only fair that I rewind in order to give way.

Janet Daby: Will the Minister please share with the Committee the information about children in care that is going to be shared with the right hon. Member for South Holland and The Deepings?

James Cartlidge: Of course, and on that basis I think I will conclude.

Sir John Hayes: I would have sent it round anyway.

Andy Slaughter: I thought for a moment that the right hon. Member for South Holland and the Deepings was rising to indicate which of the amendments he is going to support, but we will see. They are all good amendments. I will not trouble the Committee by putting them all to the vote, but with all due respect to the Minister I do not think that the case for them has been rebutted.

The failsafe is in amendment 75, which states that the agreement of families must be secured before an inquest is conducted remotely. The Minister said in an earlier discussion that that could be used obstructively in some way, but I think that the chances of that are vanishingly small. I regret to say that there are cases—I may come on to this in the clause stand part debate—where the coroners have not been entirely sympathetic to the wishes of families. We respect their right to run their own courts and they have wide discretion about which evidence is heard, but it is giving all the weaponry to the coroner and perhaps a bit of a brake needs to be left with the family.

I will mention amendment 76, too, because considering the ability of interested persons to deal with the hearing is crucial. I will not push that to a vote and I accept what the Minister has said about these being matters to which he has regard. I hope that they will appear in guidance, because I have concerns about the double whammy of someone not being in a position to articulate their views and being further discriminated against by a remote hearing in which they are unable to take part.

I will press amendment 79 to a vote. The Minister conceded, I think, that there is no evidence here and we are taking a bit of a leap in the dark. It is reasonable that more investigation is needed.

James Cartlidge: Has there been—I will double-check with my officials—exhaustive, detailed analysis of the impact of remote hearings on bereaved families? To my knowledge, there has not yet. If that is not correct, I will come back and correct the record. However, I have said how extensive the use of remote technology has been during the pandemic, and I am not aware of a lot of negative feedback from families or vulnerable users who are somehow disadvantaged by it. If that is the case, however, I will be happy to clarify that. All I have heard is that delivering greater use of cloud video technology, particularly in other jurisdictions such as tribunals, has greatly aided the ability to keep justice going in very trying circumstances.

Andy Slaughter: I hear what the Minister says. This is not making the best the enemy of the good: we have got through, and Zoom and other methods have been a great help during covid, but most of the Zoom, Teams and other meetings that we have taken part in have been professional meetings and even then, I am afraid, some colleagues—probably myself on some occasions—struggle with the technology. Most of the parties to an inquest will be professional—we made this point in relation to our new clauses—but some people will struggle, and it may not be entirely apparent that they are struggling. That is my point. I pray in aid the comments of the Bar Council. On the whole, it has been reasonably sympathetic to what the Minister is trying to do, but it says of clause 39 that

"it is our belief that this measure should not become law without thorough research, evaluation and consideration of the impact on the administration of justice and justice outcomes."

I think that must be right. We are not opposing the clause, but before we go ahead and support it, we are asking to have the consent of the parties, including the families, and further evidence. I will not press amendment 74 to a vote, but I will press amendments 75 and 79.

Amendment, by leave, withdrawn.

Amendment proposed: 75, in clause 39, page 51, line 10, at end insert—

"(2C) Coroner rules that provide for the conduct of hearings wholly or partly by way of electronic transmission of sounds or images must provide for all interested persons to have to give their agreement to the conduct of hearings wholly or partly by way of electronic transmission of sounds or images."—*(Andy Slaughter.)*

The purpose of this amendment is to ensure the agreement of families is secured before an inquest is conducted remotely.

The Committee divided: Ayes 5, Noes 8.

Division No. 16]

AYES

Barker, Paula	Slaughter, Andy
Cunningham, Alex	
Daby, Janet	Twist, Liz

NOES

Cartlidge, James	Johnson, Dr Caroline
Hayes, rh Sir John	Mann, Scott
Higginbotham, Antony	Marson, Julie
Hunt, Tom	Moore, Damien

Question accordingly negatived.

Amendment proposed: 79, in clause 39, page 51, line 10, at end insert—

"(4) Before this Clause may be commenced, the Lord Chancellor must—

(a) commission an independent review, including a consultation, of the potential impact of the conduct of inquest hearings wholly or partly by way of electronic transmission of sounds or images, considering in particular the impact on the participation of interested persons, and open justice,

(b) lay before Parliament the report and findings of such independent review, and

(c) provide a response explaining whether and how such issues which have been identified would be mitigated."—*(Andy Slaughter.)*

This amendment would require a review, including a consultation, of the potential impact of remote inquest hearings before Clause 39 comes into effect.

Question put, That the amendment be made.

The Committee divided: Ayes 5, Noes 8.

Division No. 17]

AYES

Barker, Paula	Slaughter, Andy
Cunningham, Alex	
Daby, Janet	Twist, Liz

NOES

Cartlidge, James	Johnson, Dr Caroline
Hayes, rh Sir John	Mann, Scott
Higginbotham, Antony	Marson, Julie
Hunt, Tom	Moore, Damien

Question accordingly negatived.

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

3 pm

James Cartlidge: Before speaking to the clause, I just want to reflect on something interesting. When we discussed the first clause in relation to coroners, I mentioned the point about the backlog, which is very important. My concern, however, is that we are being criticised about the backlog, but whenever we propose practical measures to streamline the judiciary and bring efficiencies, the Labour party's response is lukewarm at best, if not voting specifically against them.

I gave the earlier example of the oral questions about the Cart JR cases. Many hundreds of cases are heard by High Court judges and, as Members will know, High Court judges can also sit on the most serious criminal cases in the Crown court. We have measures in this Bill that free up 400 sitting days in the Crown court. The hon. Member for Hammersmith has actually acknowledged that the backlog in coronial courts is being causes by covid. If we were not to press ahead with these clauses, it would be far harder to deal with that. At some point, we must move from recognising that there is a problem, as we do, to bringing forward positive actions, as we are.

On clause 39, as the Committee will be aware—we have debated this previously—courts and tribunals have moved the bulk of their proceedings online, which has been a vital step in ensuring that justice continues in the midst of the covid-19 pandemic and the subsequent safety measures put in place.

Current legislation provides that coroner hearings must be held in public. This provision clarifies how that requirement can be met, permitting rules to be made to allow hearings to be wholly or partly conducted remotely by audio or video. Indeed, the clause will amend the current regulation and allow hearings to take place where all participants, including the coroner, will be able to participate remotely. Wholly remote hearings are already allowed in mainstream courts and tribunals, so this clause merely brings coroners' courts into line with them.

It is also intended that this provision will provide coroners with additional capacity as they mitigate the impact of covid-19 and implement their recovery plans. In many coroners' courts, this includes addressing a backlog of complex and non-complex jury cases. This is the key point: I accept the concerns of colleagues, but we must do something practical if we are to address the backlog. That is why we have these measures, and by doing that, we will relieve some of the stress and anxiety for the families whose loved ones have perished and resulted in these sorts of backlogged cases.

Sir John Hayes: I do not want to labour this point, but it is safe to say that the Minister is absolutely right. It is a matter of balance, which is essentially what he said, but there is an argument for improved practices. He made a profound point earlier about the fact that for somebody with mobility issues, who might not be able to easily get to a hearing, online and audio communication can be beneficial. My case was for other kinds of people—perhaps those with learning difficulties, hearing loss, visual impairment, and a number of others. The

[Sir John Hayes]

Minister has been sensitive to that. There is a balance to be struck, and that is a case that this whole Committee is agreed on.

James Cartlidge: I am grateful to my right hon. Friend. That is an ideal note to conclude on, because this is about striking a balance. I would just add that this measure also complements a provision in the Police, Crime, Sentencing and Courts Bill that, if implemented, would allow the media to access coroners' court proceedings remotely. I therefore commend clause 39 to the Committee.

Andy Slaughter: I know that we want to make some progress, but I will make a few additional comments in response to the Minister, because this is an important clause, and the right hon. Member for South Holland and The Deepings has put his finger on the issue. None of us is against speeding things up, making things more efficient or allowing more options for the ways in which proceedings can be dealt with, but the corollary has to be that we provide protections and avoid unintended consequences that may be harmful to participants and may mean that justice is not done.

The aim of clause 39 is to make provision for pre-inquest reviews and inquest hearings to be conducted wholly or partially remotely, with all parties, including the coroner and jury, participating remotely, but with the jury present in the same place. Currently, the coroner and the jury—if there is one—must be physically present in the courtroom, and the law does not allow fully remote juries. This clause fails to adequately address the needs of bereaved family members; does not provide a guarantee that remote inquest hearings will continue to be in public; and has been introduced with insufficient research and evaluation.

In the criminal justice context, the organisation Justice has piloted fully virtual jury trials. Independent academic analysis concluded that with careful consideration and adaptation, such trials can be fair and may have some benefits over short and straightforward traditional jury trials, such as improved sightlines for jury members. However, while we support the principle of increased use of technology in the form of remote proceedings for certain situations in the justice system, this cannot apply without restriction across the justice system, and must be implemented with caution and with appropriate safeguards.

Let me give an example in which a remote hearing failed to safeguard a family. Chris died after suffering cardiac arrest on 24 March 2019. Chris had been sectioned under the Mental Health Act 1983 and was under the care of Pennine Care NHS Foundation Trust. The inquest into his death took place in April 2021, and was deemed an article 2 inquest and was conducted with a jury. Following that inquest, Chris's family wrote to the local senior coroner to highlight the challenges they faced due to the remote technology used at the inquest. There were two main issues. First, Chris's family saw a witness who was giving evidence remotely and representing Pennine Care

"laughing and pulling faces with a colleague"

on their screen. This came just after another member of staff gave evidence concerning the failure to observe Chris properly while he was sleeping. Secondly, the family accidentally saw CCTV footage of Chris's last hour, which was to be used by another witness. Unsurprisingly, the family found those moments very distressing and wrote to the senior coroner to

"ensure relatives of the deceased are not put through unnecessary additional distress".

Clause 39 also proposes introducing remote juries to inquest hearings, which is justified on the basis that it would bring coroners' courts in line with other jurisdictions where it is presently an outlier. However, clause 168 of the Police, Crime, Sentencing and Courts Bill, which has been referred to, would introduce remote juries in criminal trials. That clause is still under consideration in the Lords, and prompted a joint briefing from the Bar Council and the Law Society raising "wide-ranging" concerns that included

"the risk of alienating juries and/or witnesses; ensuring security of proceedings (both in terms of the privacy of the process and individuals, and data privacy); additional expense to the taxpayer; the requirement of new technology and IT systems; and the associated issues arising out of these aspects".

For families, this brings the additional challenge of them being unable to witness a jury's reaction to evidence being heard. Lawyers from the Inquest Lawyers Group have spoken of inquests they have sat on where the jury has sat in a separate room to the coroner, watching the hearing via video link. In more than one instance, lawyers have reported seeing members of the jury sleeping and eating without the coroner having any knowledge. That type of situation would be very hard to prevent if the proposals in clause 39 are enacted.

Inquest hearings can have a uniquely distressing impact on bereaved families. The process, which involves hearing details about an individual's last moments before death, can have a retraumatising effect on families. Clause 39 will make it more difficult for many families to separate the distress of the inquest hearing from their personal lives.

We are also concerned that families engaging in the inquest process remotely will be unable to access in-person support from charities such as the Coroners' Courts Support Service. In the Justice Committee's inquiry into the coroners' service, the Chief Coroner emphasised the critical role played by Coroners' Courts Support Service volunteers in meeting families and ensuring that they are not by themselves. Justice Committee members picked up on that point and made recommendations to make the service more widely available. The Bill's provisions, rather than strengthening those services, would roll them back.

Despite the distress, frustration and pain that can be caused by the inquest process, bereaved families go through it to understand the circumstances of their family member's death, and to bring to light harmful practices with a view to preventing similar deaths in future. I am concerned that remote hearings may disconnect families and key witnesses from that important process, which serves a wider public interest.

We are not against the further introduction of new technology; in some circumstances, such as pre-inquest hearings, it clearly seems appropriate. We have serious reservations about remote hearings for full inquests, but we accept that that can be mitigated. The problem with the way in which the Government have handled the matter in the Bill is that they have not offered those mitigations. They are putting all matters into the hands of the coroner. Of course, there must be judicial discretion,

but they need to go further. We hope that the Minister in the other place will table amendments to improve the provisions and mitigate against the possible harmful effects of remote hearings, and perhaps then we will be delighted to support the clause. For present purposes, however, we will vote against clause stand part.

James Cartlidge: Very briefly, I believe that the clause adds flexibility. It is important that we have the ability to hold such hearings remotely. As I have said, it joins up with how hearings have been happening in other jurisdictions, particularly in tribunals and so on. If the hon. Gentleman has such concerns, does he believe that we should no longer be holding tribunals or other types of hearing remotely, such as for the family court? They have been of real benefit to this country during the pandemic.

Of course, such things should be done sensibly. Perhaps it is a question whether the glass is half full or half empty in terms of trusting in the discretion of the judiciary. My view is that, in the face of the significant backlog that we have and the need to take measures to deal with it, not introducing the provisions would be a regressive step.

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

The Committee divided: Ayes 8, Noes 4.

Division No. 18]

AYES

Cartlidge, James	Johnson, Dr Caroline
Hayes, rh Sir John	Mann, Scott
Higginbotham, Antony	Marson, Julie
Hunt, Tom	Moore, Damien

NOES

Barker, Paula	Slaughter, Andy
Cunningham, Alex	Twist, Liz

Question accordingly agreed to.

Clause 39 ordered to stand part of the Bill.

Clause 40

SUSPENSION OF REQUIREMENT FOR JURY AT INQUEST WHERE CORONAVIRUS SUSPECTED

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

3.15 pm

James Cartlidge: Eighteen months ago, at the height of the pandemic, the Government introduced the Coronavirus Act 2020, which formed the foundations of our approach to combating the pandemic. The classification of covid-19 as a notifiable disease in England meant that any inquest into a death where the coroner had reason to suspect that the death was caused by covid-19 would have had to take place with a jury. There would have been significant implications for the coronial system, as current legislation requires a coroner to hold a jury inquest where the coroner has reason to suspect that the death was caused by a notifiable disease. With covid-19's high mortality rate and high infection spread rate, there were concerns about the resource implications for coroner workloads and coroner services if coroners were required to hold jury inquests into such deaths.

Section 30 of the 2020 Act was therefore implemented to disapply the requirement that coroners conduct an inquest with a jury where the cause of death was suspected to be covid-19. Anecdotally, we have heard from coroners that section 30 has ensured that stretched coroner services were not overwhelmed when they could have been under considerable pressure. Clause 40 of the Bill therefore ensures continuity after the 2020 Act "sunsets" in March 2022.

It is important to stress, however, that coroners will still be able to conduct an inquest with a jury where covid-19 is suspected as the cause of death where they think that there is a good enough reason to do so. And this clause does not change the legislation concerning other notifiable diseases; coroners are still required to hold an inquest with a jury where another notifiable disease is suspected to be the cause of death.

This clause is intended to support the coronial system as it looks to post-pandemic recovery. Coroners' courts are moving ahead with scheduling outstanding inquests, which have built up over the pandemic in some places. This provision removes the added pressure of scheduling inquests with a jury where that would be seen as an unnecessary process. Should there be future outbreaks of covid-19 with high mortality rates, this measure will ensure that the coronial system is not overwhelmed with jury inquest cases.

Finally, I note that this is a temporary measure, which will be reviewed and extended after two years by the Lord Chancellor via delegated power. I urge that clause 40 stand part of the Bill.

Andy Slaughter: I will take my lead from the right hon. Member for South Holland and The Deepings on this matter. I think that this is a good example of a practical measure and there are sufficient safeguards to allow jury inquests to continue where necessary, so we do not intend to oppose it. Clearly, one would not wish to restrict unduly, and certainly not against the interests of justice, the opportunity for jury inquests, but I think that the way in which the clause is set out and the stages that are gone through ensure that that will be possible and that there is unlikely to be any miscarriage on those grounds.

Question put and agreed to.

Clause 40 accordingly ordered to stand part of the Bill.

Clause 41

PHASED TRANSITION TO NEW CORONER AREAS

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

James Cartlidge: Clause 41 is intended to support the objective of the Government and, more recently, the Chief Coroner to merge coroner areas where the opportunity arises in order to improve consistency of coroner provision and standardise practice. In essence, clause 41 will enable coroner areas within a local authority to be merged by order of the Lord Chancellor where the new coroner area would not be the entire local authority. Before 2012, there were 110 coroner areas in England and Wales. Through coroner area mergers, we have brought that number down to 85, and our long-term

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objective with the Chief Coroner is to reduce it further to around 75 coroner areas. It is intended that this clause will make it easier for coroner areas to merge.

The clause also meets one of the Justice Committee's recommendations in its inquiry report on the coroner service. The Committee acknowledges that reducing the number of coronial areas has helped to increase consistency across the coroner service. Implementing the clause will ensure that merger opportunities can continue to be progressed. I urge that clause 41 stand part of the Bill.

Andy Slaughter: There is a very helpful example on page 50 of the explanatory notes as to how this would work, for anybody who has any concerns about it. It seems to be administratively sensible and tidy. I cannot do any better than to raise the concerns of a member of the Bar Council who said that this is all well and good provided it does not result in fewer coroners, deputy coroners and deputy assistant coroners covering greater areas. Can the Minister give us that assurance? We have no other points to make or objections to the clause.

James Cartlidge: To be completely transparent, the purpose of the clause is to allow some very specific mergers to happen. If implemented, there will be an immediate benefit in allowing Kent County Council to progress the merger of its current four areas into one coroner area. Kent is currently unable to achieve this because current legislation does not allow two coroner areas to be merged if the merged area will be less than the area of a local authority. The clause has a very practical justification. We do not see any significant impact in the way the hon. Gentleman describes.

Question put and agreed to.

Clause 41 accordingly ordered to stand part of the Bill.

Clause 42

Abolition of local justice areas

Alex Cunningham (Stockton North) (Lab): I beg to move amendment 96, in clause 42, page 52, line 34, at end insert—

"(7) Before introducing the changes outlined in section (1), the Secretary of State must consult with relevant stakeholders on the impact of the proposals.".

This amendment would require the government to consult on the abolition of local justice areas before any changes are introduced.

It is a pleasure to serve under your chairmanship, Mr Rosindell. We are now debating chapter 5 of part 2 of the Bill, which covers local justice areas. Before I get into the detail of the amendment, I too have reflected on our attitude and approach to the Bill, and I think the Minister has been slightly unkind in thinking that Opposition Members had some sort of ulterior motive in proposing what we have along the way. I reassure the Minister and the Committee that our entire agenda has been to ensure that anything the Minister proposes is workable and protects people, including the most vulnerable and the elderly—*[Interruption.]* I am not implying that the right hon. Member for South Holland and The Deepings is elderly, but he has made the point in the past that we need to protect the elderly, and the Opposition also want that. It is important that the Minister understands that we want a more efficient court system as well.

I was also reflecting on what the Minister said this morning when he was trying to justify the growing crisis, particularly in our Crown courts. He tried to claim that, prior to covid, things had improved, in terms of the number of cases before the courts and the efficiency of the system. In fact, in 2010, we had more police, more charges and more cases before the courts. However, the crux of the matter is the actual statistics relating to how efficiently cases were dealt with. In 2010, it took 391 days, on average, for a case to come through the court system, from charge to completion. In 2019, it took 511 days, on average, for a case to pass through the Crown courts, which I think illustrates that, while there were fewer cases, they were taking longer to go through the court system. As my hon. Friend the Member for Hammersmith said, that reflects the huge cuts we have seen to the Ministry of Justice since 2010. Perhaps, had it not been for those cuts, that average would in fact have come down, as there were fewer cases in the system.

Clause 42 will abolish local justice areas. Organisations across the sector have raised a number of potential issues that this would cause, which I am interested to hear the Minister's thoughts on. I understand it was the Government's intention that, in place of local justice areas, all magistrates and magistrates courts will be put into one national justice area covering England and Wales, as recommended by Lord Justice Auld's 2001 review of the criminal justice system, in order to facilitate listing. That proposal is now 20 years old and has not been updated, nor is it supported by additional research in that time, so why would the Government want to rely on that information now?

I am aware of Sir Brian Leveson's 2015 review of the efficiency of criminal proceedings in England and Wales, in which he supported further steps to unify the criminal courts, although he did not mention anything about abolishing local justice areas. The Government's explanatory notes to the Bill state that the proposal will

"provide the courts with the freedom and flexibility to manage their caseloads more effectively and ensure that cases are dealt with sooner and in more convenient places."

More convenient for whom? There is a long-held principle in this country whereby justice is expected to be done for a local community by members of that local community.

I recall my visits earlier this year to Hartlepool, where residents feel strongly that they should have a local court to dispense justice in their own town. Indeed, during the by-election Conservatives promised local residents that they would restore local services that had been cut. Just a few weeks later in a written answer to me, the Minister's predecessor confirmed that they would not even consider reopening the magistrates court that had been closed by his Government in 2017. Local residents were extremely disappointed and felt cheated. Will the Minister reconsider opening the Hartlepool court to help reduce the backlog across Teesside and beyond—local justice areas or not?

The Opposition are worried about the impact of a curtailment of local justice, which is proposed in the Bill. Transform Justice explains:

"Magistrates are representatives of the people and must have a connection to the area in which they sit. An applicant to the magistracy must currently live or work in their local justice area, so they understand the area, its crime trends and its people. All magistrates are members of a bench made up of other magistrates

local to that area. The abolition of local justice areas is likely to lead to a diminution of local justice, including a weakening of the links benches currently have with local criminal justice agencies."

How does the Minister suggest we maintain this local community link? Is he content for magistrates to be parachuted into local courts from across the country or for cases to be listed who knows how many miles away from where defendants, victims and witnesses live?

Transport Justice raised the issue that the proposals would diminish the independence of the magistracy. It says:

"Magistrates have historically retained an independence from the paid judiciary and governed themselves through democratic processes. They have managed their own ongoing training and disciplinary processes. All leadership roles have been subject to democratic election by peers."

While the Government's proposals are scant on detail, it seems that these democratically elected posts will be abolished and that the functions carried out voluntarily by the magistrates will be taken over by court staff and paid judges. Have they not got enough to do? Do the Government foresee that leading to a diminishment of the magistracy's independence? Will this hand over some of their responsibilities to the senior judiciary? Transform Justice believes:

"Given magistrates' status as members of the community and 'representatives of the people', and their expertise in management, this is not appropriate."

I worry that the role of magistrates as dispensers of justice from the community will be lost, with all the benefit that that entails.

Why has the proposal been changed slightly since the Prisons and Courts Bill of 2016-17? Under that Bill, which fell with the announcement of the 2017 general election, the Government had exhaustively set out consequential modifications and repeals in a schedule. Under this Bill, the Lord Chancellor would be given a power, exercisable by regulations, to

"make consequential or supplementary provision in relation to the abolition of local justice areas."

That includes the power to amend, repeal or revoke provision made by or under Acts of Parliament. This is another Henry VIII clause.

On Tuesday, the Minister smiled time and again when I talked of a Government power grab—I think he is probably smiling behind his mask again—and they are at it again. This measure has an impact on witnesses, defendants and victims, of course, as well as the families of all those people. Regulations that amend or repeal any Act of Parliament would remain subject to the affirmative procedure. Otherwise, regulations are made under the negative procedure and do not require prior parliamentary approval. Will the Minister explain why this change was made? Surely it removes helpful accountability and scrutiny mechanisms.

3.30 pm

I now move to amendment 96. The Law Society, in its briefing on the Bill, states that local justice areas are

"central to the principle of local justice"

and stresses the fact that the

"abolition of these local justice areas will likely see more trials listed in courts far away from defendants and witnesses, which will inevitably lead to more court attendance being conducted remotely. This would be a significant change from the present system".

Ellie Cumbo, its head of public law, gave evidence to the Committee. She said that clause 42

"obviously risks forcing parties to a case to travel much greater distances, at great cost to themselves and to the courts in the event of delays and cases having to be taken off as a result."—[*Official Report, Judicial Review and Courts Public Bill Committee,* 2 November 2021; c. 55, Q85.]

This is a recurring theme in the Opposition's concerns and, again, I hope the Minister can reassure me. How will the Government ensure that measures they are introducing to encourage efficiency do not end up having the opposite effect? I have posed this question several times in the passage of this Bill. I suggest that one measure would be in supporting our amendment.

Ms Cumbo said further:

"There is also a point of principle around justice being seen to be done at that local level where it feels like it relates to the community from which all parties are drawn. What we would ask is for a consultation with local stakeholders before those provisions go ahead."—[*Official Report, Judicial Review and Courts Public Bill Committee,* 2 November 2021; c. 55, Q85.]

The proposal to abolish local justice areas has not been publicly consulted on, and the Opposition thinks it ought to be.

Therefore, amendment 96 is straightforward and would simply require the Government to consult relevant stakeholders on the abolition of local justice areas before the changes are actually introduced. I am sure the Minister can see the sense in consultation, as it can help ensure the approach the Government takes is an informed one.

As I have said before, the Opposition appreciate the need for increased efficiency in the criminal courts, and we want to support the Government in that aim, but we need to know what to expect from these proposals so we can mitigate any difficulties as we transition to new ways of working.

James Cartlidge: I appreciate the various questions from the hon. Gentleman. The key point in his amendment is consultation. Specifically, the amendment proposes to set out in primary legislation a requirement for the Government to consult with relevant stakeholders on the abolition of local justice areas before any changes are introduced.

The hon. Gentleman asked how I feel about consultation. To be clear, on Monday I held a meeting to which I invited all MPs who are or have been magistrates to talk about elements of the Bill. I am pleased to say that a group of colleagues did come—unfortunately, from only one party, but MPs from all parties were invited. Of course, those who did not attend will have had a very good reason. The point that I am making is that I have personally engaged with MPs who are magistrates, or were until they were elected. It was a very interesting conversation. I note that, just as I talk about MPs who are or have been magistrates, my parliamentary private secretary, my hon. Friend the hon. Member for Hertford and Stortford, has entered the Committee Room, and she is of course a magistrate herself.

It is fair of the hon. Member for Stockton North to raise the point of consultation, because of course magistrates are a very important part of the voluntary judiciary, we might say. I recognise the herculean task that they faced to deal with the backlog that arose in the pandemic. The position of the magistrates courts is far

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more up to speed than it was, although further work needs to be done, which is why the Bill contains several measures to assist with that.

Clause 42 will create a more flexible and unified criminal court by removing local justice areas, which currently restrict work and magistrates from being moved easily between courts. It will also provide the opportunity to improve and enhance the leadership structures of the magistracy. The removal of local justice areas will mean that the current inflexible arrangements for the organisation of magistrates and magistrates courts' business will be removed from primary legislation. The detail of such arrangements will instead be non-statutory, by way of a protocol to help to ensure greater flexibility and close alignment with the Crown court arrangements. It will mean that arrangements that are specific to local areas and better suited to local needs will be discussed and agreed with the relevant criminal justice and local authority partnerships, in effect moving away from the statutory model to the one that operates in a Crown court.

Our hope is that that leads to much better working between the Crown and magistrates. I am sure that all colleagues recognise that that relationship is absolutely fundamental to the criminal justice system. I said earlier that the common thread in the Bill was streamlining. For example, clause 11 will see more cases remitted from the Crown court to the magistrates court, freeing up—by our estimate—about 400 days in the Crown court. If people see the big picture of better operational working between Crown court and magistrates, that is another very specific and tangible point within the aim of dealing with the backlog and streamlining justice.

Alex Cunningham: The Minister has made a good start to answering my concerns around this particular area with talk of the protocol. However, we all talk about travel-to-work areas, so would he care to comment on travel-to-justice areas and say how far he might expect people to travel for justice when his new protocol is brought into place?

James Cartlidge: Just to be clear, ensuring that magistrates are assigned, wherever possible, to what we would call a home court, near to where they live, is and will remain an important consideration under the revised arrangements. However, there are a number of advantages in allowing magistrates to work across courts, including the sharing of best practice, maintaining a wide and varied case load, and developing skills across a range of competencies.

Return to the amendment and consultation, the Lord Chancellor and Lord Chief Justice already have a statutory duty, under section 21 of the Courts Act 2003, to ascertain the views of lay magistrates on matters affecting them. Magistrates will still be assigned to a home court, as I just said, and ensuring that that court is as close to where they live as possible will remain an important consideration under the new arrangements. However, they will have the flexibility to work in other courts, should they wish to do so.

Ultimately, it will be for the Lord Chief Justice and the judiciary to determine what new arrangements are to be put in place and to what extent they will differ, if at all, from the current ones. Such changes have always been made in consultation with local criminal justice partners, including magistrates, and that will continue to be the case.

Therefore, I hope that the hon. Gentleman is reassured that magistrates and other relevant stakeholders will be fully consulted as any proposals are developed, to ensure that local business needs are met, and I urge him to withdraw his amendment.

Alex Cunningham: I can be brief. The Minister talked about the protocol and the role of the senior judiciary in determining guidance, perhaps, for decision making in this particular arena. My concern remains around the potential impact on victims, witnesses and defendants, who may well be required to travel greater distances in order to access justice.

However, on the basis of what the Minister has said, I am content to withdraw the amendment, although I hope that he continues to consider travel distances for people involved in the justice system, victims in particular. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

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

James Cartlidge: It is a very fair question on journey times. Ironically, it has to be said, it comes after a debate about the benefits of remote hearings and so on, although admittedly that was in the context of the coronial courts. However, in terms of local justice, travel needs for victims and so on, it was a perfectly good point.

On the contrary, however, with these measures, greater flexibility in the allocation of resources will increase the opportunities for ensuring that cases are dealt with fairly and efficiently in the most appropriate location for the individual case. This may be at the location closest to the victim and witnesses, or indeed at a location far enough away from a specific area that causes fear for a victim or witness. Basically, there is more flexibility because we move out of, as it were, the statutory defined geography. That is very much our intention.

Clause 42 will help to create a more unified and flexible court system, by removing the requirement that magistrates court systems in England and Wales are divided into separate local justice areas. The boundaries between local justice areas currently restrict both work and magistrates themselves from being moved easily between courts in different local justice areas. Changes to the court estate and transport infrastructure mean that the court within a local justice area may no longer be the nearest or easiest court for court users to travel to. Consequently, cases are not always heard at the earliest opportunity or at the most convenient court location. Court staff are frustrated that they cannot cut waiting times for court users by transferring cases to a court in a nearby local justice area with an earlier listing date. Removing those restrictions will give courts greater flexibility to ensure that cases are dealt with quickly and in the most appropriate location.

This provision will enable the creation of a single magistracy and a new set of principles for deciding how work and magistrates are allocated. Proximity between the courthouse and the offence will remain the primary consideration, but it will allow the taking into account of other factors, such as convenience for victims and witnesses or the relative speed at which a trial can be arranged. That is of course very important in the current context, in which we have to be frank and open about

the challenge of dealing with the backlog. Magistrates will still be assigned to a home court, and ensuring that that is as close to where they live as possible will remain an important consideration. However, they will have the flexibility to sit in other courts should they wish to and should the need arise.

This provision will require putting in place the replacement organisation and leadership arrangements and a great number of minor consequential amendments to legislation to remove and replace references to "local justice areas". The amendments will be made by an affirmative resolution statutory instrument where any primary legislation is to be amended, so Parliament will be able to scrutinise the legislation. The removal of local justice areas will provide the courts with the freedom and flexibility to manage their case loads more effectively, and will ensure that cases are dealt with efficiently in the most appropriate location, reducing delays and inconvenience for court users.

Sir John Hayes: As the Minister began speaking, I thought, "This is another provision of the Bill I don't agree with," but as he went on, I became, once again, reassured.

One of the greatest mistakes that we have made in recent years is the closure of local magistrates courts. When I was the first Member of Parliament for South Holland and The Deepings, which was not in the mists of time, contrary to what the hon. Member for Stockton North implied a few moments ago, we had a local tax office, a local driving test centre, a local magistrates court and all kinds of other facilities rooted in communities. Over the succeeding years, those things have been stripped out—a huge error by successive Governments. Community is fundamentally important to the sense of worth and value and the connection between communities; and local justice is a really important part of that.

The Minister will know that the tradition of magistrates—in fact, the essence of the magistracy—was that these were people sitting in their locality, exercising justice about their locality. I was reassured when he said that magistrates would continue to be linked to a locality, but would have the freedom, the opportunity, to travel further. He also emphasised that convenience for victims and others—witnesses and suchlike—would be at the heart of the change. He has reassured us once again and persuaded me that what I thought initially might be a poisonous idea is actually anything but.

James Cartlidge: I am grateful to my right hon. Friend. He will know that the origin of local justice areas—I believe—was in the petty sessions, which was the previous way of organising. There is considerable history here. What we are looking for is more efficiency but, as my right hon. Friend says, to balance that against maintaining the local link. I think we can have that balance. For very good reasons that touch on crucial matters about where we are with our justice system, we have to have a more efficient system. It is frustrating if a case cannot be moved from one magistrates court to another, when it should be moved, because of arbitrary geographic boundaries. That is why we are bringing in the measures, and I urge the Committee to support clause 42 standing part of the Bill.

Sir John Hayes: I was going to make another intervention, but the Minister has concluded his speech, so I have a chance to amplify my point at rather greater length. I wonder whether my hon. Friend, mindful of what I just said, would allow us here, as a group, to begin a campaign to reopen some local magistrates courts. Why on earth would we not want to do that? Why do we assume that there is a single destination, some predefined place, to which we are all headed? We have heard the nonsense about progress once or twice during our deliberations as if somehow we are just acting out a script, but history is not predetermined. We are not fascists or Marxists who think that there is a great plan and we are all mere players performing, so let us have some more local magistrates courts, in the spirit of this provision of the Bill. The additional freedom and flexibility that my hon. Friend described seems to be welcome. However, I think that there are several localities where justice is exercised a very long way from local people. That is particularly true in rural areas, such as the one I represent. In rural Britain, let us take advantage of our 80-seat majority and do something boldly imaginative.

Alex Cunningham: First, I want to reassure the right hon. Member for South Holland and The Deepings that I could never refer to him as an old man because he is, in fact, three years my junior. The Minister heard my points and those made by the right hon. Member for South Holland and The Deepings about local magistracy. It is very important and I am supportive of that. Hartlepool is one of the better examples of a court that could be operating. It is sitting there doing nothing, yet we still have real issues on Teesside.

3.45 pm

I am pleased that the Minister engaged with MPs who were or had been magistrates, and I am disappointed that others did not attend. I have never been a magistrate and, believe me, I would not want to be one. It is a difficult job and I would not want the level of responsibility they have on a day-to-day basis. Like the Minister, I pay tribute to them.

James Cartlidge: I concur. Being a magistrate is a difficult and important job and we should always remember that magistrates are volunteers. As far as my right hon. Friend the Member for South Holland and The Deepings is concerned, it was appropriate for me not to give way so that I could give him the opportunity to festoon us again with one of his oratorial masterpieces, albeit relatively micro in the context of some of his recent performances. My right hon. Friend was petitioning to avoid either being trapped into Marxism or anarcho-fascism, I think it was. I hope that is not the direction we are taking.

On magistrates courts and other courts, we must look at what is happening in practice. I do not know the facts on Hartlepool. I enjoyed my visit there, not least the result obtained in electing a brilliant new Member to this place. However, on Monday, I visited Loughborough, where we are opening a brand new courtroom in the magistrates court. That is no minor detail. The courtroom cost £2.5 million and it is there for a good reason. With social distancing, the hardest cases of all to dispose of are some of the most serious: multi-defendant cases. The case that was to be heard the day I went there was a nine-handed murder; that is, nine defendants. They are generally gangland-related cases.

We have opened another super-court in Manchester, so we are opening courtrooms. We have invested in Nightingale courts and, crucially, we have brought

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courtrooms on existing estates back into use by easing social distancing restrictions. I recently visited Snaresbrook, which is one of the largest courts in the whole of Europe, where rooms are being brought back into use.

One reason why we have not been able to use as many rooms is that with social distancing restrictions and particularly with multiple defendants—but even in small rooms with a jury—we have had to use entire courtrooms as jury deliberation rooms, as is the case in Birmingham Crown court. The impact has been huge and that is why we have been opening new rooms where appropriate and where it has helped us reduce the backlog. I have gone through the detail of the clause. It is an important measure; it balances localism with flexibility and, therefore, the greater efficiency we seek if we are to address the backlog and improve the day-to-day experience of our constituents in the courts.

Question put and agreed to.

Clause 42 accordingly ordered to stand part of the Bill.

Clause 43

THE MAYOR'S AND CITY OF LONDON MAGISTRATES' COURT: REMOVAL OF DUTY TO PROVIDE PREMISES

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

James Cartlidge: This clause seeks, as part of a new structure for providing court buildings in the City of London, to remove an obligation in statute requiring the City of London Corporation to provide county court capacity at its current location in the Mayor's and City of London court. Her Majesty's Courts and Tribunals Service and the City of London Corporation have reached an agreement on a scheme where the ageing Mayor's and City of London court, and the City of London magistrates court in clause 44, will be replaced by a new, purpose-built 18-room courthouse on Fleet Street. The new courthouse will significantly improve the quality of court provision within the square mile and strengthen our justice system. The new court is scheduled to be operational in 2026; in the meantime, the existing courts will continue to operate and business will not finally transfer until the new court is fully operational. The existing duty to provide the Mayor's and City of London court would be removed and replaced by obligations under a contractual lease arrangement. I hope that that reassures colleagues, particularly my right hon. Friend the Member for South Holland and The Deepings, that we are bringing forward new court rooms.

Andy Slaughter: I used to attend Mayor's and City quite often and, in previous years, the City of London magistrates court. They were extremely well appointed and rather luxurious by the standards of most of the courts of state. I hope that will be replicated in the new court.

James Cartlidge: I am happy to say these will be state-of-the-art courtrooms with very high eco ratings, which I am sure the hon. Gentleman will agree is extremely important. They will bring on stream new additional Crown court rooms, which is particularly important in the context of the backlog.

Question put and agreed to.

Clause 43 accordingly ordered to stand part of the Bill.

Clause 44

THE CITY OF LONDON MAGISTRATES' COURT: REMOVAL OF DUTY TO PROVIDE PREMISES

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

James Cartlidge: The clause seeks, as part of a new structure for providing court buildings in the City of London, to remove an obligation in statute requiring the City of London Corporation to provide magistrates court capacity in its current location in the City of London magistrates court. The new purpose-built replacement courthouse will significantly improve the quality of court provision in the square mile and strengthen our justice system.

Question put and agreed to.

Clause 44 accordingly ordered to stand part of the Bill.

Clause 45

REGULATIONS

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

James Cartlidge: The clause is standard in any Bill containing delegated powers, and simply sets out that any regulations made under the future Act will be made by statutory instrument. That would include regulations arising from the online procedure rule committee. The delegated powers in the Bill are set out in the delegated powers memorandum, which is published on parliament.uk and available for all members of the Committee to read, which I am sure they will do this evening. A number of those powers have been debated in previous Committee sittings. I do not propose to go into them again now, but I assure Members that there is a well-established legal framework in relation to practice and procedure in courts and tribunals, which is relevant for the powers taken in this Bill.

Question put and agreed to.

Clause 45 accordingly ordered to stand part of the Bill.

Clause 46

EXTENT

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

James Cartlidge: The clause clarifies the territorial extent of the Bill, which is also set out in the explanatory notes published alongside the Bill. In summary, the Bill extends to England and Wales only, with the following exceptions: one of the criminal court measures introducing an automatic online conviction as standard statutory penalty procedure will involve consequential amendments for Scotland and Northern Ireland. The online procedure rule committee measures relate in part to the UK with regard to the first and upper-tier tribunals; in part to England, Wales and Scotland with regard to employment tribunals; and in part to England and Wales only. The employment tribunal measures extend to England, Wales and Scotland.

Responsibility for employment tribunals in Scotland is due to transfer to the Scottish Government following the Government's acceptance of the recommendations of the Smith Commission. Until that happens, the rule-making committee would have rule-making powers for the employment tribunal and employment appeal tribunal in England and Wales and the equivalent tribunals in Scotland.

With regards to removing Cart, as I have said, the unified tribunal system is a reserved matter where it relates to matters of reserved policy. Our measures on Cart will apply to the whole of the UK, but only in respect to the matters heard in that tribunal system that would fall outside the competence of the Scottish Parliament.

Question put and agreed to.

Clause 46 accordingly ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.—*(Scott Mann.)*

3.55 pm

Adjourned till Tuesday 23 November at Two o'clock.

Written evidence reported to the House

JRCB13 JUSTICE (Part 2, Chapter 2 of the Bill – Online Procedure)

JRCB14 JUSTICE (Part 2, Chapter 4 of the Bill – Coroners)

JRCB15 INQUEST supported by 25 organisations