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**HOUSE OF COMMONS
OFFICIAL REPORT**

**PARLIAMENTARY
DEBATES**

(HANSARD)

Tuesday 16 January 2018

House of Commons

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The House met at half-past Eleven o'clock

PRAYERS

[MR SPEAKER *in the Chair*]

Oral Answers to Questions

TREASURY

The Chancellor of the Exchequer was asked—

Marriage Allowance

1. **Mr Ranil Jayawardena** (North East Hampshire) (Con): If he will make it his policy to increase the marriage allowance. [903290]

The Financial Secretary to the Treasury (Mel Stride): I congratulate my hon. Friend on all the hard work that he has put in to promote marriage and civil partnerships, and all the benefits thereof to families and wider society. I assure him that the design of the marriage allowance is such that it will indeed continue to rise as we raise the personal allowance, as we did in the recent Budget.

Mr Jayawardena: Given the £48 billion of costs to the Exchequer from family breakdown, will my hon. Friend meet me and a delegation to discuss how we can further strengthen marriage through the tax system and help people to keep more of what they earn?

Mel Stride: My hon. Friend is pushing in a direction in which we have already travelled. In the last Budget, we made provision for ensuring that those who have been married or in a civil partnership and have a deceased partner are able to claim the marriage allowance and backdate that claim some four years. I will, of course, be happy to meet him and his colleagues to discuss this matter further.

Personal Incomes

2. **Royston Smith** (Southampton, Itchen) (Con): What assessment he has made of the effect on average personal incomes of recent increases in the national minimum wage and national living wage. [903291]

The Chancellor of the Exchequer (Mr Philip Hammond): In April, the national living wage will rise to £7.83. That means an annual pay rise of over £2,000 for a full-time national living wage worker since the introduction in 2016 of the national living wage, which has helped reduce the proportion of full-time jobs that are low paid to the lowest level in at least 20 years.

Sustaining long-term pay growth relies on improving productivity. That is why we have increased the national productivity investment fund to over £31 billion, and it is why we are taking further action on skills, retraining and capital investment as we build a Britain fit for the future.

Royston Smith: Could the Chancellor tell the House whether income inequality has gone up or down since 2010? How does income inequality today compare with levels under the last Labour Government?

Mr Hammond: Income inequality is lower than it was in 2010. In fact, it remains lower than at any point under the last Labour Government. The Gini coefficient, which is an internationally recognised measure of income inequality, is now 3% lower than in 2010. Since my autumn statement in 2016, we have increased the tax contributions of the highest earners while those on the lowest incomes have gained overall.

Derek Twigg (Halton) (Lab): The problem is in constituencies like mine, which is one of the most deprived in the country, where more and more people are having to go to food banks. What is the Chancellor doing, in terms of the economic development of the country, to ensure that we get better-paid jobs, especially in places that are severely deprived such as Halton?

Mr Hammond: The hon. Gentleman makes an absolutely correct point. In the long run, higher wages can be delivered only through increased productivity. That means investment in infrastructure, investment in skills and training, and investment in research and development—with both public funding and tax incentives for private funding—and it means ensuring that capital is available for businesses to invest in the equipment that will raise the productivity of their workers. The Government's ambition is for a high-wage, high-skill economy, and we are investing to deliver that.

Charlie Elphicke (Dover) (Ind): Will the Chancellor confirm that the lowest-paid have in fact seen a 7% real-terms wage increase since 2015, and that income inequality is now at its lowest level for 30 years?

Mr Hammond: My hon. Friend is right. As I said, income inequality is lower than at any point under the Labour Government. People in full-time work on the national living wage have seen a £2,000 a year pay increase as a result of the national living wage and, of course, everybody in work has seen an improvement in their take-home pay as a result of the significant increases in the personal allowance that this Government committed to, and which this Government are delivering.

Alison Thewliss (Glasgow Central) (SNP): The Chancellor's living wage is a pretend living wage and is not actually available to those under the age of 25. Can he explain why the age gap in the minimum wage between 25-year-olds and 16 and 17-year olds actually increased in his Budget from £3.45 to £3.63? How can this be an economy that works for everybody if the youngest are not getting paid equally?

Mr Hammond: The rates for people under 25 were increased in the Budget by the biggest amount ever—*[Interruption.]* Look, of course we would all like to see high rates of employment and high rates of pay across

all age groups in the economy, but for young people, the most important thing—the Low Pay Commission highlights this fact—is that they get into work, because if they are in work when they are young, they are more likely to remain in sustainable work throughout their lifetime, and that must be the priority.

Air Passenger Duty

3. **Sir Hugo Swire** (East Devon) (Con): What recent discussions he has had with the airline industry on air passenger duty. [903293]

The Exchequer Secretary to the Treasury (Robert Jenrick): Her Majesty's Treasury regularly engages with the airline industry on air passenger duty. At the autumn Budget, we froze 2019-20 APD rates at 2018-19 levels for all short-haul passengers and for long-haul economy passengers. That provided a freeze for 95% of passengers.

Sir Hugo Swire: May I congratulate my hon. Friend on his appointment? He has done extremely well.

Airlines such as Flybe, which is based at Exeter airport in my constituency, undertake a disproportionate number of domestic flights. As my hon. Friend will be aware, domestic flights, unlike international ones, are currently hit twice by APD—at both take-off and landing. Treasury officials, of course, will tell a new Minister that any change is impossible and hide behind EU rules, but as we exit the EU, will my hon. Friend look at addressing that anomaly?

Robert Jenrick: I am grateful to my right hon. Friend for his kind remarks. I pay tribute to my predecessor, my hon. Friend the Member for Harrogate and Knaresborough (Andrew Jones), who was well regarded across the House.

As my right hon. Friend says, the Government are unable to exempt the return leg of a domestic flight. Of course, as we leave the European Union that could change, and the Treasury will keep the issue under consideration. We certainly recognise the economic significance of regional airports such as my right hon. Friend's in Exeter. For that reason, we have kept short-haul rates frozen since 2012. In 2015, of course, we took the significant step of exempting children.

Catherine McKinnell (Newcastle upon Tyne North) (Lab): The Government's own figures show that Newcastle airport will be most affected by any cuts to air passenger duty or air departure tax in Scotland. The continued uncertainty about this issue is also incredibly damaging. From his newly elevated position, will the Minister tell us what progress has been made on the issue? Is he in a position to confirm how English regional airports will be protected from the effects of any cuts?

Robert Jenrick: The hon. Lady is right to raise this issue, as Newcastle airport and others are very important to the economy of the north-east. As she heard during my response to the previous question, EU rules prevent us from changing the rules regarding the return leg of a domestic flight. We will keep the matter under consideration. We have, of course, taken other important steps, such as keeping the rates frozen and exempting children. It is

worth saying that air passenger duty raises more than £3 billion a year, so it makes an important contribution to public services.

Sammy Wilson (East Antrim) (DUP): There would be substantial benefits from reducing or removing air passenger duty, including GDP growth, job creation, and an impact on trade, foreign direct investment and tourism. The duty particularly distorts trade between airports in Northern Ireland and the Irish Republic. There was a commitment in the Budget to have a review of air passenger duty. Will the Minister give us an update on where that review is?

Robert Jenrick: I am grateful to my hon. Friend for that question. As he knows, in the autumn statement we committed to a review of not just air passenger duty, but the impact of VAT on tourism in Northern Ireland. That review is under way and will report back in time for this year's autumn Budget.

Inheritance Tax

4. **Mr Jacob Rees-Mogg** (North East Somerset) (Con): If he will bring forward legislative proposals in respect of the imposition of inheritance tax on direct personal donations to campaign groups involved in referendums. [903295]

The Financial Secretary to the Treasury (Mel Stride): My hon. Friend will know that the inheritance tax exemption for donations to political parties does not exist for donations to referendum campaigns. However, my right hon. Friend the Chancellor and I have discussed the issues that my hon. Friend has raised in previous weeks, and we are sympathetic to looking carefully at how the law may be changed for future referendum campaigns.

Mr Rees-Mogg: In the past nine years, there have been 23 retroactive tax changes where there has been unfairness, error or unduly onerous taxation. When the law was drafted in 1994, there was no idea that there would be a succession of referendums. It is deeply unfair that people who have contributed to the alternative vote referendum, the referendum in Scotland and the Brexit referendum may find very large tax bills winging their way towards them, not least as Her Majesty's Government spent £8 million of taxpayers' money willy-nilly in the Brexit referendum.

Mel Stride: As a matter of principle, it is not the position of Her Majesty's Treasury to apply tax changes retrospectively but, as I have indicated, my right hon. Friend the Chancellor and I will be looking carefully at the issues that my hon. Friend has raised.

Mr Iain Duncan Smith (Chingford and Woodford Green) (Con): Pursuant to that question, may I add one further caveat, given that Her Majesty's Revenue and Customs is beginning to look at all the other referendums that have taken place? Will it take into consideration those organisations that are not charities or political parties, but which do public good? They are beginning to be concerned that HMRC will pursue individuals who have made donations to them. Will my right hon. Friend take looking at that under his wing as well?

Mel Stride: My right hon. Friend raises an interesting point. He might like to make specific representations to me on the matters he has raised. Indeed, if he wishes to meet me to discuss them, I would be very happy to do so.

Government Borrowing

5. **John Howell** (Henley) (Con): What assessment he has made of potential risks to the economy from high levels of Government borrowing. [903296]

10. **Chris Green** (Bolton West) (Con): What assessment he has made of potential risks to the economy from high levels of Government borrowing. [903302]

The Chancellor of the Exchequer (Mr Philip Hammond): In 2010, we inherited the largest deficit since the second world war, standing at nearly 10% of GDP. We have successfully reduced it by three quarters, meaning that it stood at 2.3% at the end of last year, but our debt is still too high. High levels of debt leave us vulnerable to economic shocks and incur significant debt interest, which is why the Government have clear and detailed fiscal plans to reduce borrowing further and to ensure that debt falls.

John Howell: Does the Chancellor agree it is essential that our policies continue to show that we are living within our means, because the alternative—a failure to do so—simply passes on our bills to the next generation?

Mr Hammond: Yes, I absolutely agree with my hon. Friend that a policy of increasing borrowing simply means passing the cost of today's consumption to future generations and wasting more taxpayers' money on debt interest. Even Labour's shadow Education spokesperson has acknowledged that this is an ultra high-risk strategy that would be a gamble with our economic future.

Chris Green: Does my right hon. Friend agree that uncontrolled debt is bad for the economy and bad for the young people who have to pay the debt off, and that we should avoid following the model preferred by the Opposition, which has all the qualities of the parliamentary sewage system?

Mr Hammond: Yes, I can agree with my hon. Friend on that. Any party that aspires to government and is serious about properly managing the public finances should be able to explain how it would fund the expenditure it is committing to—and to do so without consulting an iPad.

Helen Goodman (Bishop Auckland) (Lab): The Chancellor says that he does not want to incur more debt, but yesterday the Treasury approved a minute providing for a contingent liability on Carillion, for which we have had no estimate. Will he please explain to the House what sort of expenditure will be covered—I see that he has given an indemnity to the receiver—and how he will report to the House on how much money the Government will be liable for?

Mr Hammond: Yes, the Government have given an indemnity to the official receiver so that it can take on the role of special manager of Carillion's assets to ensure the continuity of public services in the many

schools, hospitals and local authorities that have contracts with Carillion. The Treasury has provided the official receiver with a line of credit that enables the official receiver's office to operate the company's public sector contracts, after which it will, in due course, recover the costs from the Department that would have paid fees for those services anyway. The official receiver can only step in and do this with the Treasury's underwriting, and we deemed it appropriate to give that underwriting.

Neil Gray (Airdrie and Shotts) (SNP): Clearly there is an element of risk in not just Government borrowing but companies' borrowing against the UK Government. Will the Chancellor advise the House on what exposure his Government have from lending to Carillion via the likes of UK Export Finance or George Osborne's direct lending scheme?

Mr Hammond: I am not aware of any direct exposure of Her Majesty's Government as a creditor of Carillion, but I will check, write to the hon. Gentleman and place a copy of the letter in the Library of the House.

Mr Philip Hollobone (Kettering) (Con): The Government have made good progress in cutting the deficit, but national debt as a percentage of GDP remains at a dangerously high level and will only start to fall next year—10 years after the crash. Will the Chancellor share with the House how our level of national debt to GDP compares with that of other major western economies?

Mr Hammond: My hon. Friend is right. Our level of debt is too high, and there is a reason why that matters. In response to the financial crisis in 2009, the then Government were able to allow debt to rise. If we had a similar crisis now—God forbid—we would be struggling to be able to do that, because debt is already very close to 90% of GDP. It is urgently necessary that we get our debt level down to create the headroom that will enable us to deal with any crisis that comes along in the future, whether internal or external.

Jonathan Reynolds (Stalybridge and Hyde) (Lab/Co-op): It is amazing that the Government should want to plant questions about high levels of borrowing, given that they have missed every single one of their deficit reduction targets, and let us not forget that this Conservative Government have borrowed more than any Labour Government in history. Under Labour's fiscal rules, we would close the deficit on day-to-day spending over five years, but exclude investment spending from that figure. Given the huge challenges that the country faces in relation to productivity, infrastructure and skills—challenges that he has already mentioned—does the Chancellor not recognise that that is a prudent and sensible way forward?

Mr Hammond: No, and neither do the Opposition. That is why they have already recognised that their plans would deliver the run on the pound for which they are wargaming. I will take no lectures from a party that oversaw a 165% increase in debt, and is proposing to add a further £500 billion to our debt level just when the Government are delivering a reduction in debt.

Household Debt

6. **Kate Green** (Stretford and Urmston) (Lab): What recent assessment his Department has made of trends in the level of household debt since 2010. [903297]

The Economic Secretary to the Treasury (John Glen): The household debt-to-income ratio has fallen from 152% at the start of 2010 to 138% in the third quarter of 2017. It has remained significantly below its pre-crisis peak of 160% in the first quarter of 2008. I also note today's report from the Institute for Fiscal Studies on the same subject.

Kate Green: I, too, have read the IFS report, which points out that debt is a real problem for a significant minority of low-income householders who are struggling to pay the bills and make debt repayments. Does the Minister accept that imposing a freeze on benefits when inflation is standing at 3% will make things even tougher for those families?

John Glen: The report also points out that the percentage of households with financial liabilities in the four lowest wealth quintiles fell between June 2010 and June 2014. The Government are fully committed to helping the poorest households, and just last year the Money Advice Service spent £49 million on giving 440,000 free-to-client sessions to assist those in difficulty.

Stephen Crabb (Preseli Pembrokeshire) (Con): The UK has the second highest level of household debt in the G8. On our high streets, loan sharks are masquerading as household goods stores. Does the Minister agree that we have a rather unhealthy addiction to consumer debt in this country?

John Glen: My right hon. Friend makes a sensible point. The Government have empowered the independent Financial Policy Committee to advise them on these matters, and to keep a close watch on the level of debt.

20. [903313] **Toby Perkins** (Chesterfield) (Lab): One trend that alarms me is the false advertising of consumer credit rates. Despite having a perfect credit rating, according to Experian, I was told that M&S Bank would not give me the advertised rate that was supposedly being offered to 51% of its customers. What is the Minister doing to ensure that the Financial Conduct Authority is robust in ensuring that advertised rates are made available to the majority of consumers?

John Glen: I am familiar with the hon. Gentleman's situation and his correspondence with the Financial Conduct Authority. I believe that he has met FCA representatives. The FCA has strong powers to ban products. It has unlimited fines at its disposal and it can order repayments. As the hon. Gentleman knows, 51% of applicants for loans will receive the advertised rate, and those are the terms that the FCA works to.

Sir Desmond Swayne (New Forest West) (Con): When will incentives to save exceed those to borrow?

John Glen: Obviously I do not have a crystal ball, and as the economy grows, different patterns of behaviour will ensue. It is not for the Government to tell people what to do; we are trying to secure a growing economy in which people have the choice.

Kirsty Blackman (Aberdeen North) (SNP): Personal debt is the biggest worry for many people I meet. The figures released by the Institute for Fiscal Studies today show that a third of those on the lowest incomes are in net debt. This debt is persistent; it is a spiral that people get stuck in for years. What are the UK Government doing to improve the financial position of households with the lowest incomes?

John Glen: We recognise that on occasions people find themselves in challenging debt situations. That is why we committed in our manifesto to a six-week breathing space, and we will bring that legislation forward in due course in the Financial Guidance and Claims Bill.

Kirsty Blackman: Over a third of people aged under 45 live in households with financial wealth of less than zero. For too many people there is not enough money at the end of each month or each week. From next year individuals earning less than £26,000 in England will pay more income tax than they would if they lived in Scotland; how can the Minister justify that?

John Glen: The Government recognise the challenges facing those on lower salaries, which is why we have increased the tax-free allowance, have had the eighth successive fuel duty freeze, and have increased the national living wage above the inflation rate.

Robert Courts (Witney) (Con): Will the Minister confirm that the lowest paid have had a real-terms pay increase of 7% since 2015, showing that this Government's policies are targeted to help the lowest paid?

John Glen: My hon. Friend is right. The Government do not take anything for granted and will look very closely at what is happening with the poorest in our society.

Anneliese Dodds (Oxford East) (Lab/Co-op): Does the Minister acknowledge that the reasons why a quarter of people on low incomes are currently experiencing significant problems with arrears or debt repayment include, first, his Government not taking on board Labour's programme to rein in credit card debt and, secondly, the fact that their changes to the tax threshold have been outweighed for the poorest people by alterations to social security?

John Glen: The hon. Lady needs to acknowledge the transformation that the national living wage has brought to so many people and this Government's willingness to increase it above inflation. It is also worth noting that interest payments as a proportion of income are currently at the lowest on record.

UK Internal Market

7. **Chris Davies** (Brecon and Radnorshire) (Con): What assessment he has made of the contribution of the UK internal market to the Scottish and Welsh economies. [903298]

The Chancellor of the Exchequer (Mr Philip Hammond): The UK internal market benefits all the nations of the UK. The Scottish Government's own latest figures indicate

that 63% of Scotland's exports are to the rest of the UK, compared with 16% that go to the EU, and for Wales it is 80% compared with 12%. Stakeholders across Wales and Scotland have made it clear that it is vital that we continue to support the smooth working of the UK internal market, and it is therefore essential that no new barriers to living and doing business in the UK are created as we leave the EU.

Chris Davies: I thank my right hon. Friend the Chancellor for his answer, and does he agree that leaving the UK single market would pose a far greater risk to the Welsh, Scottish and Northern Ireland economies than leaving the EU single market?

Mr Hammond: Yes, it is absolutely true that for both Scotland and Wales leaving the UK single market would be far more economically damaging than leaving the European single market, which prompts the question why the Scottish National party has advocated so strongly remaining in the European single market and also advocated so strongly breaking up the UK single market.

Mr Speaker: Order. I am not very interested in hearing that, which has nothing to do with Government policy, but I am interested in hearing Wes Streeting. I hope the Chancellor will take note: put very briefly, Chancellor, "Stick to your last—your business, not theirs."

Wes Streeting (Ilford North) (Lab): Thank you, Mr Speaker; that is the nicest thing anyone is likely to say to me today.

The Chancellor rightly extols the benefits of the UK single market, but is not the rank hypocrisy of the Government exposed by listening to the comments of the chief executive of Airbus last night that leaving the European single market would be hugely damaging to the UK economy? We do not have to pick and choose: why will the Chancellor not put a jobs first Brexit at the heart of the Government Brexit strategy and commit to keeping us in the European single market?

Mr Hammond: The hon. Gentleman will know that I have been arguing for the last year for a jobs-first, prosperity-first Brexit, which means negotiating the closest possible relationship with the EU after we leave that union, and that is what we intend to do.

Ben Lake (Ceredigion) (PC): The contribution of the UK internal market is of course important to the economy of Wales. Under Westminster rule, the economy of London and the south-east of England has steamed ahead while Wales remains one of the poorest nations in western Europe. Will the Chancellor commit to ending this rank inequality by rebalancing the UK internal market to ensure that it is not based on a set of Westminster diktats but is instead a partnership of the four nations of the UK?

Mr Hammond: Yes, we have identified regional disparity as one of the drivers of low productivity in the UK. Raising the productivity performance, particularly that of our great cities outside London, is key to raising UK's performance overall.

Public Spending: Wales

8. **Jonathan Edwards** (Carmarthen East and Dinefwr) (PC): What assessment he has made of the effect of autumn Budget 2017 on public spending in Wales. [903299]

The Exchequer Secretary to the Treasury (Robert Jenrick): Decisions announced by the Chancellor in the autumn Budget resulted in an increase of £1.2 billion to the Welsh Government's budget. For the first time, this included more than £65 million thanks to the new Barnett boost agreed with the Welsh Government's fiscal framework. This ensures that the Welsh Government's block grant will increase in real terms over the spending review period.

Jonathan Edwards: The headline-grabbing announcement in the Budget was the alleged £1.2 billion uplift to the Welsh public finances, which the Minister has just repeated in his answer. It was an example of financial trickery best suited to the Foreign Secretary's big red buses. Is it not the case that more than half that money will be in the form of repayable loans—in other words, financial transactions?

Robert Jenrick: I do not agree with the hon. Gentleman's analysis or with his slightly cavalier attitude to £650 million of taxpayers' money. This money is at the disposal of the Welsh Government and can be used for important things such as helping to support businesses and helping people to get on to the property ladder through Help to Buy.

Michael Fabricant (Lichfield) (Con): Given that the tolls on the Severn crossing went down last week for the first time ever, there is going to be greater demand for use of the M4. However, since 2012 the Labour Welsh Government have done nothing about using the public money available to them to extend the M4. Is it not the case that public money should be spent on that, and that it has been made available to Wales from this Government?

Robert Jenrick: My hon. Friend makes a good point. As I said in my answer to the previous question, we have increased the budget for the Welsh Government. How they choose to spend that money, and how wisely they do that, is another question.

Employment

9. **Mr Bob Seely** (Isle of Wight) (Con): What progress is being made on creating jobs and reducing unemployment. [903300]

12. **Michael Tomlinson** (Mid Dorset and North Poole) (Con): What progress is being made on creating jobs and reducing unemployment. [903304]

The Chief Secretary to the Treasury (Elizabeth Truss): The unemployment rate is now the lowest since 1975, and 3 million more people are in jobs than in 2010. What that means is that they have the ability to use their talents to support their families and to get on in life.

Mr Seely: Will my right hon. Friend and the Treasury team work with me and the Isle of Wight Council to explore how the Island could benefit from a Treasury-supported enterprise zone in the Medina valley or from other regeneration policies that would help to drive the jobs and wealth creation agenda on the Isle of Wight?

Elizabeth Truss: My hon. Friend has done a fantastic job of championing the Isle of Wight since 2010, and we have seen a 55% reduction in unemployment on the Island. There are many issues that we need to address to ensure that the economy on the Island is competitive and dynamic. The Isle of Wight ferry is a vital service, and we need to ensure that the Competition and Markets Authority has the tools to deal with that. I would be very happy to meet my hon. Friend to talk about what more we can do to boost the Isle of Wight.

Michael Tomlinson: I am the chairman of the all-party parliamentary group for youth employment, and each month we track the jobs figures. Will my right hon. Friend update the House on the impact of this very welcome job creation on poverty levels and welfare dependency since 2010?

Elizabeth Truss: I congratulate my hon. Friend on his work. Since 2010, we have seen a 40% reduction in youth unemployment. Let us compare that with what happened under the Labour Government when, during an economic boom, youth unemployment rose and those young people were left on the scrapheap rather than joining apprenticeships and getting the training opportunities that they have under this Government.

Mrs Emma Lewell-Buck (South Shields) (Lab): Here is a reality check for the Minister. Limited well-paid jobs and record levels of in-work poverty coupled with this Government's unflinching assault on the welfare safety net have contributed to the United Nations estimating that 8 million households in the UK are food insecure. My cost-neutral household Food Security Bill will robustly measure these factors and lead to policy development that will eradicate hunger. Why will her Government not back it?

Elizabeth Truss: I am surprised that the hon. Lady is not interested in the news we heard earlier, which is that those on the lowest incomes have seen a 7% real-terms pay rise since 2015, enabling them to support their families.

Mr Gregory Campbell (East Londonderry) (DUP): Does the Chief Secretary agree that one of the best ways of creating employment is to simplify tax structures to help small and medium-sized enterprises to create employment right across the United Kingdom?

Elizabeth Truss: The hon. Gentleman is absolutely right. This Government have cut red tape and taxes. We have cut basic rate tax by £1,000 for working people, which has encouraged more people to get jobs and more companies to take people on. That is why we are seeing economic success.

Martin Vickers (Cleethorpes) (Con): Transport for the North has today published its strategic plan, which forecasts 850,000 new jobs if the plan is delivered.

Although the document is disappointing for Cleethorpes and northern Lincolnshire, broadly speaking more investment in transport in the north will provide those jobs. Will the Minister give an assurance that resources will be made available to deliver the plan?

Elizabeth Truss: I am pleased to say that we are investing a record amount in economic infrastructure, and the Institute for Fiscal Studies said that such investment would be at a 40-year high by the end of this Parliament. We are giving money to improve transport in towns and cities, allocating £1.7 billion for that purpose at the Budget.

John McDonnell (Hayes and Harlington) (Lab): Thousands of Carillion workers will turn up to work tomorrow unsure whether they have a job, and they may not appreciate Conservative boasts about employment today. The workers face cuts to their pensions, and hundreds of small firms along the supply chain are also uncertain about their futures. The traditional role of the Treasury is to protect our public finances, so will the Minister explain to the House what involvement the Treasury had in the billions of pounds of contracts held by Carillion at the time of its liquidation? We know that Treasury approval is required for PFI contracts, so will she tell the House how many PFI and PF2 contracts were signed by the Treasury during the current Chancellor's time in office? What will happen to those projects and to the staff working on them? When there were loud and clear worrying signs about Carillion, why did Treasury Ministers, instead of intervening, collude in the strategy of drip-feeding more contracts to Carillion to buoy up an obviously failing company?

Elizabeth Truss: What has happened at Carillion is regrettable, which is why we are ensuring that the people employed by Carillion have support from jobcentres and why our No. 1 priority is ensuring that we continue to supply public services. However, it would be completely wrong for a company that got itself in such a state to be bailed out by the state, and we are not doing that. We are making sure that we continue to supply public services at the same time as helping the people who work for the company.

If we look at the record of contracting, a third of those contracts were signed under the previous Labour Government, and one of the most recent contracts was signed by the Labour-led Leeds City Council. The fact is that we have £60 billion of contracts with private sector companies that deliver public services across this country, which is an important way of delivering our public services. When there is an issue, as we have had with Carillion, we have made the preparations, and we are sorting out the situation.

John McDonnell: We are asking questions about when it was obvious that this company was failing and what the Treasury's role was. I put it no stronger than this: at this stage, there are real suspicions that the Government were too close to the company and too wedded to its privatisation role. We need full transparency on the meetings and discussions that took place between Ministers, civil servants and representatives of Carillion. What warnings were given to Ministers and what action was recommended, whether it was implemented or not? We need the Treasury to start playing its proper role and to

provide an independent assessment of the potential costs and risks facing the taxpayer. As has already been mentioned, a Cabinet Office minute was published after the statement yesterday that established a contingent liability. We urgently need to know from the Treasury about the potential range of costs now facing the taxpayer.

Elizabeth Truss: We already publish all those minutes and details of meetings. We are a transparent Government, and we make decisions in an objective fashion. Those decisions are signed off by the Treasury, and they are signed off by the Cabinet Office. Recent decisions on Carillion contracts have been made on the basis of joint and several liability to make sure the taxpayer is protected. We always look for value for money in the way we set up our contracts. The Government are dealing with this in a responsible and measured way, rather than making cheap political shots at a time when people's jobs are in question and when we are working to sort that out.

Education Investment

11. **Rachel Maclean** (Redditch) (Con): What discussions he has had with the Secretary of State for Education on the effect of Government investment in education on pupil outcomes since 2010. [903303]

The Chief Secretary to the Treasury (Elizabeth Truss): We are investing a record £41 billion in our schools this year. For the first time ever, we are putting in place a fair national funding formula. We are seeing standards rising. In the recent Progress in International Reading Literacy Study, we saw England gain its highest ever score in reading.

Rachel Maclean: Thanks to the incredible hard work of staff, children and parents in Redditch, 92% of our secondary schools are currently rated outstanding. Receiving a great education in maths is critical to equipping children in Redditch for future jobs in the economy. What financial support is the Treasury giving to enable our children in Redditch to have that education?

Elizabeth Truss: My hon. Friend is absolutely right that maths is vital for the future of our economy. We know there is huge demand for people with science, technology, engineering and maths skills, which is why at the Budget we allocated a £600 maths premium that schools will receive for every student who does maths from age 16 to 18.

Corporate Tax Evasion

13. **Nigel Mills** (Amber Valley) (Con): What progress he has made on reducing the level of corporate tax evasion and the tax gap. [903305]

The Financial Secretary to the Treasury (Mel Stride): The Government have an outstanding record on clamping down on tax avoidance, evasion and non-compliance. We have brought in and protected £160 billion since 2010, and no less than £8 billion in 2016-17 alone, from the UK's largest companies. Currently at 6%, the tax gap is one of the lowest in the world, and lower than any year during the last Labour Government.

Nigel Mills: Does the Minister agree that an international approach is needed to really tackle tax evasion by big multinational companies? Will he therefore say whether the interesting ideas on which he has consulted since the Budget have found favour in his discussions with the OECD and may be adopted on a more international basis?

Mel Stride: As my hon. Friend will know, we are right at the forefront of the OECD's base erosion and profit shifting project, and of the common reporting standards that are being rolled out at the moment. We have taken further measures in the Budget to consult on the taxation of digitally based companies, particularly in respect of withholding tax on royalties going to zero-tax or low-tax jurisdictions. That consultation will report back in February, and we will take an appropriate decision thereafter.

Emma Reynolds (Wolverhampton North East) (Lab): It is embarrassing for the Government that Carillion's chairman is an adviser to the Prime Minister on corporate responsibility. Given the level of salaries and bonuses awarded to senior management at Carillion, as well as improving the response to corporate tax evasion what will the Government do to ensure better corporate governance in UK companies?

Mel Stride: I say gently to the hon. Lady that she needs to check her facts, because the current head of Carillion is not an adviser to the Prime Minister. There was an appointment earlier that was terminated some months ago. As to her general points about corporate governance, this country has among the most robust corporate governance in the world, which is something this Government will continue.

Leaving the EEA

14. **Stephen Kinnock** (Aberavon) (Lab): What assessment his Department has made of the effect of the UK leaving the European economic area on the economy and the service industry. [903306]

The Economic Secretary to the Treasury (John Glen): The Government have undertaken a significant amount of work to assess the economic impacts of leaving the EU, and that is part of our continuing programme of rigorous and extensive analytical work on a range of scenarios. The Government are committed to keeping Parliament informed, provided that doing so would not risk damaging our negotiating position.

Stephen Kinnock: The Chancellor has said that he wants a jobs-first Brexit. Given that 80% of the British economy is in the services sector, and given that the EEA-based model of Brexit is the only one that gives maximum access for our services industries, does the Minister agree that an EEA-based Brexit is the only viable option for our country?

John Glen: What we can agree is that the Government are united in working to secure the best and most ambitious Brexit deal. That will mean a bespoke deal that will not damage the long-term interests of the economy.

Nicky Morgan (Loughborough) (Con): First, I welcome the Minister to his place in the Treasury. I am sure he will do an excellent job.

Is it not impossible to assess the impact of leaving, whether we are talking about the European economic area or the European Union, without knowing where we are headed? It is time for the Government to be clear about the end state of negotiations on financial services. I would like to see them publishing a position paper on financial services, particularly one informed by the meeting between the Prime Minister and the Chancellor last week.

John Glen: I am extremely grateful to my right hon. Friend, the Chair of the Select Committee, for that. I am aware of her previous exchanges with the Chancellor, who has undertaken to look at this issue. I will be working with him and we will respond in due course.

Alison McGovern (Wirral South) (Lab): Academic assessments by the Treasury are crucial, but my constituents are reeling from hundreds of job losses at Vauxhall. Last night's comments by the chief executive officer of Airbus that whatever Brexit we have will be net negative means we are talking again about hundreds of my constituents' jobs on the line. I plead with the Minister to take this seriously, keep us in the single market and customs union, and keep my constituents in their jobs.

John Glen: I assure the hon. Lady that I take this very seriously, and the Government's intention certainly is to negotiate a deep and special partnership on economic and security matters. There is room for positivity; if we look at what GSK, Google and Apple have said, we see that that attitude of positivity and optimism as we look forward is necessary.

Andrea Jenkyns (Morley and Outwood) (Con): Does my hon. Friend agree that since deciding to leave the EU this Government have overseen record jobs, with quarter 4 figures for 2017 showing improved productivity? Does he agree that Britain's best years lie ahead?

John Glen: The negotiations that this country faces are complex, but I will take an optimistic approach to all the discussions that I undertake at the Treasury and elsewhere going forward.

Topical Questions

T1. [903315] **Stephen Metcalfe** (South Basildon and East Thurrock) (Con): If he will make a statement on his departmental responsibilities.

The Chancellor of the Exchequer (Mr Philip Hammond): My principal responsibility is to ensure the stability and prosperity of the economy, which means building on the ambitious steps laid out in the autumn Budget to tackle the key challenges we face so that we can create an economy fit for the future. I look forward to doing so, ably supported by my excellent ministerial team. Our balanced approach to the public finances enables us to give households and businesses support in the near term, and to invest in the future of this country, while also being fair to the next generation by reducing a national debt that remains too large.

Stephen Metcalfe: Does my right hon. Friend agree that lowering business taxes, as this Government have done, is not a race to the bottom but is vital in building and maintaining the strong economy on which we all depend?

Mr Hammond: Yes, I agree with my hon. Friend. Keeping business taxes competitive so that we can attract international investment to this country is essential, but there is a quid pro quo: if taxes are low, they must be paid. We are determined to ensure full compliance and to lead in international forums in looking at ways of improving corporate tax compliance.

Peter Dowd (Bootle) (Lab): The NHS is in crisis due to the tight-fisted approach the Chancellor takes to the public finances—unless a big corporation, a railway company or a failing construction firm needs a handout or a bail-out. During any discussions he has had with the Health Secretary, has he raised the issue of the funding crisis? If so, what solution has he arrived at to fund it properly, or will he be sending in the receiver?

Mr Hammond: The hon. Gentleman may not have noticed but we have put an extra £6 billion into the NHS. The first two weeks of the year are traditionally the highest pressure weeks in the NHS, and we have seen extreme pressure over the past two weeks. He may also not have noticed that we have a flu crisis going on, which inevitably takes its toll. In an ethically based health service, we treat the sickest patients first, and it is right that we prioritise those with urgent needs over those with routine needs in our hospitals.

Peter Dowd: That was an insouciant attitude, if ever there was one. The Chancellor's local media report that the A&E department in St Peter's Hospital in Chertsey in his constituency had the highest number of 12-hour waits for patients in Surrey at the start of last year. What imaginative explanation does he have for his constituents, if not the whole House, as to why they, like many others, have to wait for so long to get emergency treatment? I ask again: what substantive funding will he provide to the NHS?

Mr Hammond: The answer to that is the £6 billion of additional money that we put in at the Budget. I am glad that the hon. Gentleman raised St Peter's Hospital in my constituency, because that gives me the opportunity to make an important point. As other Members will know, whatever the media say about the NHS in general, when one speaks to one's own constituents about their experience in their local hospital, it is invariably good and they invariably have nothing but praise for the service that they receive from our excellent national health service.

T8. [903323] **Sir Hugo Swire** (East Devon) (Con): The cost of the backlog of repairs to our historic buildings is now estimated to stand at an alarming £1.3 billion, in large part because of the changes to VAT levied on repairs. Will my right hon. Friend show that, as a Conservative, he genuinely believes in conservation and that something will be left standing for future generations to enjoy?

The Financial Secretary to the Treasury (Mel Stride): I certainly agree with my right hon. Friend's assertion of the importance of our heritage, which was recognised

when last year the Department for Digital, Culture, Media and Sport gave grants of more than £140 million in that respect. On VAT relief for repairs to historic buildings, the situation that currently pertains to EU regulations is that if we were to make changes or reductions, we would have to apply them to all buildings in the UK, at onerous cost, but that is something we can look into as and when we leave the EU.

T2. [903316] **Paula Sherriff** (Dewsbury) (Lab): The tampon tax fund gave a quarter of a million pounds to an anti-abortion group, so we are being taxed on our bodies to pay for people who do not think we should have control over them. Will the Minister look again at setting aside much needed funds to tackle period poverty instead?

Mel Stride: As the hon. Lady will know, we have committed to zero-rate tampons at the earliest opportunity. The fact that we are not doing that at the moment is due to our membership of the EU. She will also know that we are providing to women's charities an amount equivalent to what we raise through taxing tampons.

Nigel Huddleston (Mid Worcestershire) (Con): The Chancellor will be aware that Government debt per household is around £65,000. Another name for that debt is deferred taxation. Does the Chancellor agree that the best way to increase tax revenue and reduce our debt is to grow the economy, which is exactly what we are doing?

Mr Hammond: Yes. There are two ways to get our debt falling as a percentage of GDP. By far the easiest way, and the most agreeable way for our constituents, is to grow the economy so that the denominator shrinks.

T3. [903318] **Stephen Timms** (East Ham) (Lab): Together with the Department for Work and Pensions, Her Majesty's Revenue and Customs has a Late, Missing and Incorrect initiative to look into the problems with real-time pay-as-you-earn information—problems that may well explain many of the errors we see in universal credit awards. The Financial Secretary gave me a helpful answer on this topic in October. What progress has he made on quantifying those three problems—late, missing and incorrect—and what hopes does he have for the improvement of RTI quality?

Mel Stride: As the right hon. Gentleman will know, the Late, Missing and Incorrect initiative is there to drive up the accuracy of the real-time information as it passes between employers and HMRC. As he stresses, it is important to ensuring that universal credit is rolled out effectively. On his specific question about statistics, we believe that the level is around 5% or 6% across those three areas. We are continuously driving down those figures, particularly in response to the post-implementation review.

Jeremy Lefroy (Stafford) (Con): The European Free Trade Association, of which the UK was a founder member, would provide an excellent framework from within which to exercise a deep and special partnership with the EU. Would Her Majesty's Government consider that as a sound way forward?

Mr Hammond: As my hon. Friend knows, we are seeking a bespoke vehicle for a deep and special partnership, and we are certainly prepared to look into any constructive suggestion from any part of the House.

T4. [903319] **Peter Kyle** (Hove) (Lab): Last night, the chief executive of Airbus said that every Brexit scenario that is currently on the table will weaken British industry. Is the Chancellor listening?

Mr Hammond: Yes. We engage frequently with industry, and our No. 1 priority is obviously to ensure that we protect the UK economy as we exit the EU. In fact, as a manufacturer of aviation equipment, which has a zero EU tariff, Airbus should be relatively minimally affected. Nevertheless, I think the company's particular concern is about the ability to bring EU nationals into the UK to work, and we have assured it that we will make sure that high-skilled individuals can continue to come.

John Stevenson (Carlisle) (Con): I appreciate that the next stages of the negotiations with Europe are about to start, and what we want to see is a good deal for industry, business and the service sector. Does the Chancellor agree that membership of the European Free Trade Association could offer that opportunity for us?

Mr Hammond: Membership of the European economic area, which EFTA would entail, involves under current rules compliance with the four freedoms, and that means free movement of people, which the British people rejected in the referendum in 2016.

T5. [903320] **Tony Lloyd** (Rochdale) (Lab): With Carillion now the poster child for dodgy market capitalism, what duty does the Treasury owe to the wider public to prevent Government spending Ministers from engaging in inappropriate contracts, and what steps did the Treasury take?

The Chief Secretary to the Treasury (Elizabeth Truss): We have very clear rules about managing public money. Let me point out to the hon. Gentleman that we are not bailing out this company. It has gone into liquidation, and we are taking the proper steps to protect public services, which is the right approach to take.

Alex Chalk (Cheltenham) (Con): Since 2010, unemployment in Cheltenham has fallen to just over 1%. Does my right hon. Friend agree that, to secure that jobs pipeline, the Government are right to continue backing Cheltenham's GCHQ-supported cyber-innovation centre, which is creating opportunities for my constituents?

Elizabeth Truss: I completely agree with my hon. Friend. I am shortly due to visit the centre in Cheltenham and I look forward to seeing him there.

T6. [903321] **Mohammad Yasin** (Bedford) (Lab): The East of England Ambulance Service experienced its busiest ever Christmas, and it had to rely on taxis to take patients to the hospitals. At least one patient died while waiting for an ambulance. How much worse does it have to get before this Government can meet the funding needed by the East of England Ambulance Service so that it can operate safely and efficiently?

Elizabeth Truss: It is important to note that we have 2.9 million more people visiting A&E than we had in 2010. That is why, as well as making sure that we are putting in place a proper modernisation of the health service, we are also investing more money, and we allocated £6.3 billion more at the Budget.

Nicky Morgan (Loughborough) (Con): There are many small and medium-sized enterprises in the Carillion supply chain, as both contractors and direct suppliers. What discussions will the Government have with Her Majesty's Revenue and Customs and other businesses to make sure that these companies are able to continue to pay the tax liabilities and their employees?

Mr Hammond: HMRC already has a scheme that can assist companies that are having cash-flow difficulties in meeting tax liabilities. We agreed last night that HMRC will specifically signpost, via the Carillion-specific websites that are operating, that that facility exists.

T7. [903322] **Afzal Khan (Manchester, Gorton) (Lab):** Greater Manchester police has faced eight years of real-terms cuts and has lost 2,000 officers. Week after week, constituents come to my surgery in deep distress over antisocial behaviour, muggings and burglaries to which the police cannot attend. As a former police officer myself, I know that they are doing the best that they can. Will the Minister commit to giving more funding for Greater Manchester police?

Elizabeth Truss: The hon. Gentleman will have noticed that, in the draft local government settlement, we have given police authorities the power to raise additional precept to be able to deal with those issues. Ultimately, it is a decision for Greater Manchester police.

Neil O'Brien (Harborough) (Con): The current funding formula for local government is opaque, historical and disadvantages Leicestershire. Does the Minister agree that it would be attractive to move to a transparent formula based on the real drivers of costs?

Mr Hammond: As my hon. Friend knows, the Government are committed to introducing a fair funding formula, and my right hon. Friend, the Secretary of State, has committed to move forward with that programme this year.

T9. [903324] **Dr Philippa Whitford (Central Ayrshire) (SNP):** Yesterday saw the successful Second Reading of the Space Industry Bill, which could see Prestwick in my constituency become the UK's first spaceport, but the Ayrshire growth deal is central to ensuring the widest economic impact from that development. The

three local authorities and the Scottish Government are backing it, so will the Chancellor now commit to the Ayrshire growth deal?

Elizabeth Truss: I can assure the hon. Lady that I am in regular discussions with the Secretary of State for Scotland about the growth deals across Scotland. We have already committed to a number of growth deals and are certainly looking at further ones.

Mr Speaker: We are very time constrained today. One sentence—Alex Burghart.

Alex Burghart (Brentwood and Ongar) (Con): Will the Minister welcome the fact that UK manufacturing is at an eight-year high?

Mr Hammond: Yes.

Vernon Coaker (Gedling) (Lab): Councils such as Gedling Borough Council and Nottinghamshire County Council are setting their budgets now, and they face a funding crisis. What are the Government going to do about it?

Elizabeth Truss: We have given councils the power to raise more funds in the draft local government finance settlement, but councils also need to look at how they can become more efficient, share back offices and use modern technology.

Tom Pursglove (Corby) (Con): Unemployment in my constituency is down by over 50%, but will my right hon. Friend consider a new round of enterprise zone bidding opportunities to help further that success story?

Mr Hammond: We will give consideration to my hon. Friend's suggestion.

Hilary Benn (Leeds Central) (Lab): Will the Chancellor clarify whether the terms of the public sector private finance initiative contracts with Carillion allow for those contracts to be sold on to other private companies in the event of liquidation?

Mr Hammond: My understanding is that the contracts that are strictly PFI contracts are actually in joint ventures. In that case, it is most likely that the joint venture partner will take over. There are outsourcing contracts that, in theory, could be sold on, but as the Government Department, as the contracting party, will invariably have a right to cancel the contract on the insolvency of the company, in practice it will not be able to be sold on by the official receiver without the agreement of the contracting Department.

British Indian Ocean Territory (Citizenship)

Motion for leave to introduce a Bill (Standing Order No. 23)

12.31 pm

Henry Smith (Crawley) (Con): I beg to move,

That leave be given to bring in a Bill to allow persons descended from individuals born in the British Indian Ocean Territory to register as British overseas territories citizens; and for connected purposes.

This Bill will allow individuals descended from the Chagos Islands to register as British citizens in recognition of the fact that their parents and grandparents were forcibly exiled from that UK overseas territory. It seeks to ensure a measure of justice for those who lost their homeland and all it represented in the late 1960s.

The treatment of the Chagossian people has been raised many times in this House and in Westminster Hall, not only by me but by many colleagues on the all-party parliamentary group on the Chagos Islands; it is my privilege to serve as vice-chair. It is important for me to place on record my thanks to colleagues on both sides of the House for their support for the Bill, including those sponsoring the legislation. They represent seven parties in this place. The good wishes of Parliament for the Chagossian people continue not only to hold firm, but to grow in strength.

I am sure that I need not recap the tragic events that have led to this moment, but I believe it necessary in order to put the Bill in context and to grasp the gravity of Chagossian history. It was almost half a century ago that then Prime Minister Harold Wilson gave an Order in Council to remove the inhabitants of the British Indian Ocean Territory so that a UK-US military base could be established on the strategic main island of Diego Garcia. In the years that followed, a community that had lived peacefully found itself exiled and ignored with scant regard for its rights or wellbeing. We cannot change history, but we can support those removed from their homeland and their descendants who are not covered by the existing law and protections that, as Britons, they should enjoy.

The legislation currently assumes that just one generation of Chagossians will be born in exile and, although many members of the community born in exile have received British citizenship, their children have not. As such, when these families have come to the UK, as is their right, their children have been treated as immigrants like any others by the Home Office. Therefore, they are subject to the usual financial costs and administrative implications. At this time, we can ease the burden. We can provide assistance to those whose story is not recognised in the country that removed them from the place—a British territory—that they call home. Of course, had the population not been evicted half a century ago, all born on the islands would already have British citizenship status.

Crawley is home to perhaps the largest Chagossian population in the world, and it is my privilege to stand up for that community in Parliament and locally. Today I ask right hon. and hon. Members to allow this Bill to progress and allow those descended from individuals born in the British Indian Ocean Territory the ability to register as British citizens. The Bill would simplify

nationality law so that anyone who can prove that they are of Chagossian descent becomes eligible to register as a British overseas territories citizen.

I continue to support the right of return of the Chagossian people. That would likely be a staggered process. I am in no way convinced by the Foreign and Commonwealth Office's objection to the pilot resettlement. In 2016, the Government announced that, rather than a right of return, there would be a support package of £40 million delivered over a 10-year period to go to the Chagossian community in Crawley, elsewhere in the United Kingdom, and in Mauritius and the Seychelles, where most were exiled to. The Foreign and Commonwealth Office is continuing to engage with local authorities, including my own, with regard to that assistance. There is a real importance to ensuring that that support goes as far as it can and leaves a long-standing mark for the benefit of those who were exiled and their descendants.

This is an issue I have continued to raise on behalf of my constituents. As a result, I have received an apology from the Minister for Europe and the Americas for the UK's historical treatment of the Chagossian people. I have also welcomed to 10 Downing Street constituents who have organised petitions in support of this community.

It is easy to talk about what happened half a century ago, to speak of a £40 million package, or to talk about justice for the Chagossian community, but behind each of these subjects is the knowledge that we are talking about people, a number of whom are here in Westminster today, and many more will be watching across the country and, indeed, around the world. On previous occasions when this issue has been debated in Parliament, there has been a strong Chagossian contingent watching in the Public Gallery, and I am pleased to see that we are again joined by members of the community. Their dignity and dedication in campaigning to have back what was taken from them is an inspiration. This community is at the forefront of our thoughts today.

I want to praise the Government's wider work in the field of human rights—in particular, the Foreign and Commonwealth Office's four main priorities of tackling modern slavery; defending freedom of religion or belief and freedom of expression; ending inequality and discrimination; and promoting democracy. The work of the Foreign and Commonwealth Office, spearheaded by my right hon. Friends the Prime Minister and the Foreign Secretary, is vital and deserves our support. British work on these issues throughout the world—particularly with tomorrow's launch in Parliament of the 2018 World Watch List in mind—represents what we stand for. I am sure that all in this House would agree with the salience of such values forming a vital part of our foreign policy. However, the treatment of the Chagossian people by successive British Governments remains a shameful aspect of our past and, indeed, the present.

I mentioned earlier the all-party parliamentary group, of which I am vice-chair. I pay tribute to the group's chairman, my hon. Friend the Member for Romford (Andrew Rosindell), who has with steadfast vigour stood up for the rights of the Chagossian people. I am not questioning the issue of UK sovereignty over the British Indian Ocean Territory. Indeed, I am grateful to the Foreign Secretary for his continued defence of UK sovereignty over this territory.

[Henry Smith]

Around the world, our great nation is known for its values, including the traditional sense of British fair play. I am a patriot and I love my country. We do have a proud history and, I believe, a bright future. But our nation's treatment of the Chagossian people is a blight on our country's conscience—one that we can start to put right by helping these Britons all to become British overseas territories citizens. I commend the Bill to the House.

Question put and agreed to.

Ordered,

That Henry Smith, Andrew Rosindell, Catherine West, Martyn Day, Mike Kane, Sir Henry Bellingham, Kate Hoey, Caroline Lucas, Patrick Grady, Jim Shannon, Stephen Lloyd and Hywel Williams present the Bill.

Henry Smith accordingly presented the Bill.

Bill read the First time; to be read a Second time on Friday 16 March and to be printed (Bill 150).

European Union (Withdrawal) Bill: (Programme) (No. 2)

Motion made, and Question proposed,

That the Order of 11 September 2017 (European Union (Withdrawal) Bill (Programme)) be varied as follows:

1. Paragraphs 5 to 7 of the Order shall be omitted.

2. Proceedings on Consideration and up to and including Third Reading shall be taken in two days in accordance with the following provisions of this Order.

3. Proceedings on Consideration shall be taken in the order shown in the first column of the following Table and (so far as not previously concluded) be brought to a conclusion at the times specified in the second column of the Table.

TABLE

Proceedings	Time for conclusion of proceedings
Amendments to Clauses 1 to 5; amendments to Schedule 1; amendments to Clause 6; new Clauses and new Schedules relating to any of Clauses 1 to 6 or Schedule 1	4.00pm on the first day.
Amendments to Clause 10; amendments to Schedule 2; amendments to Clause 11; amendments to Schedule 3; new Clauses and new Schedules relating to Clause 10 or 11 or Schedule 2 or 3	7.00pm on the first day.
Remaining proceedings on Consideration	4.30pm on the second day.

4. Any proceedings in legislative grand committee shall (so far as not previously concluded) be brought to a conclusion at 4.30pm on the second day.

5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at 7.00pm on the second day.—(*Mr Baker.*)

12.40 pm

Mr Chris Leslie (Nottingham East) (Lab/Co-op): I just want to ensure that we do not simply pass the motion—I know it is a narrow procedural point—about the amount of time that the House will dedicate to debating the myriad issues covered in the European Union (Withdrawal) Bill. The Committee stage was limited to only eight days. Noble Lords in the other place will have noted that on many occasions lots of amendments that had been tabled could not be fully debated. The view of the House could not be taken on some of them. We are not talking about frivolous amendments. The Government were defeated on some amendments, and they may well be defeated again—who knows?—on another occasion.

There are concerns that there may not be sufficient time on Report to air many very important issues. The usual channels will have talked about the nature of the programme motion. I see that today very much focuses on the questions that are of concern to the Government, where they want to make a concession, or focus on particular areas, but many Members feel that there are other important questions. Those questions include the customs union and the single market, whether we can reach a full trade deal in time, before falling over the cliff in March 2019, and whether there are choices and options available for the British people, other than the very narrow red lines set out by the Government in their policy. I am worried that the programme motion means

we will only have a certain amount of time tomorrow—up to 4.30 pm—for the debate on a very wide range of questions.

I do not want to delay the proceedings because that would obviously go against the point I am making, but this needs to be put on the record so that those in the other place can see that there are concerns in this House of Commons about our not having had sufficient time to debate and fully to consider the full range of issues. I hope that the other place will be able to do justice to the Bill and to such other questions.

Mr Speaker: I am grateful to the hon. Gentleman, and I shall do my best in the Chair to facilitate full debate and such votes as there is an appetite to have.

Mr Kenneth Clarke (Rushcliffe) (Con): On a point of order, Mr Speaker. I voted against the timetable motion, and I support what the hon. Member for Nottingham East (Mr Leslie) has said. Tomorrow is particularly crowded: it is probably the worst day we have had so far, with very limited time for debate on a large number of amendments, and of course Third Reading to follow. Will you confirm that it is still possible—we are not bound by a timetable motion throughout—for the Government, before tomorrow, to produce a motion at least to extend the time for debate so that we are able to give the Bill adequate scrutiny? I do not know of any particular reason why the Government wish to finish the whole of the debate at the precise time at which we will do so if we continue as we are at the moment.

Mr Speaker: The short answer to the right hon. and learned Gentleman is that it is perfectly open to the Government to table such a motion and to do so today. Indeed, if it was to be tabled, it would have to be tabled today. If that happens, the right hon. and learned Gentleman will be pleased; if it does not, he will not be. I can only reiterate that, within the constraints within which we have to operate, my objective is to ensure maximum debate, the greatest possible participation by Back Benchers and plentiful opportunities for Members who want to test their propositions in Divisions of the House to have the chance to do so.

Question put and agreed to.

European Union (Withdrawal) Bill

[1ST ALLOCATED DAY]

Consideration of Bill, as amended in the Committee

Clause 4

SAVING FOR RIGHTS ETC. UNDER SECTION 2(1) OF THE
 ECA

12.45 pm

Kerry McCarthy (Bristol East) (Lab): I beg to move amendment 57, page 2, line 42, leave out clause 4.

This amendment is linked to NC19, which would aim to preserve, more comprehensively than the existing Clause 4, rights, powers, liabilities, obligations, restrictions, remedies and procedures derived from EU law and incorporated into domestic law via the European Communities Act 1972.

Mr Speaker: With this it will be convenient to discuss the following:

Amendment 4, in clause 5, page 3, line 23, leave out subsections (4) and (5) and insert—

“(4) Notwithstanding subsection (5), the Charter of Fundamental Rights continues to apply to retained EU law after exit day save as set out in subsections (5) and (5A) below and all references in the Charter to “the law of the Union” shall be deleted and replaced with “retained EU law”.

(5) The following provisions of the Charter shall not apply after exit day—

- (a) the Preamble, and
- (b) Title V.

(5A) Article 47 of the Charter shall apply after exit day as if it was drafted as follows—

“Right to a fair trial

“Everyone whose rights and freedoms guaranteed by retained EU law are violated is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented.

“Legal aid shall be made available to those who lack sufficient resources insofar as such aid is necessary to ensure effective access to justice.”

(5B) With effect from exit day EU retained law, so far as it is possible to do so, must be interpreted consistently with the Charter.

(5C) With effect from exit day decisions, judgments, advisory opinions of the Court of Justice of the European Union must be taken into account when determining cases under the Charter.

(5D) With effect from exit day in relation to the rights conferred by the Charter with respect to retained EU law—

- (a) section 4 of the Human Rights Act 1998 shall apply and the words “a Convention right” shall be replaced by “a Charter right” and all references to “primary legislation” shall be replaced by “retained EU law”,
- (b) section 5 of the Human Rights Act 1998 shall apply,
- (c) section 12 of the Human Rights Act 1998 shall apply and the words “the Convention right to freedom of expression” shall be replaced by “the Charter right to freedom of expression and information”, and
- (d) section 13 of the Human Rights Act 1998 shall apply and the words “the Convention right to freedom of thought, conscience and religion” shall be replaced by “the Charter right to freedom of thought, conscience and religion”.

(5E) With effect from exit day, any derogation or reservation made under sections 14 or 15 of the Human Rights Act 1998 shall apply to rights under the Charter in the same manner as they apply to Convention rights.

[Mr Speaker]

(5F) With effect from exit day sections 16 or 17 of the Human Rights Act 1998 shall apply to rights under the Charter in the same manner as they apply to Convention rights.”

This amendment would retain the Charter Rights in UK law and afford them the same level as protection as the rights in the Human Rights Act.

Amendment 7, page 3, line 23, leave out subsections (4) and (5).

This amendment would allow the Charter of Fundamental Rights to continue to apply domestically in the interpretation and application of retained EU law.

Amendment 42, in clause 6, page 3, line 36, at end insert

“other than a matter referred to in paragraph 38 of the joint report from the negotiators of the European Union and the United Kingdom Government on progress during phase 1 of the negotiations under Article 50 TEU on the United Kingdom’s orderly withdrawal from the European Union dated 8 December 2017.”

This amendment would ensure that UK Courts and Tribunals can refer matters to the CJEU as agreed between the EU/UK negotiators in December 2017.

Amendment 55, page 3, line 36, at end insert—

“(1A) So far as it is possible to do so, retained EU law must be read and given effect in a way which allows it to operate effectively.”

This amendment (linked with Amendment 56) borrows language from the Human Rights Act 1998 to require courts and tribunals to interpret retained EU law, so far as possible, in order to overcome deficiencies in the operation of retained EU law which have not been dealt with using powers under clause 7.

Amendment 43, page 3, line 37, leave out subsection (2) and insert—

“(2) A court or tribunal may regard the decisions of the European Court made on or after exit day to be persuasive”

This amendment enables UK Courts and Tribunals to consider the decisions of the European Court to be persuasive.

New clause 7—*EU Protocol on animal sentience*—

“The obligation on Ministers of the Crown and the devolved administrations to pay regard to the welfare requirements of animals as sentient beings when formulating law and policy, contained within the EU Protocol on animal sentience as set out in Article 13 of Title II of the Lisbon Treaty, shall be recognised and available in domestic law on and after exit day.”

This new clause transfers the EU Protocol on animal sentience set out in Article 13 of Title II of the 2009 Lisbon Treaty into UK law, so that the obligation on the Government and the devolved administrations to pay due regard to the welfare requirements of animals as sentient beings when formulating law and policy is not lost when the UK leaves the EU.

New clause 9—*Saving of acquired rights: Anguilla*—

“(1) Nothing in this Act is to be construed as removing, replacing, altering or prejudicing the exercise of an acquired right.

(2) Any power, howsoever expressed, contained in this Act may not be exercised if the exercise of that power is likely to or will remove, replace or alter or prejudice the exercise of an acquired right.

(3) In subsection (2) a reference to a power includes a power to make regulations.

(4) In this section an acquired right means a right that existed immediately before exit day—

- (a) whereby a person from or established in Anguilla could exercise that right (either absolutely or subject to any qualification) in the United Kingdom; and

- (b) whereby the right arose in the context of the United Kingdom’s membership of the European Union and Anguilla’s status as a territory for whose external relations the United Kingdom is responsible.

(5) Nothing in this section prevents the use of the powers conferred by this Act to the extent that acquired rights are not altered or otherwise affected to the detriment of persons enjoying such rights.”

The intention of this new clause is to mitigate the impact of Brexit on the British territory of Anguilla which is dependent on frictionless movement between Anguilla and adjacent French and Dutch possessions of St Martin/Sint Maarten that are EU territories.

New clause 13—*Classification of retained EU law (No. 2)*—

“(1) Any retained EU law that was a legislative act or implements a legislative act enacted under Article 289 of the Treaty on the Functioning of the European Union is deemed to be primary legislation on or after exit day.

(2) Any retained EU law that was a delegated act or implements a delegated act under Article 290 of the Treaty on the Functioning of the European Union or was an implementing act or implements an implementing act under Article 291 of the Treaty on the Functioning of the European Union is deemed to be a statutory instrument on or after exit day, unless that law is already enacted as an Act of Parliament.

(3) Any change to the preceding characterisation shall be by regulation which may not be made unless a draft of the instrument has been laid before and approved by resolution of each House of Parliament.”

This new clause would provide greater legal certainty by classifying retained EU law as either primary or secondary legislation.

New clause 16—*Consequences of leaving the European Union: equality*—

“(1) This section comes into force when this Act is passed.

(2) The purpose of this section is to ensure that the withdrawal of the United Kingdom from the European Union does not diminish protection for equality in the law of the United Kingdom.

(3) All individuals are equal before the law and have the right to the equal protection and benefit of the law.

(4) All individuals have a right not to be discriminated against by any public authority on any grounds including sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation.

(5) The following provisions of the Human Rights Act 1998 apply in relation to the rights conferred by subsections (3) and (4) as they apply in relation to Convention rights within the meaning of that Act—

- (a) section 3 (interpretation of legislation);
- (b) section 4 (declaration of incompatibility);
- (c) section 5 (right of Crown to intervene);
- (d) section 6 (acts of public authorities);
- (e) section 7 (proceedings);
- (f) section 8 (judicial remedies);
- (g) section 9 (judicial acts);
- (h) section 10 (power to take remedial action);
- (i) section 11 (safeguard for existing human rights); and
- (j) section 19 (statements of compatibility).

(6) A court or tribunal must have regard to any relevant decisions of the European Court of Human Rights in considering—

- (a) the application of this section generally, and
- (b) in particular, the meaning of discrimination for the purposes of this section.”

This new clause would ensure that the rights of equality presently enjoyed in accordance with EU law are enshrined in free-standing domestic law after the UK leaves the EU.

New clause 19—*Saving for rights etc. under section 2(1) of the ECA (No. 2)*—

“(1) Any rights, powers, liabilities, obligations, restrictions, remedies and procedures which, immediately before exit day are part of domestic law by virtue of section 2(1) of the European Communities Act 1972 continue on and after exit day to be recognised and available in domestic law (and to be enforced, allowed and followed accordingly).

(2) Subsection (1) does not apply to any rights, powers, liabilities, obligations, restrictions, remedies or procedures so far as they form part of domestic law by virtue of section 3

(3) Where, following the United Kingdom’s exit from the EU, retained EU law incorrectly or incompletely gives effect to any rights, powers, liabilities, obligations, restrictions, remedies or procedures created or required by EU law in force immediately before exit day, a Minister of the Crown shall make regulations for the purpose of giving effect to such rights, powers, liabilities, obligations, restrictions, remedies and procedures.

(4) This section is subject to section 5 and Schedule 1 (exceptions to savings and incorporation).”

This new clause is linked to Amendment 57 to leave out Clause 4 and aims to preserve, more comprehensively than the existing clause 4, rights, powers, liabilities, obligations, restrictions, remedies and procedures derived from EU law and incorporated into domestic law via the European Communities Act 1972. Where such rights are incorrectly or incompletely transferred, it imposes a duty to make regulations to remedy the deficiency.

Amendment 40, in schedule 8, page 54, line 6, at end insert

“to which subsection (2) of section (Classification of retained EU law (Amendment2)) applies.”

This amendment is consequential on NC13.

Amendment 41, page 54, line 44, at end insert

“to which subsection (2) of section (Classification of retained EU law (Amendment2)) applies.”

This amendment is consequential on NC13.

Government amendments 37 and 38.

Kerry McCarthy: Amendment 57, which would leave out clause 4, is linked to new clauses 19 and 21. Many of the amendments I tabled in Committee have been proposed by Greener UK, a coalition of many environmental organisations that are concerned about the possible impact of Brexit on environmental protections. They see it as one of the biggest threats: I know other people see it as an opportunity, especially when it comes to rejigging how we subsidise agriculture once we leave the common agricultural policy. The concern is what protections would remain, given the importance of our membership of the EU for everything from cleaning up water pollution and protecting biodiversity to improving recycling and reducing waste. It is hard to believe that we used to allow untreated sewage to flow into our seas before the EU’s bathing water directive forced the UK Government to make our bathing waters fit for swimming and to test for bacteria such as *E. coli*. In 1990, only 27% of our bathing waters met minimum mandatory standards; by 2014, 99% complied.

When the then Secretary of State for Environment, Food and Rural Affairs gave evidence to the Environmental Audit Committee’s inquiry on the natural environment after the EU referendum, she told the Committee that approximately a third of the more than 800 pieces of EU environmental legislation will be difficult to transpose into UK law. The Committee also identified a considerable governance gap, which the Government have acknowledged, and I support new clause 18, which would enshrine

what the Government have said they want in relation to carrying over environmental principles and establishing a new environmental regulatory body.

My amendment addresses the substantial flaws, gaps and democratic deficit in the Bill that were not addressed in Committee, in particular to fully transpose current EU environmental legislation in all areas effectively into UK law to avoid any weakening or loss of existing environmental protection during Brexit. The Secretary of State for Environment, Food and Rural Affairs has been encouraging in saying that:

“We must not only maintain but enhance environmental standards as we leave the EU. And that means making sure we secure the environmental gains we have made while in the EU even as we use our new independence to aim even higher”.

Opposition Members share the same aspirations and visions, but we cannot just take his word for it. We need those promises written into the Bill and concrete measures to deliver on those aspirations. This has to last longer than he is in post.

Amendment 57 would leave out clause 4, with a view to replacing it with new clause 19 which would preserve—more comprehensively than clause 4—rights, powers, liabilities, obligations, restrictions, remedies and procedures derived from EU law. The new clause seeks only to properly realise the Government’s stated ambition for the Bill—they have repeatedly assured us of this during the process—that the same rules and laws will apply after we leave the EU as before.

In their White Paper, the Government sought to reassure us that this Bill will mean that

“the whole body of existing EU environmental law continues to have effect in UK law”.

The Prime Minister has promised:

“The same rules and laws will apply on the day after exit as on the day before”,

but that is simply not the case. As drafted, the Bill will not properly capture and convert all EU environmental law into stand-alone domestic law.

Clause 4 appears to deal with full transposition. In Committee, the then Minister of State for Courts and Justice described it as a sweeper provision that

“picks up the other obligations, rights and remedies that would currently have the force of UK law under section 2 of the European Communities Act 1972.”—[*Official Report*, 15 November 2017; Vol. 631, c. 498.]

But it fails to do its sweeping properly, because some inexplicable and unnecessary restrictions in clause 4(1)(b) and (2)(b) mean that important aspects of environmental law will be lost. Those exceptions include rights that have not been recognised by a court before exit day. Effectively, the basic rights that everyone accepts but that have not been litigated on are at risk. Those rights have been hardwired into EU law and do not need enforcing, but once we no longer have the safety net of the EU, they could fall.

The Government’s defence of the limitations in these subsections in Committee was far from convincing. The Minister essentially argued that they were necessary because directives do not produce directly effective rights until they have been recognised as such by courts. However, if a provision in legislation creates directly effective law, it does not need a court to confirm that that is the case. If a piece of legislation creates a legal position, it does not need a judge to verify that that is

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the case. In fact, the Government have often not transposed certain provisions of directives on the basis that they function adequately directly from the directives without any need to transpose them into national law. That clearly demonstrates that there are parts of directives that currently form part of UK law that will be removed by subsection (2)(b).

Clause 4 does not adequately engage with failures to properly transpose EU law. An obligation should be placed on the Government to remedy incorrect and incomplete transposition. The powers to do so are contained in clause 7(2)(f), but there is a significant difference between a power to do something and a duty to use that power.

To summarise, amendment 57, in getting rid of clause 4 and replacing the linked new clause 19, seeks to rectify those errors. New clause 19 is simpler and more comprehensive than the existing clause 4. It would ensure that rights arising under EU directives are preserved and that a mechanism is in place after exit day to deal with problems arising from the incomplete or incorrect transposition of EU law before exit day.

If clause 4 is not amended, we could lose vital EU law provisions, including requirements to review and report on the adequacy and implementation of laws that are crucial to ensure the law is complied with and up to date. That includes the requirements contained in article 20 of the marine strategy framework directive, article 17 of the habitats directive and article 32 of the air quality directive. Without reported data under the latter, ClientEarth would not have been able to hold the Government to account through the courts on air pollution.

We will also lose obligations on the Government to report and send information to the European Commission, which is then able to aggregate it and use it for considering the appropriateness of laws and their implementation. On day 6 in Committee, I gave an example of how losing reporting requirements under article 10 of the birds directive could, for example, present a barrier to future investment in, and the roll-out of, marine renewable energy and other developments. The Government still have not said whether they intend these reporting requirements to disappear.

Without amendment, we will also see a loss of environmental standards and conditions. Some obligations on member states have not been transposed into UK law, such as article 9 of the water framework directive, which requires water pricing policies to provide adequate incentives for users to use water efficiently, or article 5 of the energy efficiency directive on energy performance requirements for publicly owned buildings. We have been promised a green Brexit, and we are told that leaving the EU will not threaten the health of people or nature, so why is there opposition to amending the Bill to make those promises legally binding?

Let me turn briefly to the other new clause tabled in my name. New clause 21 would ensure oversight of the transfer of functions from EU institutions to domestic institutions. It would do that by requiring the Government to establish a publicly accessible register of environmental governance functions and powers exercised by EU institutions and to make regulations that ensure that all relevant environmental powers and functions are continued. The register would allow the public to monitor and

hold the Government to account on their plans for robust arrangements to be in place on exit day to deliver their ambition for a world-leading environmental justice system. The new clause also reflects strong public concern that the environmental governance gap that would arise on leaving the EU is filled as quickly as possible.

To conclude, I am simply saying that if the Government want the Bill to match their stated intentions, they need to accept these provisions.

Mr Dominic Grieve (Beaconsfield) (Con): It is a pleasure to follow the hon. Member for Bristol East (Kerry McCarthy) in respect of her provisions and to have the opportunity this afternoon to talk about the schedule of amendments in front of us, which we have to consider as a block between now and 4 pm.

The hon. Lady's concern is about the fate of environmental law, as provided to us by the EU, once we leave, and about what provision we will make to provide it with adequate protection. However, the whole list of amendments, including those tabled by the official Opposition, goes to the issue of what happens to areas of entrenched law that have developed during our EU membership after we have gone. My right hon. and hon. Friends on the Treasury Bench keep on repeating insistently that it is not the intention, as a result of our removal from the EU, that any of these protections should be diminished in any way at all.

It is true that one or two of my right hon. and hon. Friends have made hinting noises at various times that there are areas that they might like to alter in future, in a way that suggests a possible diminution, but in fairness to the Government, that has never been the Government's position. Indeed, as we have spent time looking at issues such as equality law or children's rights, the message has come back over and again that the disappearance of the charter of fundamental rights or environmental law issues, for example, will not be used as an excuse for diminishing the existing legal framework.

The difficulty—it is the one that exercised me in Committee—is that it is all very well Ministers coming to the House and making very pleasant statements that that is what they intend to do, but it must be the responsibility of this House to ask the Government how, in practice, that is to be done, when such a powerful mechanism as our EU membership is about to be removed.

That raises a second and more fundamental problem, where I have considerable sympathy with the Government. I understand why, for many in this House—I think that I count myself as one of them, as a good Conservative—the idea of entrenched rights that override the sovereign power of Parliament is something with which we are not comfortable. Indeed, the official Opposition, when in government post-1997 and when seeking to enact the Human Rights Act 1998, recognised that, in that they did not seek to provide entrenched laws; they sought to provide a mechanism through the Human Rights Act whereby rights under the European convention on human rights might be protected in a special way through declarations of incompatibility. That was not sufficient to override primary legislation of this House, but, of course, it did provide a mechanism by which it could be overridden and struck down in the case of secondary legislation. That has always been a way of doing things that has commended itself to me.

I have always accepted that one of the consequences and problems of EU membership is that it has provided entrenched laws that ultimately override by virtue of our international obligations and the direct effect of the European Court of Justice. So I can understand that there should be reluctance on the Government side of the House, as we leave the EU, to simply take this category of laws and say that we are going to give it a special status that overrides the ordinary way in which this House does its business.

If we do that, however, it raises the question of what the Government propose to do to provide, for example, at least as much protection for these categories of rights as is currently enjoyed under the Human Rights Act. One possibility—we canvassed it in Committee—was that the Government might wish to enact primary legislation to add clauses to the Human Rights Act to provide such a mechanism. Indeed, if the Government were to come up with such a proposal, I would be enthusiastic about it, and it is a matter to which we have to give careful consideration.

I am also aware that some of the rights provided in the charter, for example, clearly pertain to EU citizenship, so they are irrelevant to this country once we leave. I also accept that some of the rights may be said to have a socioeconomic aspect, which makes it debatable whether they should be categorised as rights at all. However, that still leaves a very big area indeed of matters that, as I understand it from listening to my right hon. and hon. Friends on the Treasury Bench, Ministers acknowledge are of such importance that they are now seen as being equivalent to rights, yet they do not enjoy the protection of the convention.

1 pm

My hon. Friend the Member for Fareham (Suella Fernandes), who is now a Minister—she is busy, I think, in the Department for Exiting the European Union—characterised the inability to get one's head around the problem with this issue, if I may gently point it out, by first saying that these rights would be wholly protected after we left—they are plainly not—and then actually suggesting that the argument against the Opposition's proposal was that there were multiple layers of rights. Those two statements cannot both be correct. The fact is that areas such as equality law will no longer enjoy any protection at all. Indeed, that will be capable of being changed by statutory instrument, by virtue of other changes that the Government are introducing in the Bill, so these areas do raise serious issues.

I listen very carefully to what my right hon. Friend the Prime Minister says about modernising the Conservative party, giving it a broad appeal to younger people, and trying to ensure that we reflect current norms and standards in our country and give effect to them in the policies we develop. I am sorry to have to say this to my hon. and learned Friend the Solicitor General, but it does seem to me that in simply batting this issue away and saying, "Don't worry; it's all going to be perfectly all right," without even coming up with a plan for the future about, say, possibly adding a Bill of Rights clause or rights clauses to the Human Rights Act, we are sending out a very strange message about Conservative Members' attitude to matters that I believe many in this country now see as rights of a fundamental character, particularly on such issues as LGBT rights.

John Redwood (Wokingham) (Con): Does my right hon. and learned Friend agree that the best guarantee of the fundamental rights of the British people is the will of the British people as expressed through the Parliaments they elect? That is the system I thought we all believed in. I know of no threats to these important rights coming from this Parliament. There are not people proposing that they are watered down, and there would be no majority to do so. The guarantee to the British people is that their Parliament will look after their rights.

Mr Grieve: May I gently say to my right hon. Friend that if his analysis were accurate, no statute would ever have been enacted by Parliament, at any stage in its history, providing additional protections to people's rights over and above the common law? That must be the end point, because the whole point about the Human Rights Act was that it added to protections enjoyed under the common law and did so in a way that was compatible with this House's sovereignty. All I am saying to Ministers is that given that, for 40 years-plus, we have been involved in an international organisation that in practice has entrenched certain rights, it must now be for Ministers to come forward with a sensible proposal as to how those rights, in so far as the Government consider that they are in fact rights, will be protected in the future.

I am afraid that I disagree with my right hon. Friend the Member for Wokingham (John Redwood). Nice as it is to rely upon the Executive's good will, 21 years in this House—heaven knows, my right hon. Friend has been here far longer—persuades me that that good will is not something that we should always rely on. I am afraid that I have seen a number of instances—particularly when I was in opposition, I might add—where it did not seem very wise to do so.

Mr Bernard Jenkin (Harwich and North Essex) (Con): I agree with my right hon. Friend the Member for Wokingham (John Redwood) that in the end, because we are a sovereign Parliament, we are the only guarantor of our people's rights. However, I am interested in what my right hon. and learned Friend the Member for Beaconsfield (Mr Grieve) is saying about this matter, because the other danger that is lurking here is the fact that our courts may well decide that they have an obligation to maintain EU law even in the face of an Act of Parliament, and might strike down an Act of Parliament because, from reading the Bill, they see it as their obligation to retain certain principles of EU law. I like the declaration of incompatibility that my right hon. and learned Friend is suggesting as a very suitable compromise that enshrines what we have.

Mr Speaker: Order. This, if I may say so to the hon. Gentleman, is a mini-speech, with more emphasis on the speech than on the mini.

Mr Grieve: Thank you, Mr Speaker.

My hon. Friend makes a perfectly good point, which reinforces my impression that it is inadequate simply to say, "Because we are leaving we shall leave this to a later date." I will return to that later.

We did actually, Mr Speaker, talk about this at some length in Committee. In Committee, as hon. Members may recall, I emphasised that one way out of this

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difficulty might be to move away from the charter and look at the general principles of EU law. We could allow them to continue to be invoked, in respect of retained EU law, which would include issues such as the laws which we have under the charter, until they were replaced. That seemed to me to be a stopgap. I emphasise that I put it forward as a stopgap—not as a long-term solution, but as a way of getting the Government off the hook of having to accept any part of the charter, because I know that one or two of my hon. Friends choke when they even mention that word. I have never shared that view—I think they should actually go and read the charter, because then they would realise it is rather a reasonable document. My suggestion provided a way forward, and my hon. and learned Friend the Solicitor General very kindly said that he would go away and give the matter some thought, the consequence of which was Government amendments 37 and 38.

I am sorry to start this Report stage with a bit of carping, because later I shall say some very nice things about the response of my hon. Friends on the Treasury Bench to some of the representations that I made to them in Committee. Some very good things indeed have been done, for which I am grateful—I will talk about those when we come to the right point—but I think that the response on this matter is, frankly, rather paltry. They have provided a mechanism by which for three months—the period in which it is possible to carry out judicial review—after the exit date it will be possible to invoke these rights, but not in a way that challenges any primary legislation. It is a minuscule change, but minuscule though it may be, it is actually a little wedge in the door, because it represents quite a major surrender or change of principle on the part of the Government towards this issue, and to that extent I am delighted to welcome it. Nevertheless, as I think the Solicitor General knows very well, the proposal is not what I was asking for. The problem is that although it starts to remedy the situation, it does not go anything like far enough, particularly when it is not linked to a wider statement from the Government about how they want to go ahead and deal with this.

I had to make a decision about whether to table a further amendment to put to the House on Report. Having rebelled—there is no other way to describe it—against the Government, because that was what I undoubtedly did on clause 9, and indeed incited some of my colleagues to join me in doing so, because I thought that clause 9 was so deficient, it is not my desire to cause further stir, in the harmonious atmosphere of early January, by doing that again if I can possibly avoid it. It crossed my mind that two things appeared to me to militate against doing it. The first is this.

I have to say to the Solicitor General that I do not think that the Bill will pass through the upper House without this issue being considered. It has nothing whatsoever to do with whether Brexit takes place; it has to do with the state of certainty of law in this country, which is a matter to which plenty in the other place are capable of applying their minds. I very much hope that when the Bill goes to the Lords, they will look at the amendment that the Government have tabled and understand its spirit—it is well-intentioned, so I must welcome it—but perhaps decide that it might be capable

of a little bit of development. Or, indeed, they may apply their legal minds to this matter and come up with an alternative that does respect—I want to emphasise this—some of the reasons, which I understand, why the Government do not wish to entrench these laws after we have gone.

Stephen Kinnock (Aberavon) (Lab): The right hon. and learned Gentleman is making a point that gets to the heart of the purpose of the Bill, as stated by the Government: this is a technical transfer exercise—it is technically transferring the *acquis communautaire* into British law to facilitate Brexit. Does not the decision not to transpose the charter of fundamental rights make a mockery of that claim? Although the right hon. and learned Gentleman is making very valid points about some of the technical alternatives, do we not need to keep returning the Government to their stated fundamental purpose in the Bill?

Mr Grieve: The hon. Gentleman makes a totally legitimate point, especially as the Government themselves have emphasised how important these issues are to them. We are not turning the clock back to the 1950s—at least, I do not think we are—since when this country has moved on in respect of rights. The challenge to Ministers is that they have to come up with some solution to the problem. As I said, I do not want to put spanners in the works of how they do it.

Another factor influenced my decision not to table another amendment and divide the House on this matter. Realistically, although I realise that some may not like this, in leaving the European Union, we are about to embark on a lengthy period of transitional arrangements during which, in my view—I might be wrong—every jot and tittle of EU law will continue to apply to this country in every conceivable respect, except that we will no longer share in its making in the institutions of the European Union. I am afraid that I think that is where we are going; the alternative, of course, is that we are jumping off the cliff.

If that is where we are going, I accept that there is a little more time for the Government to start to reflect on how they will deal with issues of entrenched law before anybody's remedy disappears. That is something else that influences me in not wishing to divide my own party or the House. I am always aware that quiet persuasion may be better than speeches from the Back Benches, and for those reasons, a bit more quiet persuasion might get us to where we need to be on this issue, but it will not go away.

Mrs Anne Main (St Albans) (Con): My right hon. and learned Friend says that he does not wish to divide the House. However, if he had tabled an amendment and divided the House, and then that vote had been lost, it would have sent a powerful message to their lordships not to mess with the Bill and that the will of the House had been firmly expressed. There would have been an advantage in his position, if he had maintained it.

Mr Grieve: There might have been, but as a loyal member of the Conservative party over many years, I have always been of the opinion that the best way to try to influence one's party's policy is in the quietest way

possible. As this issue has the merit of being able to succeed in that way, I shall stick to my strategy. Of course, if and when I think it necessary for me to do something else, I could, very reluctantly, be forced to do so. On this matter, however, I prefer to leave it.

I turn to a related matter about which I did table an amendment, which I do not wish to press to a vote. It goes to the other issues about the certainty of retained EU law. There is an inevitable internal incoherence about how retained EU law is being handled in the Bill. In reality, retained EU law has a primary quality, because in all likelihood most of it is supreme over our own laws. Oddly enough, that situation is going, at least in part, to be retained, but the Government have dealt with that by allowing it all to be altered through statutory instruments.

In Committee, we tried to find a way out—I tried quite hard. That is why I have tabled new clause 13, which provides a way of identifying what EU legislation is in reality primary and what is secondary. I thought that the House might be interested—if it is not, the other place might be—in how one might go about making that separation, which would then provide a sensible measure of greater certainty. At the moment, the Government's proposal, as I understand it, is that each measure will be dealt with on a case-by-case basis. That seems a rather extraordinary way in which to proceed.

1.15 pm

For that reason, I have put the new clause and a couple of consequential amendments forward for the consideration of the House. If the proposal were to be accepted, or taken away and thought about further, it would allow for what I think would be a credible mechanism by which we could identify primary and secondary legislation that had been retained and had come to us from the EU. I will say no more about that.

My right hon. Friend the Member for Chesham and Amersham (Dame Cheryl Gillan) is not in the Chamber this afternoon, but she also put forward the issue, which comes into this bracket, of whether after exit day people would be able to litigate on matters that arose pre exit day exactly as if we had remained in the EU. That raises a fundamental issue of legal propriety that as yet remains unresolved. I note that the Government have not responded, although I understood that there would be a response. Perhaps it will come in the other place, in which case I will greatly welcome it.

I am conscious that I do not want to take up more of the House's time. We have a problem that ought, in fact, to unite both sides of the House about how best to go about retaining what is best of EU law. Although we have made some steps in the right direction, I regret that I do not think we have yet got anywhere near enough to the point at which I can feel really comfortable that we have done things as well as we should.

Fortunately—or unfortunately, because in many ways I would love to get the process of Brexit out of the way as quickly as possible—we will have ample time over a considerable period to reflect on this matter before we finally achieve some longer-term stability. That encourages me to allow the Government to reflect, rather than challenging them on this issue.

Paul Blomfield (Sheffield Central) (Lab): As ever, it is a genuine privilege to follow the right hon. and learned Member for Beaconsfield (Mr Grieve), whose integrity and honesty have shone through every day we have been debating this Bill.

Mr Speaker: Order. Forgive me. Before the hon. Gentleman gets under way—I think the Minister is keen to follow—I want to say that a number of Back Benchers wish to contribute. I am very keen that they be fully heard; I do not want the debate to be dominated by the Front Benchers, who I am sure will make succinct contributions.

Paul Blomfield: I will seek to live up to that expectation, Mr Speaker; I do not intend to speak for long.

Amendment 4 addresses one of the six key tests that we set out for the Bill before we could support it. Those tests were not set out simply on Second Reading or in Committee, but 10 months ago, when the White Paper outlining the Government's approach was first published.

The tests drew support across the House, but sadly the Government have made no significant concessions. In Committee, a meaningful vote for Parliament on the final deal was secured, of course—but against the wishes of the Government and only by decision of the House. Our five amendments at this stage address those other tests: facilitating a transitional period; protecting the devolution settlement; protecting workers' rights; reining in the Henry VIII powers; and, in amendment 4, retaining the EU charter of fundamental rights in UK law.

The objective of amendment 4, which would retain charter rights in UK law and afford them the same level of protection as those in the Human Rights Act, has wide support on both sides of the House. It is part of a sensible and responsible approach to Brexit that respects the referendum decision but does not sacrifice jobs and the economy or rights and protections on the altar of ideology. It is a sensible approach for which I believe there is a majority across the House—one that goes well beyond those who voted for amendment 7 in Committee. It is also a consensus that I think is reflected in the other place, from which I suspect we might see the Bill return with some improvements, as the right hon. and learned Member for Beaconsfield indicated.

The Opposition support amendments 42 and 43, which would enable UK courts to continue to refer matters to the Court of Justice and to consider CJEU decision to be persuasive. As well as amendment 55, we also support new clause 13, amendments 40 and 41, on clarifying the status of retained law, and new clause 16 on enshrining equality rights, which stands in the name of my hon. Friend the Member for Enfield, Southgate (Bambos Charalambous). We also support new clause 7 on animal sentience and new clause 9 on the acquired rights of Anguillans—an indication of the enormous complexity and range of the issues we face with Brexit. We accept that Government amendments 37 and 38 improve the Bill, but we fear that they do not go anywhere near far enough on legal challenges based on the general principles of EU law, which is why we prefer and support amendment 57, which was moved so ably by my hon. Friend the Member for Bristol East (Kerry McCarthy).

Amendment 4 addresses the concerns we raised in Committee around the charter of fundamental rights and provides an opportunity for the Government to

[Paul Blomfield]

think again. Human rights should not be a dividing line between parties in this House, so even at this stage we hope that the Government, either here or in the Lords, might accept our approach in the amendment and perhaps even accept the amendment today and avoid the vote that we will otherwise be seeking. As we said in Committee, the charter has been critical in developing, strengthening and modernising human rights in the UK. To abandon it risks reducing protections for UK citizens and leaving a gaping hole in our statute book.

The Government claim that the Bill is about legal continuity and certainty in what will become the new category of EU retained law, but all of that EU law is interpreted through the charter, so excluding it would leave our legal system inconsistent and incoherent. To avoid defeat on this issue in Committee the former Justice Minister, the hon. Member for Esher and Walton (Dominic Raab), committed to publishing a memorandum that he claimed would confirm the Government's case that the charter was unnecessary by identifying where all of these rights could be found in EU retained law or existing domestic law.

Obviously that argument overlooked the main point of the charter, which was to bring all of these rights together in one codifying document, but as an Opposition we were willing to be helpful and awaited the memorandum with interest. We wanted to see a comprehensive document that identified not only the source of each right in the charter but—crucially—how the existing level of effective recourse would be guaranteed. The memorandum was published on 5 December, and it acknowledged that the Government envisaged all these rights being scattered back to their original sources. They are removing the material source of the rights, in the form of the charter, and leaving citizens with the formal source. Now that is a legal way of describing the problem, but I am not a lawyer. It means in effect that it will become more difficult for any UK citizen to assert their rights post-Brexit.

In their defence, the Government insisted that nothing would be lost if we dropped the charter because it created no new rights.

The Solicitor General (Robert Buckland) indicated *assent*.

Paul Blomfield: I see the Solicitor General nodding. On this crucial issue, however, the Government's cover has been blown. For this, I would like to thank the new Under-Secretary of State for Exiting the European Union, the hon. Member for Fareham (Suella Fernandes)—I am sorry she is not in her place today—because in an article in *The Daily Telegraph* on 18 November last year she made our case clearly. She expressed her concern about the charter precisely because it provided new rights. She wrote that it went beyond the European convention on human rights by creating “extra layers of rights”, and she went on to bemoan the fact that these extra rights covered

“everything from biomedicine and eugenics to personal data and collective bargaining”.

I appreciate that her thinking on this will probably be in line with that of her new boss, the Secretary of State for Exiting the European Union, because he relied of course on the extra rights provided by the charter when he brought his own court case against the now Prime Minister asserting his right to personal data.

Hilary Benn (Leeds Central) (Lab): My hon. Friend is making a powerful case. In addition to the points he has just made, the Exiting the European Union Committee heard evidence from witnesses who said that something would be lost if the charter was not transferred. Given that the whole purpose of the Bill is to take the law as it is now and make sure it is still there the day after, does he agree that the Government have thus far failed to persuade the House that the one thing that should be left out is the charter of fundamental rights?

Paul Blomfield: I agree absolutely with my right hon. Friend, and I hope even at this stage that Members across the House might join us in supporting amendment 4.

I do not often agree with the Under-Secretary of State for Exiting the European Union, the hon. Member for Fareham, but I am delighted to say that in this case I do. She is right that the charter does indeed go beyond the European convention on human rights and that EU retained law will be incoherent without it. Our amendment is necessary, therefore, if we are to achieve the Government's own stated objective of protecting the rights of UK citizens. This is a crucial issue. The chair of the Government's own Equality and Human Rights Commission, David Isaac, has said:

“The government has promised there will be no rowing back on people's rights after Brexit. If we lose the charter protections, that promise will be broken. It will cause legal confusion and there will be gaps in the law.”

These are serious concerns. Human rights should not be a dividing line across the House but should be seen as a British value, and I urge all Members who do not want Brexit hijacked and the rights of UK citizens diluted and reduced to support the amendment.

Mr Chris Leslie (Nottingham East) (Lab/Co-op): I want to speak briefly to several of the amendments in this group. In particular, I want to encourage the right hon. and learned Member for Beaconsfield (Mr Grieve) to elaborate on his rather carefully crafted new clause 13, which sets out quite a clever solution to the vexed question of EU retained law. He slightly rushed through his explanation of the new clause towards the end of his speech, but as I understand it, he is suggesting that, rather than treating as a new category of law the whole corpus of 40 years of accrued EU legislation, rights and duties that we all enjoy—or not, depending on how they apply—for the purposes of future amendment or reform of those rights and retained law, certain aspects should be treated as primary legislation and others as secondary legislation.

I think the right hon. and learned Gentleman was saying that issues that fell under article 289 should be treated as primary legislation because they were of greater import, and that if we wanted to amend them again in the future we should do so by Act of Parliament, whereas aspects of retained EU law that related to delegated instruments under article 290 should be treated as secondary legislation, and if there were future reforms of those aspects, Parliament could use the secondary procedure. It would be most helpful if the right hon. and learned Gentleman could give us a little more detail about why he felt that those were the right categories to pursue.

1.30 pm

Mr Grieve: I am certainly not going to make a mini-speech; I said what I felt was sufficient. I offer the new clause not as a perfect solution, but as an alternative to

what I consider to be the rather incoherent approach that the Government have adopted. The new clause seemed to me to have some merit, especially because it includes a provision allowing the status of retained EU law to be altered by statutory instrument, so the House could be done with the process quite quickly. I thought that it was a way of trying to resolve what I saw as a practical problem. Let me emphasise that it was not intended to be a weapon with which to beat Ministers on the head. I saw it merely as a sensible way of trying to take things forward, and I present it to the Committee in that spirit. It is not perfect, but represents another way in which we might approach the issue.

Mr Leslie: This may seem a dry and technical question, but from time to time Parliament does reflect on the nature of legislation that has been passed. We all assume that it has been accrued through Acts of Parliament or through secondary legislation, but we are now importing a third category, that of retained EU law, into our legal context, and we need to know how to treat it in the future. I do not think that the Government have addressed that question adequately, which is why I think that new clause 13 is of particular interest.

Catherine West (Hornsey and Wood Green) (Lab): One of the perplexing aspects of Brexit is the lack of certainty. Many external advisers have come to see us, both in our capacity as constituency MPs and as people who are concerned about the economy and the legal picture and who are asking for certainty. The new clause would assist that process.

Mr Leslie: These issues are very much to do with legal clarity. They are to do with ensuring that the body of our law can operate smoothly and with stability, and that the courts can properly interpret the way in which various rights will apply in the circumstances that our individual constituents may encounter.

You were not in the Chair during the Committee stage, Mr Speaker, but you may recall that we had some discussion about aspects of the charter of fundamental rights. Amendment 4, and amendment 7 tabled by members of the Scottish National party, makes the important point that, as we heard earlier from my hon. Friend the Member for Sheffield Central (Paul Blomfield), this is not a simple “copy and paste” piece of legislation. I agree with my right hon. Friend the Member for Leeds Central (Hilary Benn): it seems very peculiar that the charter has been explicitly excluded from the carrying forward of rights. Ministers say, “Do not worry: all those matters are already covered”, or “Common law can deal with them adequately”, but I do not think that such verbal assurances are good enough, and evidence given to the Exiting the European Union Committee bears that out.

Charlie Elphicke (Dover) (Ind): I read what the report said about the issue of the charter of fundamental rights, and I must say that I thought it very inconclusive. I do not think that the Committee took a strong position on either side of the debate.

Mr Leslie: The Select Committee consists of Members in all parts of the House. Far be it from me to interfere with the way in which my right hon. Friend the Member for Leeds Central manages—heaven knows how—to

steer through a report compiled by a Committee that is not only august but enormous. Evidence was submitted, however, and I do not think that it can be swept away.

Let me remind the Committee what we are talking about when we refer to the Charter of Fundamental Rights. We are talking about rights that relate to “dignity, the right to life, to freedom from torture, slavery, the death penalty, eugenic practices and human cloning”.

We are talking about

“freedoms, the right to liberty, personal integrity, privacy, protection of personal data”—

which will be a massive issue when it arises later in our proceedings—

“marriage, thought, religion, expression, assembly, education, work, property and asylum”.

We are talking about

“equality, the right to equality before the law, prohibition of all discrimination including on the basis of disability, age and sexual orientation, cultural, religious and linguistic diversity, the rights of children and the elderly”.

Again, some of those rights are not necessarily enshrined in primary legislation, but have accrued because of our membership of the European Union over several decades.

We are talking about

“solidarity, the right to fair working conditions, protection against unjustified dismissal, and access to health care, social and housing assistance...citizens’ rights, the rights of citizens such as the right to vote in elections and to move freely, the right to good administration, to access documents and to petition Parliament”.

We are also talking about justiciable rights:

“the right to an effective remedy, a fair trial, to the presumption of innocence, the principle of legality, non-retrospectivity and double jeopardy.”

We can all point to parts of existing UK law where many of those rights may be covered adequately, but other rights—particularly those relating to children and families and to social policy—are connected very much with EU law.

James Cleverly (Braintree) (Con): The catalogue of rights that the hon. Gentleman has just read out is impressive, without a shadow of a doubt. Will he concede, however, that throughout the glorious history of this place, Governments of all political persuasions have enshrined, in primary legislation and elsewhere, rights that include almost all of those? Indeed, in continental Europe, when many of those rights were being stripped down and attacked, this place had a fantastic track record of defending them both in the UK and in other parts of the world, spilling the blood of our young people in order to do so. How on earth can the hon. Gentleman think that we would strip them away?

Mr Leslie: No one is more proud of being a member of this fine body than I am. Parliament is a great institution: I would say that it is one of the greatest democratic institutions in the world. We are perfectly capable of dealing with many of these issues, but the hon. Gentleman unwittingly went against his own argument when he said “almost” all the rights in the charter were covered or duplicated in primary legislation. Not all of them are covered, as was made clear in some of the evidence that the Select Committee heard.

Mr Pat McFadden (Wolverhampton South East) (Lab): Is there not a fundamental inconsistency here? The Government’s reason for not including the charter is

[Mr Pat McFadden]

that those rights are covered in domestic law, so it would not add anything, but they propose to include thousands of other directives and rules, many of which we would also be unlikely to change in domestic law. The very same argument could be applied to those thousands of other rules that the Bill goes out of its way to incorporate. The Government say, “We do not want to change the labour laws; we do not want to change the environmental rules; we do not want to change the consumer rights.” However, they apply a different logic to the charter. Why does my hon. Friend think that is?

Mr Leslie: The logic of the Government is a mystery sometimes, and I wonder whether the Solicitor General actually secretly agrees that these are important rights that need to be defended and that the Government have got themselves into a bit of a pickle, possibly because they drafted this Bill before the general election and therefore before they saw some of the consequences of these things.

Peter Kyle (Hove) (Lab): Those of us who are gay, who went to school in the 1980s and who remember very well the impact of section 28 might baulk at the idea that every Government have given rights and not taken them away. Does my hon. Friend agree that that is a fundamental reason why we need to share and stay within the European Union and the fundamental rights system it provides?

Mr Leslie: My hon. Friend is absolutely right. That right of protection for freedoms and liberties on the grounds of sexual orientation is enshrined in the charter of fundamental rights. One of the examples given was civil partnerships where in the future pension rights might be divided but at the time when the partnerships took place certain UK laws were not in place; the charter provides protections against discrimination in a way that existing UK law does not.

Stephen Doughty (Cardiff South and Penarth) (Lab/Co-op): My hon. Friend is making a strong point and I strongly support what he is saying and Labour Front-Bench amendment 4. I accept that many Conservative Members would strongly defend the rights in the charter and other provisions we have agreed to, but does my hon. Friend agree that the public have reason to be deeply suspicious, because they hear many Conservative Members talk about a race to the bottom in regulation, particularly in employment rights, and about wanting to scrap the Human Rights Act and pull us out of the European convention on human rights? That is why keeping such rights is so crucial.

Mr Leslie: That is right, and my hon. Friend will also remember that, before becoming Secretary of State, the right hon. Member for Haltemprice and Howden (Mr Davis) cited many of the rights in the charter in his own legal case against the then Home Secretary, who is now the Prime Minister. The right hon. Gentleman took a case against her and cited many of the provisions in the charter; how strange it is that he now introduces a Bill that does not necessarily carry forward those provisions.

Seema Malhotra (Feltham and Heston) (Lab/Co-op): My hon. Friend is making an excellent speech. Does he agree that the issue at hand is not whether those of us in this Chamber now might want to change the rights and protections we currently have, but the process by which those laws and rights could be changed and the ease and lack of accountability and transparency that could put them at risk in future?

Mr Leslie: I can certainly imagine cases where our constituents, feeling the need to assert some of those rights in the charter in future, find themselves falling foul of the provision in clause 5 that says, all of a sudden, that the charter of fundamental rights is not part of domestic law on or after exit day. They enjoyed those rights hitherto; where would that situation leave them?

The Government, when being sued by the tobacco companies which did not like plain packaging and thought it was against their rights of expression, cited the right to public health in the charter of fundamental rights and managed to defeat those tobacco companies. The charter of fundamental rights proved important not just for our constituents, but for the Government themselves in upholding what was a good piece of public policy at the time.

Anna Soubry (Broxtowe) (Con): I think I played a small part in that, and the hon. Gentleman is absolutely right. Does he agree that all political parties are very keen to appeal to younger voters and that things such as rights really matter to young people, so it could be seen as somewhat ironic that a party that wants to get more young people to vote for it seems to be turning its back on provision for these very important rights?

Mr Leslie: I am sure that advice will have been heard in senior quarters. Indeed a vice-chair of the Conservative party, the hon. Member for Braintree (James Cleverly), is sitting on the row in front of the right hon. Lady. He is a very senior and eminent individual now, who has great responsibility for digging the Conservative party out of quite a deep hole.

James Cleverly *rose*—

Mr Leslie: If the hon. Gentleman wants to show us his spade, I will give way to him.

James Cleverly: I am not trying to scrape over the point I made earlier, but I am very proud of the history of this place in enacting and protecting rights whether they are in primary legislation or not. The implication of what the hon. Gentleman is saying is that, upon our departure from the EU, unless we bind the hands of Governments of the future in some way, we can no longer trust this place to enhance and protect human rights. Can he reassure me that in no way is he implying that this place will in any way in the foreseeable future row back from its commitment to extending human rights?

1.45 pm

Mr Leslie: Who knows what will happen in terms of future majorities in this place. The hon. Gentleman is still not explaining to me why this issue of all the issues

should not be carried forward into legislation. He says he is in favour of almost all or all, of the rights in the charter, but we know there are examples where problems arise.

Lady Hermon (North Down) (Ind): The Government boast about their protection of human rights, and of course they sign up to UN conventions on the protection of rights of women and children, but they do not then incorporate those rights into our domestic legislation, and because we have a dualist system in terms of international law the rights in UN conventions are not directly applicable in the UK. That is why it is so important that we retain the charter of fundamental rights, and that the Government give a commitment today that they will do so.

Mr Leslie: The hon. Lady's legal experience speaks volumes about the issue. Simply explaining that one is in favour of these rights, having Members on the Conservative Benches say "They are all really important", saying that in leaflets and posting them through letterboxes at elections, and having Ministers at the Dispatch Box saying, "Trust us, it's all fine" cannot provide the solid protections that our constituents need in a court of law, whereas the charter of fundamental rights can currently do that.

Sir Desmond Swayne (New Forest West) (Con): They have never been in any of my leaflets. I may be in danger of repeating myself now, but when did that ever stop anyone? The reality is that I remember sitting where the hon. Gentleman is sitting now and being told from the Dispatch Box on this side of the Chamber by his party colleague the right hon. Member for Leicester East (Keith Vaz) that the charter would never apply in the United Kingdom and indeed that it would have no more force than a copy of *The Beano*.

Mr Leslie: As it happens, since that time we have learned that the charter provides extremely important protections for many citizens. I do not think the Government would have cited it in legal actions against the tobacco companies if it were such an unimportant protection.

Emma Reynolds (Wolverhampton North East) (Lab): Does not the right hon. Member for New Forest West (Sir Desmond Swayne) make our point for us? So many on the Tory Benches disregard the importance of the charter.

Mr Leslie: I am worried. The right hon. Member for Broxtowe (Anna Soubry) was saying to her hon. Friends, "Be careful because our constituents do care about rights." She said in particular that younger people care about rights. They really do matter. They may not matter to them in their daily lives today, but they may matter to them or their family or relatives or the environment tomorrow. Those are all things our constituents care about.

Charlie Elphicke: The hon. Gentleman has been incredibly generous in taking interventions throughout his speech. When this matter was debated at the previous stage, we had a long discussion on the charter of fundamental rights and it was clear that it divides into three sections. One section is already covered by the Human Rights Act, another section will be meaningless

when we leave Europe—it includes rights such as the right to petition the European Parliament—and there is a middle section where there are rights that we should look at carefully. The right way to deal with that is through a constitutional Bill in due course to reset our own rights settlement in this country for all citizens, not just for European law.

Mr Leslie: If that were the right way, the Government would have introduced a Bill to provide such certainty, instead of saying, "Mañana. Maybe at some point in the future we will try to close this loophole." We have the Trade Bill now, as well as the Nuclear Safeguards Bill and a customs Bill. We are supposed to have an immigration Bill at some point, although I suspect that the Government are having a few difficulties figuring out how to bring it forward. These Bills are supposed to be the fundamental underpinnings of the copy-and-paste process that the Government are pursuing. They are supposed to be taking aspects of European Union rules and regulations and ensuring that they will still be here after March 2019, but no Bill relating to the charter of fundamental rights has been brought forward.

Alex Chalk (Cheltenham) (Con): The hon. Gentleman is right about the importance of some of these rights, but may I suggest that incorporating the charter would create complete legal confusion? Under the convention, there is purely a power to make a declaration of incompatibility. Under the charter, however, UK law can actually be trumped. The extraordinary situation could arise in which, if a prohibition against slavery were breached, the courts could merely say that it was incompatible, but if there were a breach relating to data protection, UK law could be trumped. That would create confusion and chaos, which is not what we need in this country.

Mr Leslie: Personally, I believe that Parliament does and should value the provisions of the charter of fundamental human rights. I trust our legal system to be able to reconcile textual difficulties between different Acts. I would rather operate on the precautionary principle and have those rights covered within our law than see the protections that are offered to our constituents expunged at this point, only to unwittingly discover later that the rights we used to have under the charter are no longer provided for because the Government of the day did not want to transpose them.

While talking about rights, but in a completely different context, I want to talk about new clause 7, which has been tabled by the hon. Member for Brighton, Pavilion (Caroline Lucas). It relates to animal sentience and the welfare of animals—not human rights but animal rights. If there is one issue that can be guaranteed to fill all our inboxes, it is the protection of animal rights. Our constituents really do care about this issue. The Government have already got into a tremendous pickle over this, and it would have been funny if it were not so tragic to see the Secretary of State for the Environment scrabbling around trying to pretend that, all of a sudden, the Government really cared about these matters.

Brexit will affect this area quite considerably. On the International Trade Committee, we heard evidence from various animal rights organisations and others involved in the agricultural trade sector, including the National

[Mr Leslie]

Farmers Union and those involved with what are known as the sanitary and phytosanitary regulations relating to the import and export of animal products. There is a reason that the Americans dip their chickens in chlorine, Mr Speaker. I do not know whether you have had chlorinated chicken recently. I am not that fussy myself, but perhaps we will be invited to a tasting session at the new American embassy at some point. The reason they dip their chickens in chlorine is that the welfare standards that cover their abattoirs and the way in which their animals are looked after before slaughter are far worse than ours. Before the animals reach the consumer, they need to be cleaned up in a way that is not necessary here in the UK because we have higher welfare standards, not least by virtue of our membership of the European Union. Across all the European Union, we take a precautionary principle when it comes to this kind of regulation. We do not have to dip our chickens in chlorine, because they are already subject to certain health and safety standards.

Animal welfare issues matter in relation to trade as well. I find it perplexing when Conservative Members say that our salvation will be a trade deal with President Trump and the United States. We all know that the primary goal of the United States will be to have a treaty in respect of agriculture. If we do such a deal, the Americans will want to sell us animal products that have been produced under lower welfare and regulatory standards. That will be the deal they will seek. However, if the Secretary of State for the Environment says that we are going to have exactly the same regulatory standards as we have now, he will effectively be telling the Americans that there can be no trade deal. That would be the outcome—[*Interruption.*] It would certainly be a very big sticking point.

Charlie Elphicke: In Dover and Ramsgate in east Kent, we have to put up with the evil and wicked trade of live animal exports, and we have to do that because of European law. We now see an opportunity to stop that evil trade, for the sake of our communities and for animal welfare, by leaving the European Union and taking back control. Does the hon. Gentleman not welcome that?

Mr Leslie: There are ways of mending, improving and reforming animal safety standards within the European Union. We should be making the case to do that. We do not want to throw away the benefits that the hon. Gentleman's constituents enjoy, such as being free from traffic jams—not all the time but on many occasions. If Dover has to institute all the necessary sanitary and phytosanitary checking and inspections, with all the warehousing arrangements and other obstacles and regulations that will be needed at the border because we have left the European Union, his constituents will be mightily annoyed by the bureaucracy that they will encounter.

Caroline Lucas (Brighton, Pavilion) (Green): Does the hon. Gentleman agree that, if the Government had had the political will to do this, they could have ended live animal exports by now? There are already references in the EU treaties to public morals, so they could have done it if they had had the political will to do so. Also,

if the Government really want to persuade us that they care as much about animal welfare as they claim to do, why on earth would they oppose the new clause? It will simply ensure that we do not have a gap when we leave the EU and before the new Bill, if it happens, comes in?

Mr Leslie: The hon. Lady makes a very good point. In relation to specific issues relating to Brexit, the Government are finding, when the rubber hits the road, not only that there are potential problems such as the one relating to an American trade deal but that an awful lot of their constituents are saying, “Hang on a minute, what exactly are you doing about animal rights issues? Where will we be when we exit from these particular provisions?”

Graham Stringer (Blackley and Broughton) (Lab): My hon. Friend knows that we do not agree on many issues relating to the EU, but we were both elected on the same glorious day in May 1997, and he will remember that our postbags then were full of campaigns to stop the export of live animals to Europe. The reason that that did not happen was not a lack of political will. The reason that the Labour Government, the coalition Government and the Conservative Government did not change the law is that it is a fundamental part of the treaty of Rome. That gives the lie to the argument that the EU can be reformed from inside. The treaty of Rome is not going to be reformed.

Mr Leslie: Treaties are reformed every time there are adaptations to them, whether it is Maastricht, Nice or Lisbon. The body of European rules and regulations is adapted and reformed all the time. It is all part of working together in co-operation. Sometimes we get our way on particular issues; sometimes we have to continue to argue our case. That is the nature of pooling some of our rules and sharing sovereignty in some respects with our wider neighbours. That is the nature of agriculture and of the environment in which we live.

Kerry McCarthy: It is an absolute fallacy to suggest that this Government have been dying to ban live animal exports and that it is only the EU that has held them back. I think it was Germany and the Netherlands that tried in the past few years to put a limit of eight hours, transit time on live exports. The UK went along to those negotiations and argued against those proposals. This is definitely a question of political will.

Mr Leslie: My hon. Friend absolutely nails the point and brings it home. She knows a great deal more about such issues than I do. The Government of the day do have a say on the rules and can sometimes effect reforms or block them.

Mr Jenkin rose—

Antoinette Sandbach (Eddisbury) (Con) *rose—*

Mr Leslie: I do have to conclude my speech, but I will give way to the hon. Lady first.

2 pm

Antoinette Sandbach: I am grateful to the hon. Gentleman, but this country is a leader in animal welfare legislation, having introduced the concept of unnecessary

suffering in 1915 and, in effect, the first protections for animal welfare, and we have continued that process. Indeed, this Government have reformed animal welfare and this country has high animal welfare protection standards.

Mr Leslie: We do have high animal welfare standards. I do not deny that there could always be improvements, but I want to retain what our constituents want, which is high standards. By leaving the European Union in this particular way, I worry that we will be forcing ourselves to chase after trade deals with other jurisdictions that have a totally different approach to regulation. The world effectively has three regulatory philosophies: the Chinese have a particular view of regulation; the European Union has a precautionary principle; and the Americans have a different cost-benefit analysis view of the world. If we depart from the precautionary principle ambit, that will affect agriculture, animal rights and many other issues. It would lead to wholly different and lower regulatory standards, which in some ways is the backdrop to this whole question.

Stephen Doughty *rose*—

Mr Leslie: I will take one last intervention, but then I must conclude.

Mr Jenkin *rose*—

Mr Leslie: No, I have to conclude.

Stephen Doughty: I thank my hon. Friend for giving way; he is being very generous. Does he recognise that people are suspicious given that, for example, the new Under-Secretary of State for Exiting the European Union, the hon. Member for Fareham (Suella Fernandes), who has just joined us in the Chamber, said that the Government were right not to copy the charter of fundamental rights into UK law because lawyers will love the extra rights that it gives? That shows the real intention behind what some Ministers want, which is to bring down the rights that have protected so many people and workers, the environment, and safety.

Mr Leslie: I congratulate the hon. Member for Fareham (Suella Fernandes) on her appointment, but I am very much looking forward to her speech, which will perhaps wind up one of the sections of this debate, because Parliament will want to scrutinise her views, past and present. I will conclude with that because I have taken up more than half an hour and other Members will want to contribute.

Several hon. Members *rose*—

Mr Speaker: Order. I will take Joanna Cherry next and then Mr Kenneth Clarke.

Joanna Cherry (Edinburgh South West) (SNP): I rise to discuss amendment 7, which is in my name and those of my hon. Friends and other Members and relates to the charter of fundamental rights, and amendments 42 and 43, which are in my name, and to give support to amendment 55, which was tabled by my hon. Friend the Member for Cumbernauld, Kilsyth and Kirkintilloch East (Stuart C. McDonald), who will be addressing it in due course. The amendments raise issues relating to the

protection of fundamental rights, about which we have already had quite a degree of discussion today, and to the justiciability of those rights and their legal certainty in this country and its jurisdictions after Brexit. The amendments tabled by the Scottish National party have the support of the Law Society of Scotland, and those that relate to the charter have widespread support, including from the Equality and Human Rights Commission. I am also interested in the wording of amendment 4, which was tabled by the official Opposition, and if I do not press my amendment, they can count on the SNP's support should they press amendment 4 to a vote.

The questions raised by the amendments have all yet to be answered adequately by the Government. As the right hon. and learned Member for Beaconsfield (Mr Grieve) alluded to earlier in his erudite contribution, the Government's approach to the detailed and widely held concerns about aspects of the Bill tends to be rather dismissive or deals with them airily and in generalities. At this stage, before the Bill goes to the other place, which is unaccountable and undemocratically elected, it is incumbent on the Government to address the questions about clauses 5 and 6 that were directed to them in Committee, rather than to continue to deal in the generalities that they have used so far.

The hon. Member for Hove (Peter Kyle), who is no longer in his place, made a valid point earlier. When we hear constant reassurances from Government Members that this Parliament could not possibly do anything to contravene fundamental rights, we do not need to look back very far into our history, or into the lifetimes of many in this House, to see a prolonged period when the rights of gay people were denigrated by a Conservative Government through the use of section 28.

Anna Soubry: That was a long time ago.

Joanna Cherry: It was not that long ago. Some of us were at school or were students at the time and fought very hard against it. Some of us still find it rather irksome to see the modern Conservative party presented as a great defender of gay rights, because we remember the years when it was not. It has seen the light since then and that is a good thing, but the contravention of human rights is something that Governments do from time to time, which is why it is necessary to have protections that go over and above the whims of the party in power.

Anna Soubry: I am grateful to the hon. Lady for giving way, because I think it needs to be put on the record that, as a Conservative, I could not be prouder of what we achieved between 2010 and 2015, when we introduced equal marriage. I also pay tribute to the fact that the leader of the Scottish Conservatives happens to be gay. We just need to move on from all this. We should not talk about the past, but look to the future. We are very proud of our history as it now is in the Conservative party.

Joanna Cherry: I am sorry that the right hon. Lady has failed to take my point, which is that this is not about what has happened over the past five years, when there has been cross-party support across the United Kingdom—apart from the Democratic Unionist party—for things such as equal marriage. I am talking about recent history and my lifetime as a gay woman. When I was at school and when I was a student, the Conservative party had a policy of completely quashing the aspirations

[Joanna Cherry]

of gay people. We were not even allowed to hear about what our lives might be like when we grew up. That is an example of why we need protections that go over and above the Government and the majority of the day.

Conservative Members do not like to hear it, but there are other similar examples from our recent history. Try telling the members of the nationalist and Catholic community in Northern Ireland in the 1960s and '70s, whose civil liberties and human rights were routinely undermined, that they were defended by this House. They are now, and it is wonderful that we have moved on, but those rights were not protected in the past—in our lifetime—and that is why we need independent support for fundamental rights. It simply will not do for the Government to say that we can get rid of the charter and that all the rights in it will be protected in United Kingdom law, because they are not. I gave an example in Committee of where such rights were not protected—namely, the loophole in the Walker case in the Supreme Court, but we have yet to hear how the Government propose to close the loophole—and there are other examples.

The hon. Member for Sheffield Central (Paul Blomfield), the Opposition spokesman, made the point that the cat was rather let out of the bag when the new Under-Secretary of State for Exiting the European Union, the hon. Member for Fareham (Suella Fernandes), wrote an article for *The Daily Telegraph* last year—I mentioned this in Committee—saying that it was right to get rid of the charter because it contained many rights that she would like to see the back of. I wonder whether that isolated attack on the charter, as the one bit of European law that the Government do not want to bring into UK law, is connected to their previous antipathy to the Human Rights Act and the European convention on human rights. We have been hearing conflicting noises from Government Members about their attitude to the ECHR and the Human Rights Act, and I would be interested to hear the Government's long-term proposals. We have a new Justice Secretary; what is his view on the matter?

In any event, it is important for us to bear in mind that there are many voices from different parts of British society who want to keep the charter, including all the Opposition parties, the devolved Governments in Scotland and in Wales, large parts of the legal profession, significant parts of the judiciary, respected think-tanks and respected non-governmental organisations. It is time for the Government to take note of views held beyond the House and beyond their own party. This is similar to the attitude the Government take towards the views of the people of Scotland, 62% of whom voted to remain. We will debate what passes for the Government's amendments on devolved issues later today, but the distinguished Scottish political commentator Gerry Hassan wrote in the newspaper earlier this week that:

“British politics as currently conducted cannot go on indefinitely, with the will of the people interpreted on the basis of just one June 2016 vote, but ignored in everything else...public opinion north of the border cannot be permanently ignored without profound consequences.”

Do not just take that from Mr Hassan, or indeed from the Opposition. The Conservative party's spokesperson on constitutional affairs in Scotland, Professor Adam Tomkins, said at the weekend that

“the political price of enacting legislation without consent”—

from the Scottish Parliament—
“might be quite significant indeed.”

The wilful ignoring of the will of the Scottish people highlights a democratic deficit at the heart of the United Kingdom, which is why I and other Scottish National party Members would like to see an independent Scotland. The irony is that those who push so strongly for Brexit complain about a democratic deficit in the European Union, and many of them hold that view sincerely, but they seem not to care a jot for the democratic deficit in this Union, the United Kingdom.

Many of the amendments being considered today are about defending democracy, and it is right they should be debated and determined by this House, not by the undemocratic and unaccountable House of Lords. The House of Lords contains a significant number of able people—indeed, I look forward to hearing what they have to say about aspects of this Bill—but they are not accountable in the way that Members of this House are. We should be debating these issues, which is why it is so disgraceful that the Government have not tabled their substantive amendments on devolution. My hon. Friend the Member for North East Fife (Stephen Gethins) will speak about that in more detail later.

The SNP's amendments, and indeed Labour's amendment, on the charter are supported by the Equality and Human Rights Commission, and many hon. Members will have had the benefit of reading the EHRC's briefing and the opinion it commissioned from distinguished senior counsel Jason Coppel on the Government's right-by-right analysis, which was published back in December 2017. The analysis repeats the Government's assurance that the rights provided by the charter will not be weakened following Brexit, which we already know is not the view of the Under-Secretary of State for Exiting the European Union, the hon. Member for Fareham; nor is it the view of Mr Coppel, who has produced a detailed opinion showing that the loss of the charter will result in a loss of rights in a number of ways.

As I and others said in Committee, there are gaps and, most importantly, this Bill will remove remedies that are currently available in UK law in cases of a breach of charter rights. As the right hon. and learned Member for Beaconsfield said, there is also the very real possibility that charter rights could be repealed or overridden in UK law by the use of secondary legislation.

John Redwood: If the Scottish referendum had gone the other way, would not the hon. and learned Lady have regarded the result as completely binding on the whole United Kingdom, even though large parts of England might have voted against her view?

Joanna Cherry: I will not be drawn into a discussion about that today. I can see why the right hon. Gentleman might want to take attention away from the matter at hand, but we are not here today to debate Scottish independence. That will come later, and I very much look forward to it.

We are here today to consider the Bill. Rather than shuffling off our responsibilities to another place, we should be looking at the provisions here. The “assurance” published by the Government is not worth the paper it is written on. One of their Ministers will tell us otherwise, but, perhaps more importantly, the independent legal opinion of a senior English silk commissioned by the EHRC tells us so, and his view is widely held.

I do not intend to press amendments 42 and 43 to a vote today, as I see them as probing amendments. Amendment 43 arises from matters raised in Committee, and amendment 42 arises from the terms of the agreement reached between EU and UK negotiators in December 2017. Amendment 42 would ensure that UK courts and tribunals can refer matters to the Court of Justice of the European Union, as was agreed between negotiators in December 2017 in relation to citizens' rights.

2.15 pm

Paragraph 38 of the joint report from the negotiators confirms that

“the Agreement establishes rights for citizens following on from those established in Union law during the UK's membership of the European Union; the CJEU is the ultimate arbiter of the interpretation of Union law. In the context of the application or interpretation of those rights, UK courts shall therefore have due regard to relevant decisions of the CJEU after the specified date. The Agreement should also establish a mechanism enabling UK courts or tribunals to decide, having had due regard to whether relevant case-law exists, to ask the CJEU questions of interpretation of those rights where they consider that a CJEU ruling on the question is necessary for the UK court or tribunal to be able to give judgment... This mechanism should be available for UK courts or tribunals for litigation brought within 8 years from the date of application of the citizens' rights Part.”

That shows that the agreement reached back in December fundamentally threw away one of the Prime Minister's red lines, because the Court of Justice of the European Union will have continuing jurisdiction in relation to citizens' rights for a lengthy period. I am gratified that the words “due regard”, which were in my original amendment 137 in Committee—the amendment was only narrowly defeated—were used in the agreement.

The purpose of amendment 42 is to ensure that the agreement reached last December is reflected in the Bill, and the amendment has the objective of continuing the Court of Justice's jurisdiction on citizens' rights in this country up to a point. Of course that does not deal with the thorny problem of clause 6(2), which I attempted to amend in Committee without success. Amendment 42 was suggested by the Law Society of Scotland and is very much a probing amendment.

It needs to be borne in mind that it is not just politicians who are concerned about clause 6(2), as the judiciary are also concerned—there is a real issue here. The Government seem to acknowledge that there might be an issue, but they are unwilling to say what they are going to do about it. The briefing from the Bingham Centre for the Rule of Law says:

“The interpretive principles of Clause 6 must be clarified, especially so that courts and tribunals have clear guidance regarding the treatment of retained EU case law by the Supreme Court and”—

in Scotland—

“the High Court of Justiciary to enhance legal certainty and individuals' access to justice.”

Lord Neuberger, the former President of the UK Supreme Court, has raised this issue on a number of occasions, including in interviews with the BBC and in evidence to Committees of the other place.

Mr Grieve: I agree entirely with what the hon. and learned Lady is saying, but it is my understanding, and I hope the Minister will say it again—he said it in Committee—that this will be dealt with in the other place. I am sorry that it could not be dealt with here,

because that would have been rather better, but if the Government need more time, I expect them to address this issue.

Joanna Cherry: That is what I have heard, too. What I would like to hear from the Government today—this is why I tabled this probing amendment—is some indication that they recognise the gravity of the issue. This is not a political football, and it is not about stopping Brexit; it is about addressing issues of legal certainty.

As a courtesy to this House, I would like to hear some indication of how the Government propose to address the issues of legal certainty, particularly so that Members of my party, which is not represented in the other place, can have some input and give our view. Of course Scotland has a separate legal system. Clause 6(2) will apply to the High Court of Justiciary, and we need to be reassured not just on behalf of judges in the UK Supreme Court but on behalf of judges in the Supreme Courts of Scotland. I very much hope amendments 42 and 43 will draw from the Solicitor General some colourable reassurance that the Government are taking these concerns seriously and that they have them in hand, as well as some indication of the route the Government intend to go down in the other place to address these concerns.

Finally, on the charter of fundamental rights, I will wait to see what the official Opposition do, as we each have an amendment down. Given the spirit in which we have worked together on other aspects of this Bill, I am sure we can come to an agreement on that. The Scottish National party will be happy to support new clause 7, which was tabled by the hon. Member for Brighton, Pavilion (Caroline Lucas). Many of our constituents feel strongly about the issue it raises, as do those of other MPs, and we are grateful to her for persevering with it.

Mr Kenneth Clarke (Rushcliffe) (Con): The hon. Member for Nottingham East (Mr Leslie) began his speech by saying that it was going to be very short but he then generously gave way to dozens of interventions from Members from all around the House and spoke for half an hour. He was expressing views with which I largely agreed, but I will try not to follow his precedent. I was not trying to catch your eye at all, Mr Speaker; I was waiting for the Solicitor General to reply to these points, as I was waiting for Ministers to reply to them in Committee, when I made speeches on one or two of them. However, I decided to make a short speech to save myself and the House from the long interventions that I am prone to make and would otherwise make on the speech of my hon. and learned Friend the Solicitor General.

This speech concerns the three points that have dominated throughout, where I am in great sympathy with what many people have said. First, why are the Government singling out the charter of fundamental rights to be the only piece of EU legislation that they wish to repeal? Secondly, on retained EU rights, why are those people who have existing rights of action able to get only this strange concession that for three months they might be able to pursue those rights, otherwise retrospectively they will lose them if their solicitors do not act quickly enough or they do not realise in time that they might have an action? Thirdly, and finally, we have this strange question of how in future a sovereign

[Mr Kenneth Clarke]

Parliament will amend EU law if it wishes to do so and why we have this confusion about what is, in effect, primary legislation and will require an Act of Parliament to change it, and what is secondary legislation and will require regulations. I will not repeat the arguments on any of those points at any length, because I addressed some of them in Committee and they have been well put today. But I am astonished that we have got to Report without, as yet, having had an adequate response to any of them.

I was rather doubtful about the charter of fundamental rights when it came before the House originally. I was a supporter of the treaty of Lisbon and I voted against my own party, with the then Government, quite frequently throughout those proceedings, as I thought the treaty was highly desirable. I am glad to say that when we came to power we showed not the slightest sign of wishing to undo any of it. The charter of fundamental rights was the bit I was least keen on, thinking it on the whole unnecessary, as it largely duplicated the European convention on human rights, and thinking that it was not going to make any difference; I did not use *The Beano* quote, but I could not see that it mattered very much and I went along with it reluctantly. I was wrong, as the charter has led to some extensions of rights in important areas. I cannot see why we should wish to halt that process. We have not yet got the Government's proposals as to what they are going to do to fill the gap on things such as equalities law, which will emerge if we just repeal this.

The point I wish to make in a short speech is about what kind of answer I want from my hon. and learned Friend. He is genuinely a personal friend of mine. He is an extremely eloquent and valuable member of the Government. Obviously, as all lawyers do from time to time, he follows a brief, but I am sure he makes a considerable contribution to that brief and gives very valuable advice to those who seek to instruct him to temper what they would otherwise wish to do. So this is not at all aimed at him personally. But the Government's approach throughout these unsatisfactory proceedings so far has been not to debate the main issues; we get raised with us all kinds of technical, drafting or slightly irrelevant reasons why the proposals coming from the Front Benches on all sides cannot be accepted. So far, as far as I am aware, the Government's case on the charter of fundamental rights is, "Well, it would not make any difference to repeal it. It hasn't added anything. This is just unnecessary. We have singled it out, uniquely among all other EU law, simply because our tidiness of mind makes us wish to remove something that is perfectly adequately reflected in other areas." That is not good enough.

On all three points that I have set out, the Government today, on Report, have the last chance in this House to say why they are repealing the charter, what evil it has done, what danger they think we are being protected from by its repeal and so on. I have yet to hear an example from anybody of a case where the charter of fundamental rights has been invoked in a way that anybody in this House would wish to reverse. We have not been given an example of an area of law that we have been taken into despite the bitter opposition of either the Government or this House. The advances that have been made, in some cases invoking the charter,

seem to me perfectly worth while, so I hope the Solicitor General's speech will specify those areas where the Government see that damage has been to our approach to rights and to law, and what hazards they are going to prevent us from falling into by reversing the charter.

Hannah Bardell (Livingston) (SNP) *rose*—

Mr Clarke: I will give way in a second; before I finish, I will give way if people insist.

Secondly, what on earth is the advantage we gain by putting in a three-month limit? The Government have taken weeks to come back with their alleged response to the points raised on the Floor of the House on acquired legal rights, and it seems we can have a concession for three months. That is utterly ludicrous. Thirdly, what is wrong here? My right hon. and learned Friend the Member for Beaconsfield (Mr Grieve) is much more of a gentleman than I, and he is much more likely to adhere to party political loyalties. There is no more stout mainstream Conservative than me, and I would say that I am sticking to the Conservative principles that I have followed throughout my life until 18 months ago, but I do think some of these things, certainly on questions of rights, are not party issues. They usually do not have a whip applied. They are matters of conscience and cut across both sides. Going back to the future powers of this Parliament, which it must have of course, to amend retained EU law as and when the political will of the House wishes to do so, what is wrong with new clause 13 and its specification of what is primary legislation and what is secondary legislation? What alternative are the Government going to come up with, other than just saying, "The Government of the day will decide as each issue arises"? They must have a better alternative than that.

Catherine West: The right hon. and learned Gentleman is making an excellent speech. Does he agree that this is the sort of amendment that the other place might just take to heart and bounce back, so it might be more sensible to have that difficult pain now and get it out of the way, and the other House will not have to return it?

Mr Clarke: I hope and believe that the other place will make an enormous number of changes to this Bill. The idea that a Bill with all these Henry VIII clauses is going to have an untroubled passage through the House of Lords is an illusion. This House just lets every extension of the Henry VIII clause principle through. The Opposition of the day object like mad but then that party takes office, cites the precedents of its predecessor and defends them as the way of proceeding, and the previous Government then start denouncing them. I hope the House of Lords will throw back some of the bizarre extension of the Henry VIII principle in this Bill and some of the European things.

2.30 pm

The whole Bill has gone through under a self-denying ordinance—not all the time; the hon. Member for Nottingham East and I have not always stuck to it—that we are not talking about substance. The House has said, "We're not going to bother very much with the future trade relationship and whether we are still in the single market or the customs union." Well, they had better not take that view in the House of Lords. The other place is particularly full of highly distinguished lawyers. So is

this place—there is no better lawyer in the other place than my right hon. and learned Friend the Member for Beaconsfield—but some of the lawyers there will not put up with some of this nonsense. The danger is that if the Government continue with the Bill as they have so far, they will simply take the view that, “Well, the House of Commons can reverse that. We are putting out a three-line Whip on Tuesday. We will all have a debate, solemnly nod, explain why the House of Lords has got the technicalities wrong and throw it back again.” So far, this is a pathetic Parliament in the way in which it has handled this extraordinary Bill.

Let me return to where we are now. We have debated for some time now—over many weeks—all three of the issues I raised, but I have yet to hear an argument of substance on any one of them. I trust that my hon. and learned Friend the Solicitor General will not get up and raise technicalities or say that we need more time, but actually say why we are either taking the step we are taking in the one case or, in the other, resisting the obvious improvements that have been proposed. If we do not do that, this whole Committee and Report stage will have been one of the most curious and ritual parliamentary processes that I have seen for a very long time.

Mike Gapes (Ilford South) (Lab/Co-op): I support amendment 57, tabled by my hon. Friend the Member for Bristol East (Kerry McCarthy), along with several others, but I wish to speak specifically to new clause 9, which I have tabled and which is on the saving of acquired rights in Anguilla. I do not think there has been any discussion at all of Anguilla in any of the proceedings on the Bill so far.

Before Christmas, I tabled a written question to “ask the Secretary of State for Exiting the European Union, whether the implementation phase of the UK leaving the EU will be the same for Anguilla as the rest of the UK; and if he will make a statement.”

On 22 December, I received the following answer:

“Both the EU and the UK have been clear that the Implementation Period will be agreed under Article 50 and be part of the Withdrawal Agreement. Both sides have also been clear that the Overseas Territories, including Anguilla, are covered by the Withdrawal Agreement and our Article 50 exit negotiations... In these negotiations, we are seeking a deal that works for the whole UK family, including Anguilla.”

So, there was no clarity there. It is not yet clear what is going to happen with respect to Anguilla.

Why is Anguilla important? We have debated at some length Gibraltar, which has around 32,000 residents. It is a British overseas territory that has been in the possession of the United Kingdom since the treaty of Utrecht in the beginnings of the 18th century. [*Interruption.*] Yes, indeed, it was 1713. According to the figures I have seen, Anguilla has a population of 15,263, and it has been a British possession since 1650. Just as Gibraltar has a border with an EU country—Spain—so Anguilla has a border with the EU, but with not just one but two EU countries.

Anguilla is in the north of the Leeward Islands, and 8 miles to its south is Saint Martin or, to use the Dutch, Sint Maarten. That island is part of two EU states: the northern 60% of the island has been French territory since an agreement in 1648, and since that same agreement the Kingdom of the Netherlands has possessed the southern 40% of the island. The island of Saint Martin

has a complicated history that I do not intend to go into at length, but it is important to discuss its relationship with Anguilla.

Anguilla is one of five British overseas territories in the Caribbean, but it is very much more dependent on its relations with the European Union and with France and the Netherlands than any other British overseas territory. There is an international airport—Princess Juliana—on Saint Martin, but there is no international airport on Anguilla.

John Redwood: You could go by road.

Mike Gapes: Perhaps the right hon. Gentleman could walk on water.

Anguilla is economically dependent on Saint Martin. The relationship is essential for Anguilla. The northern part of the island of Saint Martin, which has been since 2007 a French overseas collectivity, has a population of 38,286. The southern part of the island is one of the four kingdoms that make up the Netherlands, the others being Aruba, Curaçao and the Netherlands proper. France and the Netherlands have a different relationship with their overseas territories than the UK has with ours, and that has changed the dynamics. For example, in September the massive, terrible Hurricane Irma hit the Caribbean and wiped out whole communities and destroyed whole towns. President Macron flew very quickly to visit this integral part of France, where there is a tight, close relationship with the Netherlands.

This afternoon, the Foreign Affairs Committee, on which I serve, is discussing the overseas territories and the response to hurricanes. I hope to get to the Committee in time to hear a representative of the Government of Anguilla’s London office give evidence, but I cannot be in two places at the same time. I hope I will be able to speak in advance and ask questions later.

The population of Sint Maarten, the Netherlands part, is around 33,000, so the total population of the island to the south of Anguilla is around 75,000. It is much larger and much more important, so there are fundamental economic questions to be answered about what will happen when—if—the UK leaves the EU.

Alan Mak (Havant) (Con): The hon. Gentleman will know that my colleagues in the Department for Exiting the European Union have been engaging with Britain’s overseas territories, including Anguilla, through the Joint Ministerial Council and other mechanisms. Does he agree that that is a perfectly adequate mechanism that should continue, and that that means his new clause is not necessary?

Mike Gapes: No, I do not agree that it is a perfectly adequate mechanism. The report published by the Government of Anguilla’s London office last summer, “Anguilla and Brexit: Britain’s Forgotten EU Border”, points out how we do not give sufficient attention to the needs and requirements of our overseas territories. Let me quote just one example: the position with regard to overseas development assistance. Since 2014, we have virtually stopped giving Anguilla any overseas development assistance through the Department for International Development budget, in contrast to some other overseas territories such as Montserrat and elsewhere, and yet it is receiving assistance from the European Union. There is a big concern, which I will come to later, about what

[Mike Gapes]

will happen to the continued assistance that goes to Anguilla once we leave the EU. That assistance accounts for about 36% of the capital expenditure of the Anguillan Government. That huge amount comes as a result of assistance from the European Union, and it goes to Anguilla by virtue of UK membership of the EU, but once we stop paying into EU development assistance, does anybody think that the EU will continue to finance a British overseas territory when there is no longer any relationship between the UK and the European Union? These are very complicated questions.

Mike Wood (Dudley South) (Con): I thank the hon. Gentleman for giving way and for treating us to the shorter version of his speech. Does he welcome the communiqué signed by the Government and the territories, which said that the UK acknowledged

“the importance of EU funding for sustainable economic development in some Overseas Territories and committed to ensuring that these interests were fully reflected in the UK’s negotiating position”?

Does he not think that that will be of great assistance to Anguilla and other overseas territories?

Mike Gapes: No, I do not; it is just words. It is all about what will happen in the negotiations. How much money are we prepared to put in? Will there be a payment into the EU budget in order to continue EU assistance to Anguilla, which does not come directly from DFID at this time? Those are interesting and complicated questions.

Like the UK, Anguilla lies outside the Schengen area, which also does not apply to French St Martin. Under EU Council articles 349 and 355 of the Treaty of Lisbon, French St Martin is classified as an outermost region of France, while Dutch Sint Maarten, Sint Eustatius and Anguilla are classified as overseas countries and territories of the EU. In 2017, in a factsheet entitled “Outermost regions”, the European Union’s Parliament stated:

“Regardless of the great distance separating them from the European continent, the outermost regions are an integral part of the European Union, and the *acquis communautaire* is fully applicable in their territory. However, owing to their specific geographical location and the related difficulties, EU policies have had to be adjusted to their special situation.

The relevant measures concern, in particular, areas such as customs and trade policies, fiscal policy, free zones, agriculture and fisheries policies, and conditions for supply of raw materials and essential consumer goods.”

The outermost regions of the EU are specifically mandated by the EU and, as such, will require specific negotiation in the context of Brexit to take account of their needs. The problem that I face is that the Government have not given us any detail either in the written answer that I have secured or on any other basis as to what they will do to protect the interests of Anguilla. Unlike Gibraltar, Anguilla does not have an effective big lobbying operation, because it does not have a relationship with City financial institutions in the same way. It is very much dependent on tourism. One of its problems is that, because it does not have an international airport, flights go into St Martin, and, at present, at 10 o’clock at night, there is no means of transit from Anguilla to St Martin. Consequently, people have to stay in St Martin and not go across to Anguilla because of those difficulties in communication.

We need to be able to help Anguilla help its tourist industry, and the best way to do that would be within the framework of the European Union, but of course the referendum decision and the way that it is being implemented by the Government mean that that will not be possible. As a result, Anguilla faces some real difficulties and dilemmas: 95% of its access for tourism and other economic measures will be subject to deliberations between EU member states during the course of the Brexit negotiations. Its fuel and desalination capacity will be exposed to negotiations on whether tariffs are to be added to oil imports from the Dutch island of Sint Eustatius.

2.45 pm

There is a whole question about essential goods and services such as medical diagnostics, mail and the vast majority of international trade and tourism. Tourism accounts for 21% of the gross value added of Anguilla. So much about Anguilla is dependent on the relationship it has with the island to its south, and that is with the European Union. The Government have said nothing about this.

Martin Whitfield (East Lothian) (Lab): I am very grateful to my hon. Friend for giving way. I do not want to interrupt his most eloquent speech, but does he not agree that the irony is that Anguilla reflects the position that we will find ourselves in at the edge of Europe should we leave? Indeed, it is a concern that the Government have not given any sensible or sufficient answers to his queries, and it bodes ill.

Mike Gapes: Actually, I do not agree. The UK has far bigger clout in the world than a small island with a population of just 15,000. My hon. Friend is right that we will be damaged—there is no doubt about it—by self-inflicted harm, but, as President Donald Trump pointed out today, we can of course change our minds, and if we do so he would be delighted.

The position with regard to Anguilla is potentially one of a country with a problematic border. I have referred already to that closure at 10 o’clock at night. If, once we leave the EU, relations between the UK and France become worse than they are now, how do Ministers and Government Members think that we will be able to speak for the interests of this British overseas territory when we are not able to succeed today in getting everything that it needs? We would have less influence and no seat at the table. We would not be in the room and we would not be able to say anything to help it.

I do not wish to take too long, but there are important points about peoples whose voice has not been heard in this Chamber. Between 2012 and 2014, Anguilla did receive some UK official development assistance, but it was a very small sum, amounting to only £141 per person. Since then, there has not been such support. However, Montserrat received £14,000 per person and St Helena, which is even more remote, received £66,000 per person in ODA.

Anguilla is worried that after the UK has left—if we leave—the European Union, EU initiatives that currently occur within the overseas territories will no longer continue. Anguilla understands that ODA will be vital, but that support has steadily declined and its people are worried about the threat to the European Union funds. As part of the UK Caribbean Infrastructure Fund, a

£300 million programme was announced in September 2015, in order to fund infrastructure such as roads, bridges and ports across the Caribbean, via the various banks and the Department for International Development, but Anguilla is very concerned about what will happen in the long term.

Wes Streeting (Ilford North) (Lab): Does my hon. Friend agree that this is one of a number of examples? A place such as Anguilla or an industry such as farming has no sense of certainty about how or whether the Government will replace funding that will be lost after—or if—we leave the European Union. Does he think that the Government are not being clear about the future because they have not yet worked it out, or because they fear that if people see what the situation will be after we leave the European Union, they may begin to wake up to the fact that what is on offer is very much inferior to what we have now?

Mike Gapes: I actually think, in the case of Anguilla, it is because the Government have never even thought about it. Only now are issues like this coming up to bite them. We could have had an impact assessment on Anguilla. It would be nice to know whether there was such a thing; I suspect not. The Government did not give any consideration to these issues when they triggered article 50, so they probably did not even consider that.

In “Anguilla & Brexit: Britain’s Forgotten EU Border”, which was published last summer, the Government of Anguilla call for four things. First, they want a

“Common travel area between Saint Martin and Anguilla”, and state that

“protocol 22 of the EU Treaties...provides that the UK and another EU member state...may continue to make arrangements between themselves for the free movement of people within the CTA.”

The same model is adopted for Ireland because of the historical relationships. A common travel area would be a way to prevent an economic and social disaster for Anguilla. In practice, it would mean free movement of nationals of the French and Dutch St Martin and Sint Maarten, and Anguilla, between those islands with a “frictionless border without the need for passport control.”

It would also allow visitors flying into St Martin from any country in the world to go to Anguilla easily as tourists.

Secondly, the Government of Anguilla call for a customs union in the region

“with European countries, territories and municipalités in the eastern Caribbean.”

There has been a lot of talk about customs unions. I do not wish to repeat the debate that we have already had, as this issue will come back, but a customs union between the European Union territories in the region, the other countries in the region and the overseas territories of the United Kingdom could be really helpful in the Caribbean. Anguilla imports oil and other essential materials that it cannot exist without. It also exports fresh produce, which is predominantly sold to St Martin. There is therefore a real need for some kind of customs relationship that avoids tariffs and barriers.

Thirdly, the Government of Anguilla call for a

“Continued relationship between the UK and EU for the purposes of international development”,

as well as,

“Continued membership of the Overseas Countries and Territories Association of the European Union of Anguilla with full access to European Development Funds and support”.

Now, that may come at a cost. Are the British Government prepared to pay that cost in the negotiations? If they do not there will, as I have already suggested, be a major impact on the Anguillan economy and future development.

Fourthly and finally, the Government of Anguilla are looking to

“Stronger ties between Anguilla and Britain”.

This country has neglected our overseas territories for far too long. We do not give them the status that overseas territories have in France or the Netherlands. There is a wider issue that is not just about Anguilla and on which the Select Committee on Foreign Affairs may well comment after we have completed our current inquiry: we need a better ongoing relationship with these small communities of 15,000 people whose association with the United Kingdom goes back to the 17th century—longer, as I pointed out at the beginning, than the association of Gibraltar with the United Kingdom.

John Redwood: I strongly agree with the hon. Member for Ilford South (Mike Gapes) that the United Kingdom could strengthen her links and ties with Anguilla and could be very supportive as we go through Brexit. I trust that those on the Government Front Bench have listened carefully to what he has been saying. As far as I know, they have good will towards Anguilla. He mentioned some positive ideas about how the UK can help more and develop that relationship, which I welcome and which I suspect the Government may welcome.

I will respond briefly to the remarks of the hon. and learned Member for Edinburgh South West (Joanna Cherry). In her remarks—we have heard this in the many SNP speeches during the debates on the Bill—she referred again to the way in which Scottish voters had a different view from UK voters as a whole on the referendum and she implied that that had great constitutional significance. I urge her to think again. I pointed out to her that, had Scotland voted to be independent in its referendum, I do not think it would have mattered at all if, in a subsequent election—I think that there would probably have been one quite quickly—a lot of people in England had voted the other way and said, “No, we’d like Scotland to stay in.”

Joanna Cherry: Will the right hon. Gentleman give way?

John Redwood: If the hon. and learned Lady lets me finish my point, I will let her intervene. I would have thought that the result of the Scottish referendum was binding and, although I deeply want to keep the Union together, I would have felt that it was my duty to see the wishes of the Scottish people fully implemented because those were the terms of the referendum. She seems to be implying that it should have been otherwise.

Joanna Cherry: The right hon. Gentleman has unfortunately forgotten that the Scottish referendum was preceded by the Edinburgh agreement between the British and Scottish Governments, which said that the outcome of the referendum would be respected by both sides. I think that he is rather trying to deflect attention from the issue at hand today by harking back to this.

3 pm

John Redwood: I fear that it is very relevant, and probably even more relevant to what we are going on to debate in the next group of amendments—and the hon. and learned Lady did raise it as an important part of her case on how we handle EU law. I feel that SNP Members want to recreate the European Union in every way they can by amending this Bill, which is actually about us developing a new relationship—a very positive relationship—with the EU from outside the EU. That means changing some of the legal ties that currently bind us to the EU, while the many that we do not want to change come under our control so that future votes of the British people, and Parliaments, could make a difference if they so wished. That is the very important thing that we are debating. She has to accept that just as, had the Scottish people voted to leave, we would all have accepted the verdict and got on with it, against our wishes, now that the United Kingdom's people have voted to leave the European Union, the whole Union has to accept that democratic judgment.

Joanna Cherry: Is the right hon. Gentleman really suggesting that the outcome of the 2014 referendum means that henceforth in this Union the views of the Scottish people can be blithely ignored on all occasions? Is that his view? I am sure that Scottish voters watching the television would love to know that that is what he saying.

John Redwood: Absolutely not. Scottish voters' views matter very much. They have a privileged constitutional position, which we are all happy with, such that in many areas Scotland makes her own decisions through her own Parliament. However, when it comes to a Union matter, I thought we all agreed that where we had a Union-wide referendum, the Union made the decision and the Union's Parliament needs to implement the wishes expressed in the referendum. That is why Members from every party in the House of Commons, apart from her party and a few Liberal Democrats, decided, against their own judgments in many cases, that we needed to get on with it, send the article 50 letter and give this Bill a good passage. We are bound by the wishes of the British people as expressed in the referendum.

Charlie Elphicke: Does my right hon. Friend detect, as I do, a tendency in SNP Members, which reaches its pinnacle in the hon. and learned Member for Edinburgh South West (Joanna Cherry), not to accept the results of any referendum held in this country? They reject the alternative vote referendum result, they will not accept and respect the Scottish referendum result, and now they are trying to countermand the European referendum result. I really think it is high time that they accepted the decisions made in referendums in this country.

John Redwood: That is extremely good advice. I find myself in a rather different position from the hon. and learned Lady. She finds herself in a position where every time there is a referendum in Scotland or the UK, she is on the losing side, whereas I have found that I am usually on the winning side. I seem to be much more in tune with the people. I agreed with the people's judgment on grammar schools when we had a referendum on that, I agreed with their view on the voting system, I agreed with the Scottish people's judgment on staying

in the Union, and I very much agree with the United Kingdom electors' judgment that we should leave the European Union. The people are often much more sensible than their Parliament wishes them to be, and it is great when Parliament then has to listen to the people and get on with doing the job.

The main point that I wish to make is in response to my right hon. and learned Friend the Member for Beaconsfield (Mr Grieve), who tried to tackle the scholarship-level question that underlies our debates on this group of amendments—whether we can transfer all EU law into good British law, or, in practice, end up having to accept some European law because of the complexities involved. In my brief exchange with him by way of intervention, I pointed out that the rights of the British people have their best defence in the common sense and voting strength of the British people, that that will be reflected in their elected Parliament, and that if their elected Parliament gets out of line with the will of the United Kingdom voters, then the voters will, at the first opportunity, change the composition of the Parliament until it reflects the wishes of the United Kingdom voters on the matter of rights.

My right hon. and learned Friend countered by saying that taking my view would mean that we only ever had common law and Parliament would never need to legislate. That is a silly caricature of the true position. We all know, I think, that it is very difficult to define eternal, immortal rights. Some rights last for longer and are more important than others, but people find it very difficult to define that. Looking back over past statements of rights over the centuries, one sees that some of them now grate or are clearly very much against our view of what a right should be, whereas others may last for rather longer. Quite a lot of statements of rights have a big component related to what is topical or socially acceptable at the time. We are largely pleased that what is socially acceptable evolves, so there are many bad practices of the past that we have come to see were bad practices, and that has been reflected in new legislation. We always need to legislate to reflect changing perceptions about what is a right and which rights we should give most cognisance to.

Antoinette Sandbach: Of course, the charter is an excellent example of these rights. It incorporates rights on data protection and other issues, as has been described in the debate. Would it not make sense to incorporate it into UK law and allow it to be changed at a later date through the kind of evolution that my right hon. Friend is describing?

John Redwood: These rights have been incorporated into UK law because we have shared quite a lot of them before they were codified in the way they are codified and because, subsequent to their codification, they have helped to inform our debates about amending, improving and strengthening the law. No, I do not think it is a good idea to incorporate the charter of rights as though it had some special significance. Interestingly, my right hon. and learned Friend the Member for Rushcliffe (Mr Clarke) stated that when the charter first came forward in the Lisbon treaty, he tended to the "Beano" view of it—that it was not very significant. He did not think it was a strong part of the treaty and was not very keen on it, and was therefore quite happy with the Labour Government treating it differently and exempting

us from parts of it deemed inappropriate. Now, he gives it greater significance and implies that it is dreadful that we will not be incorporating it, as though it has been transformed between the date when we first considered it as part of the treaty and its current presence.

My view is that the British people and their Parliament will adopt all these good rules, and have done so, informing many of our laws. If there are other laws that need strengthening or improving, that is exactly what this Parliament is here to do, and if we are negligent in that matter, the British people and their lobby groups will make sure that our attention is drawn to whatever may be missing or could be improved. I would say to the House of Commons, let us remember what we are doing. We are taking back control. Where we need to strengthen or highlight rights by legislation, that is something that any of us can initiate, and if we can build a majority we can do it. There are many good examples of rights and laws emanating from Back Benchers or Opposition parties as well as from Governments.

My right hon. and learned Friend the Member for Beaconsfield said, wrongly, that I was trusting the Executive too much. That is not usually a criticism that has been made of me. Whereas I often find myself in agreement with the people in votes in referendums, I have often found myself in disagreement with parties in this House, including my own party, on matters of some substance, and I have not usually been shy—but I hope polite—in pointing out where I have those disagreements. I therefore reject his idea that I am trusting the Executive. I said very clearly in my intervention that I was trusting the United Kingdom electorate and their successive Parliaments. If one Parliament does not please or suit, or does not do the right thing on the rights that the public want, a new Parliament will be elected that will definitely do so.

My right hon. and learned Friend the Member for Rushcliffe reminded us that we have had a lot of debates about Henry VIII powers, which are relevant to this group of amendments on how much European law we incorporate. I find this argument one of the most odd brought forward by those who are nervous about Brexit. One of my main problems with our prolonged membership of the European Union was that large amounts of legislation had to go through this House unscathed, and often little remarked on or debated, because once they had been agreed around the European Union table in private, they were “good law” in Britain. If those laws were regulations, they acted directly, so we could not even comment on them. If they were directives, we had a very marginal ability to influence the way in which they were implemented, and the main points of the law went through without any debate or right to vote them down. That was the ultimate Henry VIII approach. In the case of this legislation, after extensive dialogue and discussion, we are talking about very narrow powers for Ministers to make technical adjustments and improvements. All of it is of course in the context of the right for Parliament to call anything in, debate it and vote on it.

Vicky Ford (Chelmsford) (Con): I am interested in the issue my right hon. Friend raises about our not being able to scrutinise European law in this Chamber before it was approved over there. In other Parliaments, such as the Dutch Parliament, specialist committees scrutinised proposals before they reached the European

Parliament; for example, the telecoms committee in the Dutch Parliament would scrutinise telecoms law before it got to the European Parliament. As we take our own law, would it not be helpful to use the specialist committees more on the detail?

John Redwood: We had 45 years to get that right, and I think my hon. Friend would probably agree with me that it did not happen in the way she now says she wished it had. When I was the single market Minister, I tried to do this. I brought draft proposals to the House to try to get comment before I went off to negotiate. I felt that that was the only time it was worth hearing Parliament’s view because there was still the chance of trying to change things. If Parliament agreed with me that the draft was very unsatisfactory, it was marginally helpful to be able to say to the EU, “By the way, the United Kingdom Parliament does not like this proposal”, although the EU did not take that as seriously as I would have liked it to. The truth was that we could then be outvoted, under a qualified majority voting system, and we often were if we pushed our disagreement, so the views of Parliament mattered not a jot, even if we did the decent thing and invited Parliament to comment before the draft was agreed.

As my hon. Friend must know, once a draft was agreed, if it was a regulation, that was immediately a directly acting law in the United Kingdom and this Parliament had no role whatsoever. If it was a directive—directives can be very substantial pieces of legislation—we could not practically change anything in that law. Whatever Parliament thought, it had gone through.

Richard Drax (South Dorset) (Con): I sit on the European Scrutiny Committee and have done so for some time. I can confirm that, although we briefly look at all the laws coming into this country, we certainly do not have the time to scrutinise them. I can assure the House that the House does not have the time to do so either.

John Redwood: There is also the point that, if we are scrutinising that after it has happened, that is not a lot of use. That can alert Parliament and the public to problems that the new law might create, but if it has been agreed under the rules, it is law and we have to do the best we can and live with it.

Having sat through quite a few debates on the Floor of the House—in Committee, and on Second and Third Readings of Bills—while being a Member of Parliament, I do not think I have ever seen a Bill that has been so extensively debated, dissected, discussed, analysed and opposed. A huge amount of work has gone in to proposing a very large number of detailed and rather general amendments, discussing the philosophy, principles and technical matters in considerable detail.

Sir Oliver Letwin (West Dorset) (Con): Before he moves on to another point, does my right hon. Friend agree that the narrowness of the Henry VIII clauses has actually been very considerably intensified by the amendments tabled on Report to clause 7(1) and 7(2)?

John Redwood: Yes, I agree. I think the Report stage may even produce some agreement between my right hon. Friend, me and our right hon. and learned Friend

[John Redwood]

the Member for Beaconsfield that improvements have been made in that respect, with some powers for Ministers being narrowed and the House having an even bigger role. I am perfectly happy that that has happened.

The wider point I want to make is that this very extensive, forensic and thorough discussion could be a model for other legislation. It is interesting that MPs on the whole do not get as interested in other legislation as they have done in this Bill. The Lords should take into account the fact that, on this occasion, the Commons has done its work very extensively and thoroughly, and has considered a very wide range of issues in amendments. I am sure that the Lords will take that into account when it comes to have its important deliberations on this legislation.

3.15 pm

After all, this Bill should not be that difficult or divisive. To remind everyone, what it does is to keep all the European laws that we currently have as they are, so that there is legal certainty. As someone who believes that Brexit will be very positive and good for this country, I wish us to go on and make major changes to our fishing laws, our farming financial system and our VAT system, which we are not allowed to do under European law—we are not allowed to take VAT off things that should not be charged VAT, for example. There are quite a few positive changes I want made to our law codes. We can do so once we have taken back control. On this Bill, however, everyone should be reassured because all the things they love about European law are simply being rolled over into British law.

Several hon. Members *rose*—

Mr Speaker: Order. Several colleagues are now seeking to catch my eye, but I emphasise that the Minister must also have a decent amount of time in which to respond. I therefore urge colleagues to be brief in their contributions, while of course covering what is necessary.

Caroline Lucas: I rise to speak to new clause 7, which is in my name and is supported by Opposition Members. I hope to push it to a vote. The new clause would transfer article 13 of the Lisbon treaty into UK law, so that the obligation on the Government and devolved Administrations to pay due regard to the welfare requirements of animals as sentient beings when formulating law and policy is not lost when the UK leaves the EU.

You will be glad to hear that I can be brief, Mr Speaker, because there is no need to set out again the case for transferring this obligation under EU law into domestic law. In Committee, the then Justice Minister, the hon. Member for Esher and Walton (Dominic Raab), rejected my similar new clause and, I would suggest, inadvertently misspoke in the House in the process by stating that the sentence obligation

“is already recognised as a matter of domestic law, primarily in the Animal Welfare Act 2006.”—[*Official Report*, 15 November 2017; Vol. 631, c. 499.]

That was simply incorrect, and there can be no disagreement about that because the Secretary of State for Environment, Food and Rural Affairs has since published a new draft Bill providing for the transfer into UK law of the obligation on animal sentience set out in article 13.

The Government therefore accept that they need to do what my new clause provides for, and the simplest thing would be for the Minister to accept it or, if the specific wording is considered deficient in some way, for him to bring forward a revised version as a Government amendment. As this has not yet happened—I will gladly give way to the Minister if he wants to say that the Government will accept the new clause—I can only assume he will say that the Bill is not the right legislative vehicle for the new clause: in other words, that a Bill to transfer the body of EU law into UK law is not the right legislative vehicle to transfer an important piece of EU law into UK law. To me, at least, that does not make sense.

Lady Hermon: I am very pleased to speak in support of the new clause brought forward, once again, by the hon. Lady. I am particularly pleased to see that it extends not just to Ministers in this Parliament, but to those in the devolved institutions. My one concern is that the wording could have been stronger by creating an obligation to uphold respect for animal sentience, rather than just having due regard to it.

Caroline Lucas: Yes, in theory, I agree with the hon. Lady that the wording could be stronger. I was trying to be careful to avoid an accusation of gold-plating EU legislation, so I simply looked at the wording of article 13 and tried to bring that over from EU law into UK law. If we were starting again, I certainly agree that we could make the wording stronger.

Huw Merriman (Bexhill and Battle) (Con): Does the hon. Lady not agree that we can do better on animal welfare than the EU currently allows us to do? For example, making foie gras is prohibited in this country, but we cannot stop its being imported from countries in the EU that make it, such as Belgium and France, because that would be against the free movement of goods. Does she not agree that the Conservatives are now putting in place tougher sentencing for animal welfare breaches, and we should focus on that, rather than looking at the past?

Caroline Lucas: I agree with the hon. Gentleman that the new laws on sentencing are certainly to be welcomed, but I do not see why we need to see this as an either/or. I am trying to make sure that there is no legislative gap, because I do not have confidence—perhaps Conservative Members do—that the new Bill is likely to be on the statute books by the time that we leave the EU, if that is what happens. I want to make sure we have legislative certainty—belt and braces—by putting my new clause in the Bill.

We can have a big debate about the extent to which the EU has promoted animal welfare. I would argue that usually the reason that animal welfare has not been promoted while we have been a member of the EU is the lack of political will here, rather than that the EU itself has prevented it. I take the point about the rules of the single market, but cases can always be made for exceptions—for example, on seal fur. If enough political energy is expended in the EU, such derogations can be achieved. We could have done the same on issues such as live animals, but we chose not to. Indeed, as the hon. Member for Bristol East (Kerry McCarthy) said, the Government have a record of not supporting tighter

legislation on the live animal transport trade. So I will not stand here and listen to Conservative Members pretending that their new-found detoxification strategy for the Tory party is a reflection of a long-held belief in animal welfare.

Tom Brake (Carshalton and Wallington) (LD): Does the hon. Lady agree that a bird in the hand—her proposal—is much better than two in the bush? It would be cruel of me to remind the House that the Secretary of State for Environment, Food and Rural Affairs made a solemn pledge to support the Foreign Secretary in his bid to be leader, but then ended up stabbing him repeatedly in the front.

Caroline Lucas: I am happy to agree with that intervention.

In case a Conservative Member is about to embarrass themselves by repeating the spectacularly stupid suggestion yesterday by the Guido Fawkes website—[*Interruption.*] Yes, I know that is not hard to believe. It suggested that new clause 7 would weaken animal sentience law because article 13 of the Lisbon treaty applies to only six policy areas, whereas the Secretary of State's Bill would apply to all Government areas. Leaving aside that it is hard to imagine a Government policy relating to animal welfare that does not fall under one of those six policy areas, which are pretty broad, the point is that we have no domestic animal sentience law to weaken. We have a hastily cobbled together draft Bill that may, or may not, become a substantive Bill that reaches the statute book before 29 March 2019—or ever.

It is this Bill that will weaken our animal welfare law by failing to transfer into UK law the obligation on the Government set out in article 13 of the Lisbon treaty. As I said in reply to the hon. Member for North Down (Lady Hermon), had I tabled an amendment that in some way added to or strengthened the obligations set out in article 13, Ministers would no doubt have rejected it on the grounds that I was trying to gold-plate EU law, which is not the purpose of the Bill. If new clause 7 were accepted, nothing would stop the Secretary of State's draft Bill subsequently addressing any real or perceived weaknesses in the wording of article 13, and that would have my support. But let us not be left with a gap in the legislation. The real risk is that, because of the volume of legislation with which Whitehall and the civil service are having to grapple, a new Bill would not come forward in time to plug any gap after we leave the EU. That is why my belt-and-braces approach would make sure that we have this legislation safely included in UK law.

In the past, the right hon. Member for West Dorset (Sir Oliver Letwin) has called this solution inelegant. Yes, it is a bit inelegant, but I would rather be inelegant and effective than elegant with a big gap in the legislation. Let us stop playing political games with a draft Bill that may, or may not, get anywhere near the statute book. Let us do what the Secretary of State clearly wished to do himself as recently as July last year, when he was asked whether he wanted to include article 13 in the Bill—he said of course he did. There can be no better legislative vehicle right now to transfer article 13 of the Lisbon treaty into UK law than the Bill, which exists to transfer EU law into UK law. I therefore commend new clause 7 to the House.

I also wish to put on record my support for amendment 57 and new clause 19, tabled by the hon. Member for Bristol East. The amendment would preserve more comprehensively than clause 4, which it would replace, the rights, powers, liabilities, obligations, restrictions, remedies and procedures derived from EU law and incorporated into domestic law by the European Communities Act 1972. As the hon. Lady has already made clear, there are weaknesses in clause 4, as a result of which some provisions in EU law are at risk of being lost. She gave several examples, and I want to add one more. Unless amended, clause 4 could result in the loss from EU retained law of provisions that detail the aim and purpose of directives such as article 1 of the environmental liability directive, which includes reference to the polluter pays principle, and article 1 of the habitats directive, which specifies that the aim of the directive is to contribute towards biodiversity conservation.

New clause 19 would remove the risk of transposition gaps in retained EU law. It is simpler and more comprehensive than clause 4, and it would ensure that the rights arising from EU directives are preserved and a mechanism would be in place after exit day to deal with problems arising from the incorrect or incomplete transposition of EU law. I hope that Ministers will accept the amendment and new clause.

Anna Soubry: It is a pleasure to follow the hon. Member for Brighton, Pavilion (Caroline Lucas), although I will not support her amendments. In fact, I will not support any amendments other than those tabled by the Government. The Bill will leave this place in much better shape than when it was first introduced, but it is still not fit for purpose, frankly. As hon. Members said on Second Reading, we need a mechanism to move all our existing law into domestic law, but the many faults in the Bill have been well rehearsed by my right hon. and learned Friends the Members for Beaconsfield (Mr Grieve) and for Rushcliffe (Mr Clarke). I wholly agree with them; I endorse their arguments; and I do not intend to repeat them.

Many changes are still needed, but it will be the other place that will make good some of the faults that remain in the Bill. We are not trying to abdicate the responsibility for doing so, because that is simply the way it is, and has been, sadly, for some time. Many right hon. and hon. Members on both sides of the House share our concerns, but given the nature of the political situation they have not quite gone the extra step to defy a three-line Whip or to be seen as disloyal to their leader. Many people do not want to undermine the Prime Minister as she enters the difficult next stage of negotiations with the European Union, but it will be important, when the Bill returns to this place, that we all have the courage of our convictions and put our country's interests at the front of all that we do. We need to get the best piece of legislation because it is so important.

There is every chance that in the next few months the sands will begin to shift as people begin to understand and appreciate that we have made an error in taking options off the table—or never putting them on in the first place—notably in the speech that was made almost a year ago, when the Prime Minister said that the single market and the customs union were coming off the table. Those red lines have not helped, and they will not

[Anna Soubry]

help us in the forthcoming negotiations. All options need to be placed back on the table—and I mean all options. That includes the ability of the people—it must be the people—of this country to determine the future of Brexit. It must remain with them, and they must drive it. That must be taken into consideration as the Bill moves up into the Lords and then comes back here.

Finally, this place voted, as we know, for amendment 7, and the Government lost that vote. If new clause 9, which many say has now become otiose, falls or is abandoned by the Government when the Bill passes into the other place, it must be made absolutely clear that, even in that event, this place wants a meaningful vote on the final deal and in good time—not some rubber stamp or some deal or no deal, but a proper, meaningful vote. That must be determined by elected representatives and by the people and in the interests of the people—in the interests of not just my generation but my children and my grandchildren, who I hope will come—so that we do this properly, putting the people in charge and doing the best thing for our country.

3.30 pm

Bambos Charalambous (Enfield, Southgate) (Lab): I will be supporting amendment 57 and other provisions. I rise to speak to new clause 16, which is in my name. I will not be pushing it to a vote, because it is a probing provision.

The new clause seeks to ensure that there is no regression in our equality protection as we leave the EU and following the repeal of the charter of fundamental rights. That principle has already been agreed by the Government, so there should be little controversy about supporting new clause 16. Hon. Members were promised that the Government would introduce an amendment that required Ministers, on the presentation of any Brexit-related primary or secondary legislation, to make a statement before the House on whether and how it was consistent with the Equality Act 2010. While the Government may try to make out that amendment 391 covers that point, I do not believe that it properly addresses the issue of primary legislation—a point eloquently made by the right hon. and learned Member for Beaconsfield (Mr Grieve).

For that reason, I have tabled new clause 16. We cannot allow any regression in, or diminishing of, our equality protections and rights when we leave the EU. I totally disagree with hon. Members who have suggested that we should just trust the Government to get this right. The equality protections and human rights referred to in new clause 16 have been hard fought for, and we cannot allow them to be put at risk. I commend new clause 16 to the House.

Antoinette Sandbach: I rise to support the speeches made by my right hon. and learned Friends the Members for Beaconsfield (Mr Grieve) and for Rushcliffe (Mr Clarke). The idea that three months is sufficient protection in terms of somebody launching a legal action, while a welcome concession from the Government, does not go far enough. I urge the Government to listen to the proposal to retain the Francovich right throughout the transition period or implementation period—however it is described.

I also support the points made on the charter of fundamental rights. When the charter was brought into effect, it said that it codified existing rights—rights that UK citizens already had. I know that the Under-Secretary of State for Exiting the European Union, my hon. Friend the Member for Fareham (Suella Fernandes), takes a different view. I do not really care which view is right; the fact is that we have moved on as a society, and these protections have now become important in UK law. I would very much urge the Government to consider that when approaching this matter in the Lords.

Finally, it is eminently sensible that the Government look at new clause 13, which will not be moved to a vote today. It provides a very good mechanism for distinguishing between primary and secondary legislation in terms of the appropriate protections that will apply to UK citizens. I do not want my constituents to be in a worse position in a few years' time than they are in now when it comes to their rights, so I urge the Government to listen to the debate today—I know they have their listening ear on.

Several hon. Members *rose*—

Mr Speaker: I call Stuart C. McDonald—fairly briefly. The hon. Gentleman has amendments down and must be heard, but I know he will be sensitive to the importance of the Minister having adequate time to respond to all that has been said, so I am sure that he will be on his feet for only a small number of minutes.

Stuart C. McDonald (Cumbernauld, Kilsyth and Kirkintilloch East) (SNP): Thank you, Mr Speaker. I want to speak briefly to amendments 55 and 56 and to probe one simple issue: in short, what happens if there is a failure to correct a deficiency in EU law, so that it cannot operate effectively after exit, and how can we maximise the chances that such a thing does not happen?

We have had plenty of debate on how we can restrict Government powers to correct deficiencies so that such powers cannot be used to undermine the incorporation of EU rules and so that we do not end up with some sort of watered-down or dysfunctional version of the original. However, perhaps the more realistic possibility, and just as much of a danger, is that we end up with a watered-down or dysfunctional version of EU rules not because of the inappropriate use of those powers of correction, but because of a failure to use them at all in appropriate circumstances, either by accident or design, or if various incorporated rules and regulations are simply allowed to fester away uncorrected and unable to operate effectively. So, I asked at Committee stage, “What happens if there is a citizen before a court in this country, seeking to establish rights under retained EU law when that retained EU law is actually riddled with deficiencies? Is the court supposed to try and make that work? Does the person simply lose their ability to exercise that right?”

My amendment 55 simply requires the court to interpret retained EU law—as far as possible—in such a way as to make it function effectively, borrowing shamelessly from the language of the Human Rights Act. I fully acknowledge that that in itself would not take us very far, but it is there to prompt a response from the Government. What should the court do in those circumstances? There are alternative courses of action that this Parliament could take, not just in amending

clause 6 but in other parts of the Bill. We could expressly require EU law to be interpreted so as to be given effect “as if the UK were still a member state”, with further provisions about how that should be done. We could put in place a procedure to allow courts to flag up rules that they have found cannot operate effectively. We could put Ministers under an obligation or a duty to ensure that retained EU laws operate effectively; indeed, amendment 57 and new clause 19 are of that nature. Alternatively, as amendment 56 suggests, we could simply require the Government to publish a list of all the deficiencies they found in retained EU law that they are not seeking directly to rectify.

In short, the task of ensuring that we have a functioning rule book or statute book on exit day is twofold. Parliament must protect important rights, not only by preventing inappropriate use of Henry VIII powers, but by providing a means of ensuring that deficiencies are rectified where necessary, either by the Government, or by Parliament or by our courts, and I still think we have a long way to go in that regard.

The Solicitor General: I wish to speak in support of amendments 37 and 38 in the name of my colleagues in Government.

I will try and answer the question that was put to me by my right hon. and learned Friend the Member for Rushcliffe (Mr Clarke), who has been getting frustrated in these debates about the somewhat technical nature of ministerial responses. Well, this is a very technical Bill. Like its illustrious predecessor, the European Communities Act 1972, it is a Bill of constitutional importance; it is a framework Bill. It is not—I stress this, because it is most important—it is not a Bill that seeks to convey a policy or a particular aspect of policy that we have discussed today. It is a framework that is designed to ensure that the law that is applied up to exit is downloaded in as clear and proper a way as possible because, to be consistent with the rule of law, the law needs to be accessible, it needs to be clear and it needs to be well understood. That is the fundamental basis of my concern about today’s amendments—that in seeking to retain the charter of fundamental rights in domestic law after exit, not only do we sow potential confusion but we fundamentally misunderstand what that charter means in the first place.

Sir Oliver Letwin: The Government have introduced welcome amendments to clause 7. While my hon. and learned Friend is talking about clarity, I just want to ask him to confirm, at this early stage in his remarks, that the Government will bring forward the amendments that we were hoping for, and that I think my right hon. and learned Friend the Member for Beaconsfield (Mr Grieve) and I were, if not promised, at least led to expect, when clause 6 is discussed in the other place.

The Solicitor General: I am grateful to my right hon. Friend. If he had sufficient time at his disposal, he might have seen the evidence that I gave to the Constitution Committee in the other place, in which the issues in clause 6 were discussed—the interpretive provisions that he and I and others debated in Committee.

May I come back to the fundamental point about the charter? It was never intended to create new rights. It was a document that reaffirmed rights that already existed in EU law.

Vicky Ford: Will my hon. and learned Friend give way?

The Solicitor General: I will not; I am developing my argument. It was a point that was made clear, not only in the charter itself but in protocol 30, which was signed by Poland and the UK at the time of the Lisbon treaty. In addition—this is important, and this, it seems to me, having listened carefully to the debate, is not understood—the charter does not apply to member states in everything they do. Although it applies to the EU and its institutions in all areas, it binds member states only in so far as they are acting within the scope of EU law. Therefore talking about the charter in a domestic context misunderstands its purpose and point: it was not drafted in that context. I am afraid that there has, I think, been a regrettable misunderstanding about that in this debate.

Mr Grieve: I do not think I have been under any misunderstanding at all. That is why I have kept pressing the Government to leave the charter to one side but look at the general principles of EU law necessary to bring challenges to retained EU law, brought into our own domestic law, that was not enacted by this Parliament—and without which, frankly, the coherence of EU law starts to disintegrate. That is the issue. Linked to that, of course, is the other issue of protecting some of those fundamental rights, perhaps in a different way, that matter to so many on both sides of the House.

The Solicitor General: My right hon. and learned Friend and I agree about general principles, which is why the general principles that underpin the recently drafted charter remain and, of course, do apply in respect of retained EU law. His second point about the means by which individuals challenge that is, of course, a matter of ongoing debate. I shall come back to the points raised in not only his amendment, but mine as well.

Mr Kenneth Clarke: My hon. and learned Friend kindly said that he would try to answer my question. The question was: what harm has the charter of fundamental rights done and what evil is he trying to avert? It is true that, unexpectedly, new rights have been created under the charter and he is right that those rights have relevance to EU law. But the whole point of the Bill is to retain large amounts of EU law and its principles. What is the point of the change? This is policy in this Bill—it is a policy change. I fear that it is a signal to some sections of my party: the only part of the *acquis communautaire* that will be abolished mentions the wicked words “fundamental rights”, and that is why it is being removed.

The Solicitor General: The position that my right hon. and learned Friend took on the charter back in 2007 is the right one. As I was saying, it is in the interests of maintaining the rule of law that we maintain clarity, consistency and a clear authoritative source for those rights. My genuine concern about the importation of this particular charter into our domestic law is that we will sow confusion. That is not good for the maintenance of the rule of law, for the citizens of our country, for the future development of the law or for the position of this place vis-à-vis that development.

Sir William Cash (Stone) (Con): I entirely endorse what my hon. and learned Friend is saying, not least because of the *acquis* itself. Secondly, there are the

[Sir William Cash]

adjudications under the European Court itself. Thirdly, the charter is like a legal ectoplasm: it seeps into everything. There is no way in which we would ever be able to extract ourselves from the entirety of the provisions in perpetuity.

The Solicitor General: I am grateful to my hon. Friend, who raises a genuine concern about the impact of protocol 30. Many Opposition Members were here 10 years ago; they were anxious then to make sure that the protocol was included in the Lisbon treaty. They are now happy to resile from that position and take an entirely different view. I take great issue with that: the legal principles were the same then as now. Nothing has really changed about the potential force of the charter, so I am rather bemused to hear about that volte-face on the part of many Opposition Members.

Lady Hermon: I am grateful to the Solicitor General for giving way, particularly given that from a sedentary position earlier he described an intervention of mine as rubbish—but let us slide away from that. As he will know very well, human rights were an essential component of the Belfast agreement, and the protection of human rights was at the core of the Patten reforms of the Royal Ulster Constabulary. For the people of Northern Ireland, therefore, the protection of human rights is essential. By repealing the charter of fundamental rights—not the convention, the charter—we are sending out an extremely negative message to the people of Northern Ireland. Can he offer reassurances on that point?

3.45 pm

The Solicitor General: I certainly can. First, we are not repealing anything. Secondly, the dog that has not barked in this debate is the European convention on human rights, which is much supported by both sides of the House, very much part of our law and a fundamental part of the underpinning of many of the human rights—

Joanna Cherry *rose*—

The Solicitor General: I know that the hon. and learned Lady treasures and rightly places great value on those human rights. I give way to her.

Joanna Cherry: Can the Solicitor General confirm once and for all that reports that the Prime Minister wants to run the next Tory party general election campaign on a pledge to repeal the Human Rights Act and withdraw from the convention are incorrect? [*Interruption.*] Conservative Members roll their eyes and make a noise. I am giving him the opportunity to confirm that that is incorrect.

The Solicitor General: May I just calm the hon. and learned Lady? [*Interruption.*] Well, she is making a point that is frankly not the case. We have committed to supporting our membership of the European convention throughout this Parliament, and that is a position I entirely support.

Joanna Cherry: What about the next Parliament?

The Solicitor General: The hon. and learned Lady seems to be very focused on future referendums and the desire to rerun arguments that were held some time ago. I want to do justice to her amendments as much as to anybody else's, and I will say this about the amendments posited by her and the Labour party: they offer different visions of how challenge might be mounted by using the charter. Amendment 4, which stands in the name of the Leader of the Opposition, deals with a situation akin to that under the Human Rights Act, whereby a declaration of incompatibility can be given, but that does not guarantee full redress for individuals seeking it under the charter. I accept that the amendment in the name of the hon. and learned Lady goes further and would retain a power in effect to strike down legislation if it is incompatible with the charter. I simply say to both of them, with the greatest of respect, that their approaches work against the core aims of the Bill. We are leaving the EU, and there has to be certainty about the process; and certainty in the law lies at the heart of everything else we have to do. That is the simple reason why we cannot accept those amendments.

I was interested in the arguments of the hon. Member for Bristol East (Kerry McCarthy) about clause 4, when she moved her amendment 57 and spoke to her new clause 19. My argument about clause 4 is simply this: indeed, as the sweeper clause—the description she adopted—it has the important function of curing any loopholes that might exist in European law when we leave the EU and deals with the question of uncertainty that I know she is extremely concerned with. I will try to reassure her. She will remember that the explanatory notes contain a helpful and non-exhaustive list of the type of directly effective rights, such as equal pay—a very important right—that are designed to be covered by this important provision in clause 4. As I have said in evidence in another place, we are simply seeking to ensure the important principle of reciprocity in the enforcement of fundamental rights such as those of equality, which she referred to, and those pertaining to the environment, for which I know she also has a great passion.

In conjunction, I can deal with the hon. Member for Enfield, Southgate (Bambos Charalambous), who succinctly and clearly made his argument on new clause 16, which deals fairly and squarely with equalities. We have already made our commitment clear that all the protections in and under the Equality Acts of 2006 and 2010 and the equivalent Northern Ireland legislation will continue to apply once we have left the EU. In Committee, we tabled an amendment which would secure transparency in that regard by requiring ministerial statements to be made about any amendments made to the Equality Act through secondary legislative powers under the Bill.

What concerns me about new clause 16 is that it would go further by creating new free-standing rights, perhaps even more than have been proposed in amendments relating to the charter. That is not the purpose of the Bill. The Bill is about maintaining the same levels of protection on the day after exit as on the day before. It is not a vehicle for substantive legislative changes such as those that have been proposed, and for that reason we cannot accept the new clause.

I am grateful to my right hon. and learned Friend the Member for Beaconsfield (Mr Grieve) for his qualified welcome for the Government amendments. The reason

for a three-month time limit analogous to that which exists in domestic judicial review is the important policy consideration that there must be a degree of certainty when it comes to ongoing litigation and dispute about EU law as we enter the post-exit era. I think there must be some resolution of that by way of a limitation period. Retaining an open-ended right of action would create more uncertainty for businesses and individuals about rights and obligations.

After we cease to be a member of the European Union, it would not be right to allow “general principles” challenges to Acts of Parliament to continue, because that is not in line with the purposes of Brexit. To put it simply, outside the context of EU law, the ability of courts to disapply Acts of Parliament on “general principles” grounds is not consistent with the way in which our domestic legal system functions. That must be at the heart of our policy considerations.

Mr Grieve: My hon. and learned Friend’s argument would make more sense if the Government had not decided to retain the principle of the supremacy of EU law in the Bill. Once they have done that, removing the mechanism of a challenge on the basis of general principles creates something that I think is rather odd. I would not have pressed the issue if the Government had adopted an alternative approach, but that was their own decision. This has, I think, highlighted some of the oddities of the way in which the matter has been approached. It may well be that they can be sorted out in the other place, but I think my hon. and learned Friend must acknowledge that they are odd.

The Solicitor General: I hope that my right hon. and learned Friend is allowing me to intervene on his intervention. Let us not forget that we are dealing with the pre-exit situation. The EU *acquis* is being frozen, in the sense that its full effect in a pre-exit sense must be maintained so that we can maintain certainty. I agree that it is a strange and rather unusual concept, but I think it preserves that all-important certainty.

Time is short, and I want to ensure that I deal with further amendments.

Sir William Cash: Will my hon. and learned Friend give way?

The Solicitor General: I must press on, I am afraid.

The amendments tabled by my right hon. and learned Friend the Member for Beaconsfield relating to the way in which we designate EU legislation make important contributions to the debate, but they are laden with problems. The sheer volume of what we are dealing with—well over 15,000 pieces of legislation—leads me to draw back from trying to create a convenient categorisation of retained EU law. With the greatest respect, I think it far wiser for the Government to approach each item on a case-by-case basis, not making glib assumptions and trying to downgrade EU law, but getting each particular measure right.

Amendments tabled by the hon. and learned Member for Edinburgh South West and others deal with, again, the debate on clause 6 and the interpretation of retained EU law. I entirely understand why the amendments were tabled, because the debate is intense, but I would say to those Members, with respect, that I think less is

more. The more we try to enshrine in law principles such as persuasive authority—which is in one of the amendments—the more I see the potential for judicial head-scratching and litigation of a type that I do not believe the judiciary would welcome. I have said it before and I say it again: I trust our judiciary to answer the question put before them rather than to survey like lions of the constitutional savannah and to run across the landscape. They answer the question that is put to them, and I trust them to do that and to use the discretion that quite naturally they should be given.

In relation to the new clause in the name of the hon. Member for Brighton, Pavilion (Caroline Lucas), it is clear that the Government regard animals as sentient and we of course support the sentiment behind the new clause, as we did on a previous occasion, but we could not support it then and the reasons for not supporting it have not changed. Article 13 places an obligation on the EU when developing certain policies, and on EU member states when developing and implementing those policies. That obligation, because animals are sentient beings, is to have full regard to their welfare requirements, but article 13 applies only to a limited number of EU policy areas, and frankly it also allows for practices that we would consider cruel.

Caroline Lucas: I would be interested to know what policy area the Solicitor General thinks the EU provision does not cover: what does he want to cover that the EU does not? Secondly, would it not be safer just to have this amendment in the Bill to make sure we have legal certainty, because he cannot guarantee that the Government Bill will get on to the statute book before we leave the EU?

The Solicitor General: May I reassure the hon. Lady by pointing out that there are many areas on which we have heard debates, such as on live importation? I want to make sure the new domestic law we introduce is comprehensive in a way that I know she would fully support. Cross-referencing to the obligations in article 13—which apply only to EU policies, not to UK policies—would, if anything, create more confusion once we have left the EU.

Frankly, article 13 has not delivered and its effect on domestic law is minimal, and as my right hon. Friend the Environment Secretary has said, we can do better. We have made it clear that we intend to retain, and indeed enhance, our existing standards of animal welfare once we leave. This Bill will convert the existing body of EU animal welfare law into our law and will make sure the same protections are in place in the UK and that laws still function effectively after we leave.

The purpose of this Bill is not to improve EU laws; it is about providing a functioning statute book. That is why, as the hon. Lady has acknowledged, the Government have now published draft legislation—the Animal Welfare (Sentencing and Recognition of Sentience) Bill—which sets out why we can do it better. It is a significant improvement on article 13; it will impose a clear duty on the state to have regard for animal welfare when considering all policies, rather than just the six areas in article 13.

I also say to the hon. Lady that it is open to public consultation and we have to respect the views of thousands of members of the public who will be coming forward

[The Solicitor General]

and making—[*Interruption.*] The hon. Lady believes in open and public consultation and democracy, and that is why we are doing what we are doing. [*Interruption.*] It ill behoves the hon. Lady to assume that my party somehow lies on a lower moral plain when it comes to issues of animal welfare. We share the passion and commitment to animal welfare that she professes and I know many other Members in this House do—I look to the hon. Member for Bristol East (Kerry McCarthy) as a shining example. We want to hear from the public and their view about it, and we want to get it right in domestic legislation, which is the right place for it.

There is much I could say about the wonderful, if small, British overseas territory of Anguilla. Having visited it myself in a ministerial capacity, I was very grateful to the hon. Member for Ilford South (Mike Gapes) for his description. We are very conscious not only of the importance of Anguilla, its people and its economy, but the need to make sure that the concerns of the Anguillan Government are considered and the rights people have in Anguilla, which are exactly the same as those of UK nationals, are preserved after we leave the EU. We will make sure that that situation will not change.

The debate on the charter has been an important one. It has been a further stage in the way in which we have looked carefully at the Bill. The Government remain open and we are listening to all views on how we can get this right. I am sure that, as the Bill makes its way into another place, the deliberations of this House will have done much to enhance the quality not only of the Bill but of our democracy itself.

Kerry McCarthy: I thank the Minister for praising me as a shining example on animal welfare, but that does not quite make up for my disappointment that he has failed to address the issues in my amendments. I therefore seek to press amendment 57 to a vote.

Mr Speaker: The hon. Lady had 10 seconds, and she has been indulged very modestly.

4 pm

Debate interrupted (Programme Order, this day).

The Speaker put forthwith the Question already proposed from the Chair (Standing Order No. 83E), That the amendment be made.

The House divided: Ayes 296, Noes 319.

Division No. 91]

[4 pm

AYES

Abbott, rh Ms Diane	Benn, rh Hilary
Abrahams, Debbie	Betts, Mr Clive
Alexander, Heidi	Black, Mhairi
Ali, Rushanara	Blackford, rh Ian
Allin-Khan, Dr Rosena	Blackman, Kirsty
Amesbury, Mike	Blackman-Woods, Dr Roberta
Antoniazzi, Tonja	Blomfield, Paul
Ashworth, Jonathan	Brabin, Tracy
Austin, Ian	Bradshaw, rh Mr Ben
Bailey, Mr Adrian	Brake, rh Tom
Bardell, Hannah	Brennan, Kevin
Barron, rh Sir Kevin	Brock, Deidre
Beckett, rh Margaret	Brown, Alan

Brown, Lyn	Gapes, Mike
Brown, rh Mr Nicholas	Gardiner, Barry
Bryant, Chris	George, Ruth
Buck, Ms Karen	Gethins, Stephen
Burden, Richard	Gibson, Patricia
Burgon, Richard	Gill, Preet Kaur
Butler, Dawn	Glendon, Mary
Byrne, rh Liam	Godsiff, Mr Roger
Cable, rh Sir Vince	Goodman, Helen
Cadbury, Ruth	Grady, Patrick
Cameron, Dr Lisa	Grant, Peter
Campbell, rh Mr Alan	Gray, Neil
Campbell, Mr Ronnie	Green, Kate
Carden, Dan	Greenwood, Lilian
Carmichael, rh Mr Alistair	Greenwood, Margaret
Champion, Sarah	Griffith, Nia
Chapman, Douglas	Grogan, John
Chapman, Jenny	Gwynne, Andrew
Charalambous, Bambos	Haigh, Louise
Cherry, Joanna	Hamilton, Fabian
Clwyd, rh Ann	Hardy, Emma
Coaker, Vernon	Harman, rh Ms Harriet
Coffey, Ann	Harris, Carolyn
Cooper, Julie	Hayes, Helen
Cooper, Rosie	Hayman, Sue
Cooper, rh Yvette	Healey, rh John
Corbyn, rh Jeremy	Hendrick, Sir Mark
Cowan, Ronnie	Hendry, Drew
Coyle, Neil	Heppburn, Mr Stephen
Crawley, Angela	Hermon, Lady
Creagh, Mary	Hill, Mike
Cruddas, Jon	Hillier, Meg
Cryer, John	Hodge, rh Dame Margaret
Cummins, Judith	Hodgson, Mrs Sharon
Cunningham, Alex	Hollern, Kate
Cunningham, Mr Jim	Hosie, Stewart
Dakin, Nic	Howarth, rh Mr George
Davey, rh Sir Edward	Huq, Dr Rupa
David, Wayne	Hussain, Imran
Day, Martyn	Jardine, Christine
De Cordova, Marsha	Jarvis, Dan
De Piero, Gloria	Johnson, Diana
Debonnaire, Thangam	Jones, Darren
Dent Coad, Emma	Jones, Gerald
Dhesi, Mr Tanmanjeet Singh	Jones, Helen
Docherty-Hughes, Martin	Jones, Mr Kevan
Dodds, Anneliese	Jones, Sarah
Doughty, Stephen	Jones, Susan Elan
Dowd, Peter	Kane, Mike
Drew, Dr David	Keeley, Barbara
Dromey, Jack	Kendall, Liz
Duffield, Rosie	Khan, Afzal
Eagle, Ms Angela	Killen, Ged
Eagle, Maria	Kinnock, Stephen
Edwards, Jonathan	Kyle, Peter
Efford, Clive	Laird, Lesley
Elliott, Julie	Lake, Ben
Ellman, Mrs Louise	Lamb, rh Norman
Elmore, Chris	Lammy, rh Mr David
Esterson, Bill	Lavery, Ian
Evans, Chris	Law, Chris
Farrelly, Paul	Lee, Ms Karen
Farron, Tim	Lewell-Buck, Mrs Emma
Fellows, Marion	Lewis, Clive
Fitzpatrick, Jim	Lewis, Mr Ivan
Fletcher, Colleen	Linden, David
Flint, rh Caroline	Lloyd, Stephen
Flynn, Paul	Lloyd, Tony
Foxcroft, Vicky	Long Bailey, Rebecca
Frith, James	Lucas, Caroline
Furniss, Gill	Lucas, Ian C.
Gaffney, Hugh	Lynch, Holly

MacNeil, Angus Brendan
 Madders, Justin
 Mahmood, Mr Khalid
 Mahmood, Shabana
 Malhotra, Seema
 Mann, John
 Marsden, Gordon
 Martin, Sandy
 Maskell, Rachael
 Matheson, Christian
 Mc Nally, John
 McCabe, Steve
 McCarthy, Kerry
 McDonagh, Siobhain
 McDonald, Andy
 McDonald, Stewart Malcolm
 McDonald, Stuart C.
 McFadden, rh Mr Pat
 McGinn, Conor
 McGovern, Alison
 McInnes, Liz
 McKinnell, Catherine
 McMahan, Jim
 McMorris, Anna
 Mearns, Ian
 Miliband, rh Edward
 Monaghan, Carol
 Moon, Mrs Madeleine
 Moran, Layla
 Morden, Jessica
 Morgan, Stephen
 Morris, Grahame
 Murray, Ian
 Nandy, Lisa
 Newlands, Gavin
 Norris, Alex
 O'Hara, Brendan
 Onasanya, Fiona
 Onn, Melanie
 Onwurah, Chi
 Osamor, Kate
 Owen, Albert
 Peacock, Stephanie
 Pearce, Teresa
 Pennycook, Matthew
 Perkins, Toby
 Phillips, Jess
 Phillipson, Bridget
 Pidcock, Laura
 Platt, Jo
 Pollard, Luke
 Pound, Stephen
 Powell, Lucy
 Qureshi, Yasmin
 Rashid, Faisal
 Rayner, Angela
 Reed, Mr Steve
 Rees, Christina
 Reeves, Ellie
 Reeves, Rachel
 Reynolds, Jonathan
 Rimmer, Ms Marie
 Robinson, Mr Geoffrey
 Rodda, Matt
 Rowley, Danielle

Ruane, Chris
 Russell-Moyle, Lloyd
 Ryan, rh Joan
 Saville Roberts, Liz
 Shah, Naz
 Sharma, Mr Virendra
 Sheerman, Mr Barry
 Sheppard, Tommy
 Sherriff, Paula
 Shuker, Mr Gavin
 Siddiq, Tulip
 Skinner, Mr Dennis
 Slaughter, Andy
 Smeeth, Ruth
 Smith, Angela
 Smith, Cat
 Smith, Eleanor
 Smith, Jeff
 Smith, Laura
 Smith, Nick
 Smith, Owen
 Smyth, Karin
 Snell, Gareth
 Sobel, Alex
 Spellar, rh John
 Starmer, rh Keir
 Stephens, Chris
 Stevens, Jo
 Stone, Jamie
 Streeting, Wes
 Sweeney, Mr Paul
 Swinson, Jo
 Tami, Mark
 Thewliss, Alison
 Thomas, Gareth
 Thomas-Symonds, Nick
 Thornberry, rh Emily
 Timms, rh Stephen
 Trickett, Jon
 Turley, Anna
 Turner, Karl
 Twigg, Derek
 Twigg, Stephen
 Twist, Liz
 Umunna, Chuka
 Vaz, Valerie
 Walker, Thelma
 Watson, Tom
 West, Catherine
 Western, Matt
 Whitehead, Dr Alan
 Whitfield, Martin
 Whitford, Dr Philippa
 Williams, Hywel
 Williams, Dr Paul
 Williamson, Chris
 Wilson, Phil
 Wishart, Pete
 Woodcock, John
 Yasin, Mohammad
 Zeichner, Daniel

Tellers for the Ayes:

**Mr Chris Leslie and
 Stella Creasy**

NOES

Adams, Nigel
 Afolami, Bim
 Afriyie, Adam
 Aldous, Peter

Allan, Lucy
 Allen, Heidi
 Andrew, Stuart
 Argar, Edward

Atkins, Victoria
 Bacon, Mr Richard
 Badenoch, Mrs Kemi
 Baker, Mr Steve
 Baldwin, Harriett
 Barclay, Stephen
 Baron, Mr John
 Bebb, Guto
 Bellingham, Sir Henry
 Benyon, rh Richard
 Beresford, Sir Paul
 Berry, Jake
 Blackman, Bob
 Blunt, Crispin
 Boles, Nick
 Bone, Mr Peter
 Bottomley, Sir Peter
 Bowie, Andrew
 Bradley, Ben
 Bradley, rh Karen
 Brady, Sir Graham
 Brereton, Jack
 Bridgen, Andrew
 Brine, Steve
 Bruce, Fiona
 Buckland, Robert
 Burghart, Alex
 Burns, Conor
 Burt, rh Alistair
 Cairns, rh Alun
 Campbell, Mr Gregory
 Cartledge, James
 Cash, Sir William
 Caulfield, Maria
 Chalk, Alex
 Chishti, Rehman
 Chope, Sir Christopher
 Churchill, Jo
 Clark, Colin
 Clark, rh Greg
 Clarke, rh Mr Kenneth
 Clarke, Mr Simon
 Cleverly, James
 Clifton-Brown, Sir Geoffrey
 Coffey, Dr Thérèse
 Collins, Damian
 Costa, Alberto
 Courts, Robert
 Cox, Mr Geoffrey
 Crabb, rh Stephen
 Crouch, Tracey
 Davies, Chris
 Davies, David T. C.
 Davies, Glyn
 Davies, Philip
 Davis, rh Mr David
 Dinéage, Caroline
 Djanogly, Mr Jonathan
 Docherty, Leo
 Dodds, rh Nigel
 Donaldson, rh Sir Jeffrey M.
 Donelan, Michelle
 Dorries, Ms Nadine
 Double, Steve
 Dowden, Oliver
 Doyle-Price, Jackie
 Drax, Richard
 Duddridge, James
 Duguid, David
 Duncan, rh Sir Alan
 Duncan Smith, rh Mr Iain
 Dunne, Mr Philip

Ellis, Michael
 Ellwood, rh Mr Tobias
 Elphicke, Charlie
 Eustice, George
 Evans, Mr Nigel
 Evennett, rh David
 Fabricant, Michael
 Fallon, rh Sir Michael
 Fernandes, Suella
 Field, rh Mark
 Ford, Vicky
 Foster, Kevin
 Fox, rh Dr Liam
 Francois, rh Mr Mark
 Frazer, Lucy
 Freeman, George
 Freer, Mike
 Fysh, Mr Marcus
 Gale, Sir Roger
 Garnier, Mark
 Gauke, rh Mr David
 Ghani, Ms Nusrat
 Gibb, rh Nick
 Gillan, rh Dame Cheryl
 Girvan, Paul
 Glen, John
 Goldsmith, Zac
 Goodwill, Mr Robert
 Gove, rh Michael
 Graham, Luke
 Graham, Richard
 Grant, Bill
 Grant, Mrs Helen
 Gray, James
 Grayling, rh Chris
 Green, Chris
 Green, rh Damian
 Greening, rh Justine
 Grieve, rh Mr Dominic
 Griffiths, Andrew
 Gyimah, Mr Sam
 Hair, Kirstene
 Halfon, rh Robert
 Hall, Luke
 Hammond, rh Mr Philip
 Hammond, Stephen
 Hancock, rh Matt
 Hands, rh Greg
 Harper, rh Mr Mark
 Harrington, Richard
 Harris, Rebecca
 Harrison, Trudy
 Hart, Simon
 Hayes, rh Mr John
 Heald, rh Sir Oliver
 Heappey, James
 Heaton-Harris, Chris
 Heaton-Jones, Peter
 Henderson, Gordon
 Herbert, rh Nick
 Hinds, Damian
 Hoare, Simon
 Hoey, Kate
 Hollingbery, George
 Hollinrake, Kevin
 Hollobone, Mr Philip
 Holloway, Adam
 Howell, John
 Huddleston, Nigel
 Hughes, Eddie
 Hunt, rh Mr Jeremy
 Hurd, Mr Nick

Jack, Mr Alister
 James, Margot
 Javid, rh Sajid
 Jayawardena, Mr Ranil
 Jenkin, Mr Bernard
 Jenkyns, Andrea
 Jenrick, Robert
 Johnson, Dr Caroline
 Johnson, Gareth
 Johnson, Joseph
 Jones, Andrew
 Jones, rh Mr David
 Jones, Mr Marcus
 Kawczynski, Daniel
 Keegan, Gillian
 Kennedy, Seema
 Kerr, Stephen
 Knight, rh Sir Greg
 Knight, Julian
 Kwarteng, Kwasi
 Lamont, John
 Lancaster, Mark
 Latham, Mrs Pauline
 Leadsom, rh Andrea
 Lee, Dr Phillip
 Lefroy, Jeremy
 Leigh, Sir Edward
 Letwin, rh Sir Oliver
 Lewer, Andrew
 Lewis, rh Brandon
 Lewis, rh Dr Julian
 Lidington, rh Mr David
 Little Pengelly, Emma
 Lopez, Julia
 Lopresti, Jack
 Lord, Mr Jonathan
 Loughton, Tim
 Mackinlay, Craig
 Maclean, Rachel
 Main, Mrs Anne
 Mak, Alan
 Malthouse, Kit
 Mann, Scott
 Masterton, Paul
 May, rh Mrs Theresa
 Maynard, Paul
 McLoughlin, rh Sir Patrick
 McPartland, Stephen
 McVey, rh Ms Esther
 Menzies, Mark
 Mercer, Johnny
 Merriman, Huw
 Metcalfe, Stephen
 Miller, rh Mrs Maria
 Milling, Amanda
 Mills, Nigel
 Milton, rh Anne
 Mitchell, rh Mr Andrew
 Moore, Damien
 Mordaunt, rh Penny
 Morgan, rh Nicky
 Morris, Anne Marie
 Morris, David
 Morris, James
 Morton, Wendy
 Mundell, rh David
 Murray, Mrs Sheryll
 Murrison, Dr Andrew
 Neill, Robert
 Newton, Sarah
 Nokes, Caroline
 Norman, Jesse

O'Brien, Neil
 Offord, Dr Matthew
 Opperman, Guy
 Paisley, Ian
 Parish, Neil
 Patel, rh Priti
 Paterson, rh Mr Owen
 Pawsey, Mark
 Penning, rh Sir Mike
 Penrose, John
 Percy, Andrew
 Perry, Claire
 Philp, Chris
 Pincher, Christopher
 Poulter, Dr Dan
 Pow, Rebecca
 Prentis, Victoria
 Prisk, Mr Mark
 Pritchard, Mark
 Pursglove, Tom
 Quin, Jeremy
 Quince, Will
 Raab, Dominic
 Redwood, rh John
 Rees-Mogg, Mr Jacob
 Robertson, Mr Laurence
 Robinson, Mary
 Rosindell, Andrew
 Ross, Douglas
 Rowley, Lee
 Rudd, rh Amber
 Rutley, David
 Sandbach, Antoinette
 Scully, Paul
 Seely, Mr Bob
 Selous, Andrew
 Shannon, Jim
 Shapps, rh Grant
 Sharma, Alok
 Shelbrooke, Alec
 Simpson, David
 Simpson, rh Mr Keith
 Skidmore, Chris
 Smith, Chloe
 Smith, Henry
 Smith, rh Julian
 Smith, Royston
 Soames, rh Sir Nicholas
 Soubry, rh Anna
 Spelman, rh Dame Caroline
 Spencer, Mark
 Stephenson, Andrew
 Stevenson, John
 Stewart, Iain
 Stewart, Rory
 Stride, rh Mel
 Stringer, Graham
 Stuart, Graham
 Sturdy, Julian
 Sunak, Rishi
 Swayne, rh Sir Desmond
 Swire, rh Sir Hugo
 Syms, Sir Robert
 Thomas, Derek
 Thomson, Ross
 Throup, Maggie
 Tomlinson, Justin
 Tomlinson, Michael
 Tracey, Craig
 Tredinnick, David
 Trevelyan, Mrs Anne-Marie
 Truss, rh Elizabeth

Tugendhat, Tom
 Vaizey, rh Mr Edward
 Vara, Mr Shailesh
 Vickers, Martin
 Villiers, rh Theresa
 Walker, Mr Charles
 Walker, Mr Robin
 Wallace, rh Mr Ben
 Warburton, David
 Warman, Matt
 Watling, Giles
 Whately, Helen
 Wheeler, Mrs Heather

Whittaker, Craig
 Whittingdale, rh Mr John
 Wigg, Bill
 Williamson, rh Gavin
 Wilson, Sammy
 Wollaston, Dr Sarah
 Wood, Mike
 Wragg, Mr William
 Wright, rh Jeremy
 Zahawi, Nadhim

Tellers for the Noes:

Kelly Tolhurst and
 Mims Davies

Question accordingly negated.

The Speaker then put forthwith the Questions necessary for the disposal of the business to be concluded at that time (Standing Order No. 83E).

Clause 5

EXCEPTIONS TO SAVINGS AND INCORPORATION

Amendment proposed: 4, page 3, line 23, leave out subsections (4) and (5) and insert—

“(4) Notwithstanding subsection (5), the Charter of Fundamental Rights continues to apply to retained EU law after exit day save as set out in subsections (5) and (5A) below and all references in the Charter to “the law of the Union” shall be deleted and replaced with “retained EU law”.

(5) The following provisions of the Charter shall not apply after exit day—

(a) the Preamble, and

(b) Title V.

(5A) Article 47 of the Charter shall apply after exit day as if it was drafted as follows—

“Right to a fair trial

“Everyone whose rights and freedoms guaranteed by retained EU law are violated is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented.

“Legal aid shall be made available to those who lack sufficient resources insofar as such aid is necessary to ensure effective access to justice.”

(5B) With effect from exit day EU retained law, so far as it is possible to do so, must be interpreted consistently with the Charter.

(5C) With effect from exit day decisions, judgments, advisory opinions of the Court of Justice of the European Union must be taken into account when determining cases under the Charter.

(5D) With effect from exit day in relation to the rights conferred by the Charter with respect to retained EU law—

(a) section 4 of the Human Rights Act 1998 shall apply and the words “a Convention right” shall be replaced by “a Charter right” and all references to “primary legislation” shall be replaced by “retained EU law”,

(b) section 5 of the Human Rights Act 1998 shall apply,

(c) section 12 of the Human Rights Act 1998 shall apply and the words “the Convention right to freedom of expression” shall be replaced by “the Charter right to freedom of expression and information”, and

(d) section 13 of the Human Rights Act 1998 shall apply and the words “the Convention right to freedom of thought, conscience and religion” shall be replaced by “the Charter right to freedom of thought, conscience and religion”.

(5E) With effect from exit day, any derogation or reservation made under sections 14 or 15 of the Human Rights Act 1998 shall apply to rights under the Charter in the same manner as they apply to Convention rights.

(5F) With effect from exit day sections 16 or 17 of the Human Rights Act 1998 shall apply to rights under the Charter in the same manner as they apply to Convention rights.”—(*Paul Blomfield.*)

This amendment would retain the Charter Rights in UK law and afford them the same level as protection as the rights in the Human Rights Act.

Question put, That the amendment be made.

The House divided: Ayes 299, Noes 317.

Division No. 92]

[4.16 pm

AYES

Abbott, rh Ms Diane
Abrahams, Debbie
Alexander, Heidi
Ali, Rushanara
Allin-Khan, Dr Rosena
Amesbury, Mike
Antoniazzi, Tonia
Ashworth, Jonathan
Austin, Ian
Bailey, Mr Adrian
Bardell, Hannah
Barron, rh Sir Kevin
Beckett, rh Margaret
Benn, rh Hilary
Betts, Mr Clive
Black, Mhairi
Blackford, rh Ian
Blackman, Kirsty
Blackman-Woods, Dr Roberta
Blomfield, Paul
Brabin, Tracy
Bradshaw, rh Mr Ben
Brake, rh Tom
Brennan, Kevin
Brock, Deidre
Brown, Alan
Brown, Lyn
Brown, rh Mr Nicholas
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Richard
Butler, Dawn
Byrne, rh Liam
Cable, rh Sir Vince
Cadbury, Ruth
Cameron, Dr Lisa
Campbell, rh Mr Alan
Campbell, Mr Ronnie
Carden, Dan
Carmichael, rh Mr Alistair
Champion, Sarah
Chapman, Douglas
Chapman, Jenny
Charalambous, Bambos
Cherry, Joanna
Clarke, rh Mr Kenneth
Clwyd, rh Ann
Coaker, Vernon
Coffey, Ann
Cooper, Julie
Cooper, Rosie
Cooper, rh Yvette
Corbyn, rh Jeremy
Cowan, Ronnie
Coyle, Neil
Crawley, Angela
Creagh, Mary

Creasy, Stella
Cruddas, Jon
Cryer, John
Cummins, Judith
Cunningham, Alex
Cunningham, Mr Jim
Dakin, Nic
Davey, rh Sir Edward
David, Wayne
Day, Martyn
De Cordova, Marsha
De Piero, Gloria
Debonnaire, Thangam
Dent Coad, Emma
Dhesi, Mr Tanmanjeet Singh
Docherty-Hughes, Martin
Dodds, Anneliese
Doughty, Stephen
Dowd, Peter
Drew, Dr David
Dromey, Jack
Duffield, Rosie
Eagle, Ms Angela
Eagle, Maria
Edwards, Jonathan
Efford, Clive
Elliott, Julie
Ellman, Mrs Louise
Elmore, Chris
Esterson, Bill
Evans, Chris
Farrelly, Paul
Farron, Tim
Fellows, Marion
Fitzpatrick, Jim
Flint, rh Caroline
Flynn, Paul
Frith, James
Furniss, Gill
Gaffney, Hugh
Gapes, Mike
Gardiner, Barry
George, Ruth
Gethins, Stephen
Gibson, Patricia
Gill, Preet Kaur
Glindon, Mary
Godsiff, Mr Roger
Goodman, Helen
Grady, Patrick
Grant, Peter
Gray, Neil
Green, Kate
Greenwood, Lilian
Greenwood, Margaret
Griffith, Nia
Grogan, John
Gwynne, Andrew

Haigh, Louise
Hamilton, Fabian
Hardy, Emma
Harman, rh Ms Harriet
Harris, Carolyn
Hayes, Helen
Hayman, Sue
Healey, rh John
Hendrick, Sir Mark
Hendry, Drew
Hepburn, Mr Stephen
Hermon, Lady
Hill, Mike
Hillier, Meg
Hodge, rh Dame Margaret
Hodgson, Mrs Sharon
Hollern, Kate
Hopkins, Kelvin
Hosie, Stewart
Howarth, rh Mr George
Huq, Dr Rupa
Hussain, Imran
Jardine, Christine
Jarvis, Dan
Johnson, Diana
Jones, Darren
Jones, Gerald
Jones, Helen
Jones, Mr Kevan
Jones, Sarah
Jones, Susan Elan
Kane, Mike
Keeley, Barbara
Kendall, Liz
Khan, Afzal
Killen, Ged
Kinnock, Stephen
Kyle, Peter
Laird, Lesley
Lake, Ben
Lamb, rh Norman
Lammy, rh Mr David
Lavery, Ian
Law, Chris
Lee, Ms Karen
Leslie, Mr Chris
Lewell-Buck, Mrs Emma
Lewis, Clive
Lewis, Mr Ivan
Linden, David
Lloyd, Stephen
Lloyd, Tony
Long Bailey, Rebecca
Lucas, Caroline
Lucas, Ian C.
Lynch, Holly
MacNeil, Angus Brendan
Madders, Justin
Mahmood, Mr Khalid
Mahmood, Shabana
Malhotra, Seema
Mann, John
Marsden, Gordon
Martin, Sandy
Maskell, Rachael
Matheson, Christian
Mc Nally, John
McCabe, Steve
McCarthy, Kerry
McDonagh, Siobhain
McDonald, Andy
McDonald, Stewart Malcolm
McDonald, Stuart C.
McDonnell, rh John
McFadden, rh Mr Pat
McGinn, Conor
McGovern, Alison
McInnes, Liz
McKinnell, Catherine
McMahon, Jim
McMorrin, Anna
Mearns, Ian
Miliband, rh Edward
Monaghan, Carol
Moon, Mrs Madeleine
Moran, Layla
Morden, Jessica
Morgan, Stephen
Morris, Graham
Murray, Ian
Nandy, Lisa
Newlands, Gavin
Norris, Alex
O'Hara, Brendan
Onasanya, Fiona
Onn, Melanie
Onwurah, Chi
Osamor, Kate
Owen, Albert
Peacock, Stephanie
Pearce, Teresa
Pennycook, Matthew
Perkins, Toby
Phillips, Jess
Phillipson, Bridget
Pidcock, Laura
Platt, Jo
Pollard, Luke
Pound, Stephen
Powell, Lucy
Qureshi, Yasmin
Rashid, Faisal
Rayner, Angela
Reed, Mr Steve
Rees, Christina
Reeves, Ellie
Reeves, Rachel
Reynolds, Jonathan
Rimmer, Ms Marie
Robinson, Mr Geoffrey
Rodda, Matt
Rowley, Danielle
Ruane, Chris
Russell-Moyle, Lloyd
Ryan, rh Joan
Saville Roberts, Liz
Shah, Naz
Sharma, Mr Virendra
Sheerman, Mr Barry
Sheppard, Tommy
Sherriff, Paula
Shuker, Mr Gavin
Siddiq, Tulip
Skinner, Mr Dennis
Slaughter, Andy
Smeeth, Ruth
Smith, Angela
Smith, Cat
Smith, Eleanor
Smith, Jeff
Smith, Laura
Smith, Nick
Smith, Owen
Smyth, Karin

Snell, Gareth
 Sobel, Alex
 Spellar, rh John
 Starmer, rh Keir
 Stephens, Chris
 Stevens, Jo
 Stone, Jamie
 Streeting, Wes
 Sweeney, Mr Paul
 Swinson, Jo
 Tami, Mark
 Thewliss, Alison
 Thomas, Gareth
 Thomas-Symonds, Nick
 Thornberry, rh Emily
 Timms, rh Stephen
 Trickett, Jon
 Turley, Anna
 Turner, Karl
 Twigg, Derek
 Twigg, Stephen

Twist, Liz
 Umunna, Chuka
 Vaz, Valerie
 Walker, Thelma
 Watson, Tom
 West, Catherine
 Western, Matt
 Whitehead, Dr Alan
 Whitfield, Martin
 Whitford, Dr Philippa
 Williams, Hywel
 Williams, Dr Paul
 Williamson, Chris
 Wilson, Phil
 Wishart, Pete
 Woodcock, John
 Yasin, Mohammad
 Zeichner, Daniel

Tellers for the Ayes:
Colleen Fletcher and
Vicky Foxcroft

NOES

Adams, Nigel
 Afolami, Bim
 Afriyie, Adam
 Aldous, Peter
 Allan, Lucy
 Allen, Heidi
 Andrew, Stuart
 Argar, Edward
 Atkins, Victoria
 Bacon, Mr Richard
 Badenoch, Mrs Kemi
 Baker, Mr Steve
 Baldwin, Harriett
 Barclay, Stephen
 Baron, Mr John
 Bebb, Guto
 Bellingham, Sir Henry
 Benyon, rh Richard
 Beresford, Sir Paul
 Berry, Jake
 Blackman, Bob
 Blunt, Crispin
 Boles, Nick
 Bone, Mr Peter
 Bottomley, Sir Peter
 Bowie, Andrew
 Bradley, Ben
 Bradley, rh Karen
 Brady, Sir Graham
 Brereton, Jack
 Bridgen, Andrew
 Brine, Steve
 Bruce, Fiona
 Buckland, Robert
 Burghart, Alex
 Burns, Conor
 Burt, rh Alistair
 Cairns, rh Alun
 Campbell, Mr Gregory
 Cartlidge, James
 Cash, Sir William
 Caulfield, Maria
 Chalk, Alex
 Chishti, Rehman
 Chope, Sir Christopher
 Churchill, Jo
 Clark, Colin
 Clark, rh Greg

Clarke, Mr Simon
 Cleverly, James
 Clifton-Brown, Sir Geoffrey
 Coffey, Dr Thérèse
 Collins, Damian
 Costa, Alberto
 Courts, Robert
 Cox, Mr Geoffrey
 Crabb, rh Stephen
 Crouch, Tracey
 Davies, Chris
 Davies, David T. C.
 Davies, Glyn
 Davies, Philip
 Davis, rh Mr David
 Dinenage, Caroline
 Djanogly, Mr Jonathan
 Docherty, Leo
 Dodds, rh Nigel
 Donaldson, rh Sir Jeffrey M.
 Donelan, Michelle
 Dorries, Ms Nadine
 Double, Steve
 Dowden, Oliver
 Doyle-Price, Jackie
 Drax, Richard
 Duddridge, James
 Duguid, David
 Duncan, rh Sir Alan
 Duncan Smith, rh Mr Iain
 Dunne, Mr Philip
 Ellis, Michael
 Ellwood, rh Mr Tobias
 Elphicke, Charlie
 Eustice, George
 Evans, Mr Nigel
 Evennett, rh David
 Fabricant, Michael
 Fallon, rh Sir Michael
 Fernandes, Suella
 Field, rh Mark
 Ford, Vicky
 Foster, Kevin
 Fox, rh Dr Liam
 Francois, rh Mr Mark
 Frazer, Lucy
 Freeman, George
 Freer, Mike

Fysh, Mr Marcus
 Gale, Sir Roger
 Garnier, Mark
 Gauke, rh Mr David
 Ghani, Ms Nusrat
 Gibb, rh Nick
 Gillan, rh Dame Cheryl
 Girvan, Paul
 Glen, John
 Goldsmith, Zac
 Goodwill, Mr Robert
 Gove, rh Michael
 Graham, Luke
 Graham, Richard
 Grant, Bill
 Grant, Mrs Helen
 Gray, James
 Grayling, rh Chris
 Green, Chris
 Green, rh Damian
 Greening, rh Justine
 Grieve, rh Mr Dominic
 Griffiths, Andrew
 Gyimah, Mr Sam
 Hair, Kirstene
 Halfon, rh Robert
 Hall, Luke
 Hammond, rh Mr Philip
 Hammond, Stephen
 Hancock, rh Matt
 Hands, rh Greg
 Harper, rh Mr Mark
 Harrington, Richard
 Harris, Rebecca
 Harrison, Trudy
 Hart, Simon
 Hayes, rh Mr John
 Heald, rh Sir Oliver
 Heapey, James
 Heaton-Harris, Chris
 Heaton-Jones, Peter
 Henderson, Gordon
 Herbert, rh Nick
 Hinds, Damian
 Hoare, Simon
 Hollingbery, George
 Hollinrake, Kevin
 Hollobone, Mr Philip
 Holloway, Adam
 Howell, John
 Huddleston, Nigel
 Hughes, Eddie
 Hunt, rh Mr Jeremy
 Hurd, Mr Nick
 Jack, Mr Alister
 James, Margot
 Javid, rh Sajid
 Jayawardena, Mr Ranil
 Jenkin, Mr Bernard
 Jenkyns, Andrea
 Jenrick, Robert
 Johnson, Dr Caroline
 Johnson, Gareth
 Johnson, Joseph
 Jones, Andrew
 Jones, rh Mr David
 Jones, Mr Marcus
 Kawczynski, Daniel
 Keegan, Gillian
 Kennedy, Seema
 Kerr, Stephen
 Knight, rh Sir Greg

Knight, Julian
 Kwarteng, Kwasi
 Lamont, John
 Lancaster, Mark
 Latham, Mrs Pauline
 Leadsom, rh Andrea
 Lee, Dr Phillip
 Lefroy, Jeremy
 Leigh, Sir Edward
 Letwin, rh Sir Oliver
 Lewer, Andrew
 Lewis, rh Brandon
 Lewis, rh Dr Julian
 Lidington, rh Mr David
 Little Pengelly, Emma
 Lopez, Julia
 Lopresti, Jack
 Lord, Mr Jonathan
 Loughton, Tim
 Mackinlay, Craig
 Maclean, Rachel
 Main, Mrs Anne
 Mak, Alan
 Malthouse, Kit
 Mann, Scott
 Masterton, Paul
 May, rh Mrs Theresa
 Maynard, Paul
 McLoughlin, rh Sir Patrick
 McPartland, Stephen
 McVey, rh Ms Esther
 Menzies, Mark
 Mercer, Johnny
 Merriman, Huw
 Metcalfe, Stephen
 Miller, rh Mrs Maria
 Milling, Amanda
 Mills, Nigel
 Milton, rh Anne
 Mitchell, rh Mr Andrew
 Moore, Damien
 Mordaunt, rh Penny
 Morgan, rh Nicky
 Morris, Anne Marie
 Morris, David
 Morris, James
 Morton, Wendy
 Mundell, rh David
 Murray, Mrs Sheryll
 Murrison, Dr Andrew
 Neill, Robert
 Newton, Sarah
 Nokes, Caroline
 Norman, Jesse
 O'Brien, Neil
 Offord, Dr Matthew
 Opperman, Guy
 Paisley, Ian
 Parish, Neil
 Patel, rh Priti
 Paterson, rh Mr Owen
 Pawsey, Mark
 Penning, rh Sir Mike
 Penrose, John
 Percy, Andrew
 Pery, Claire
 Philp, Chris
 Pincher, Christopher
 Poulter, Dr Dan
 Pow, Rebecca
 Prentis, Victoria
 Prisk, Mr Mark

Pritchard, Mark
 Pursglove, Tom
 Quin, Jeremy
 Quince, Will
 Raab, Dominic
 Redwood, rh John
 Rees-Mogg, Mr Jacob
 Robertson, Mr Laurence
 Robinson, Mary
 Rosindell, Andrew
 Ross, Douglas
 Rowley, Lee
 Rudd, rh Amber
 Rutley, David
 Sandbach, Antoinette
 Scully, Paul
 Seely, Mr Bob
 Selous, Andrew
 Shannon, Jim
 Shapps, rh Grant
 Sharma, Alok
 Shelbrooke, Alec
 Simpson, David
 Simpson, rh Mr Keith
 Skidmore, Chris
 Smith, Chloe
 Smith, Henry
 Smith, rh Julian
 Smith, Royston
 Soames, rh Sir Nicholas
 Soubry, rh Anna
 Spelman, rh Dame Caroline
 Spencer, Mark
 Stephenson, Andrew
 Stevenson, John
 Stewart, Bob
 Stewart, Iain
 Stewart, Rory
 Stride, rh Mel
 Stuart, Graham
 Sturdy, Julian

Sunak, Rishi
 Swayne, rh Sir Desmond
 Swire, rh Sir Hugo
 Syms, Sir Robert
 Thomas, Derek
 Thomson, Ross
 Throup, Maggie
 Tomlinson, Justin
 Tomlinson, Michael
 Tracey, Craig
 Tredinnick, David
 Trevelyan, Mrs Anne-Marie
 Truss, rh Elizabeth
 Tugendhat, Tom
 Vaizey, rh Mr Edward
 Vara, Mr Shailesh
 Vickers, Martin
 Villiers, rh Theresa
 Walker, Mr Charles
 Walker, Mr Robin
 Wallace, rh Mr Ben
 Warburton, David
 Warman, Matt
 Watling, Giles
 Whately, Helen
 Wheeler, Mrs Heather
 Whittaker, Craig
 Whittingdale, rh Mr John
 Wiggan, Bill
 Williamson, rh Gavin
 Wilson, Sammy
 Wollaston, Dr Sarah
 Wood, Mike
 Wragg, Mr William
 Wright, rh Jeremy
 Zahawi, Nadhim

Tellers for the Noes:
Mims Davies and
Kelly Tolhurst

Antoniazzi, Tonia
 Ashworth, Jonathan
 Austin, Ian
 Bailey, Mr Adrian
 Bardell, Hannah
 Barron, rh Sir Kevin
 Beckett, rh Margaret
 Benn, rh Hilary
 Betts, Mr Clive
 Black, Mhairi
 Blackford, rh Ian
 Blackman, Kirsty
 Blackman-Woods, Dr Roberta
 Blomfield, Paul
 Brabin, Tracy
 Bradshaw, rh Mr Ben
 Brennan, Kevin
 Brock, Deidre
 Brown, Alan
 Brown, Lyn
 Brown, rh Mr Nicholas
 Bryant, Chris
 Buck, Ms Karen
 Burden, Richard
 Burgon, Richard
 Butler, Dawn
 Byrne, rh Liam
 Cable, rh Sir Vince
 Cadbury, Ruth
 Cameron, Dr Lisa
 Campbell, rh Mr Alan
 Campbell, Mr Ronnie
 Carden, Dan
 Carmichael, rh Mr Alistair
 Champion, Sarah
 Chapman, Douglas
 Chapman, Jenny
 Charalambous, Bambos
 Cherry, Joanna
 Clwyd, rh Ann
 Coaker, Vernon
 Coffey, Ann
 Cooper, Julie
 Cooper, Rosie
 Cooper, rh Yvette
 Corbyn, rh Jeremy
 Cowan, Ronnie
 Coyle, Neil
 Crawley, Angela
 Creagh, Mary
 Creasy, Stella
 Cruddas, Jon
 Cryer, John
 Cummins, Judith
 Cunningham, Alex
 Cunningham, Mr Jim
 Dakin, Nic
 Davey, rh Sir Edward
 David, Wayne
 Day, Martyn
 De Cordova, Marsha
 De Piero, Gloria
 Debbonaire, Thangam
 Dent Coad, Emma
 Dhesi, Mr Tanmanjeet Singh
 Docherty-Hughes, Martin
 Dodds, Anneliese
 Doughty, Stephen
 Dowd, Peter
 Drew, Dr David
 Dromey, Jack
 Duffield, Rosie

Eagle, Ms Angela
 Eagle, Maria
 Edwards, Jonathan
 Efford, Clive
 Elliott, Julie
 Ellman, Mrs Louise
 Elmore, Chris
 Esterson, Bill
 Evans, Chris
 Farrelly, Paul
 Farron, Tim
 Fellows, Marion
 Fitzpatrick, Jim
 Fletcher, Colleen
 Flint, rh Caroline
 Flynn, Paul
 Foxcroft, Vicky
 Frith, James
 Furniss, Gill
 Gaffney, Hugh
 Gapes, Mike
 Gardiner, Barry
 George, Ruth
 Gethins, Stephen
 Gibson, Patricia
 Gill, Preet Kaur
 Glindon, Mary
 Godsiff, Mr Roger
 Goodman, Helen
 Grady, Patrick
 Grant, Peter
 Gray, Neil
 Green, Kate
 Greenwood, Lilian
 Greenwood, Margaret
 Griffith, Nia
 Grogan, John
 Gwynne, Andrew
 Haigh, Louise
 Hamilton, Fabian
 Hardy, Emma
 Harman, rh Ms Harriet
 Harris, Carolyn
 Hayes, Helen
 Hayman, Sue
 Healey, rh John
 Hendrick, Sir Mark
 Hendry, Drew
 Hepburn, Mr Stephen
 Hermon, Lady
 Hill, Mike
 Hillier, Meg
 Hodge, rh Dame Margaret
 Hodgson, Mrs Sharon
 Hollern, Kate
 Hopkins, Kelvin
 Hosie, Stewart
 Howarth, rh Mr George
 Huq, Dr Rupa
 Hussain, Imran
 Jardine, Christine
 Jarvis, Dan
 Johnson, Diana
 Jones, Darren
 Jones, Gerald
 Jones, Helen
 Jones, Mr Kevan
 Jones, Sarah
 Jones, Susan Elan
 Kane, Mike
 Keeley, Barbara
 Kendall, Liz

Question accordingly negated.

New Clause 7

EU PROTOCOL ON ANIMAL SENTIENCE

“The obligation on Ministers of the Crown and the devolved administrations to pay regard to the welfare requirements of animals as sentient beings when formulating law and policy, contained within the EU Protocol on animal sentience as set out in Article 13 of Title II of the Lisbon Treaty, shall be recognised and available in domestic law on and after exit day.”—(*Caroline Lucas.*)

This new clause transfers the EU Protocol on animal sentience set out in Article 13 of Title II of the 2009 Lisbon Treaty into UK law, so that the obligation on the Government and the devolved administrations to pay due regard to the welfare requirements of animals as sentient beings when formulating law and policy is not lost when the UK leaves the EU.

Brought up.

Question put, That the clause be added to the Bill.

The House divided: Ayes 297, Noes 320.

Division No. 93]

[4.33 pm

AYES

Abbott, rh Ms Diane
 Abrahams, Debbie
 Alexander, Heidi
 Ali, Rushanara
 Allin-Khan, Dr Rosena
 Amesbury, Mike

Khan, Afzal
Killen, Ged
Kinnock, Stephen
Kyle, Peter
Laird, Lesley
Lake, Ben
Lamb, rh Norman
Lammy, rh Mr David
Lavery, Ian
Law, Chris
Lee, Ms Karen
Leslie, Mr Chris
Lewell-Buck, Mrs Emma
Lewis, Clive
Lewis, Mr Ivan
Lloyd, Stephen
Lloyd, Tony
Long Bailey, Rebecca
Lucas, Caroline
Lucas, Ian C.
Lynch, Holly
MacNeil, Angus Brendan
Madders, Justin
Mahmood, Mr Khalid
Mahmood, Shabana
Malhotra, Seema
Mann, John
Marsden, Gordon
Martin, Sandy
Maskell, Rachael
Matheson, Christian
Mc Nally, John
McCabe, Steve
McCarthy, Kerry
McDonagh, Siobhain
McDonald, Andy
McDonald, Stewart Malcolm
McDonald, Stuart C.
McDonnell, rh John
McFadden, rh Mr Pat
McGinn, Conor
McGovern, Alison
McInnes, Liz
McKinnell, Catherine
McMahon, Jim
McMorrin, Anna
Mearns, Ian
Miliband, rh Edward
Monaghan, Carol
Moon, Mrs Madeleine
Moran, Layla
Morden, Jessica
Morgan, Stephen
Morris, Grahame
Murray, Ian
Nandy, Lisa
Newlands, Gavin
Norris, Alex
O'Hara, Brendan
Onasanya, Fiona
Onn, Melanie
Onwurah, Chi
Osamor, Kate
Owen, Albert
Peacock, Stephanie
Pearce, Teresa
Pennycook, Matthew
Perkins, Toby
Phillips, Jess
Phillipson, Bridget
Pidcock, Laura
Platt, Jo

Pollard, Luke
Pound, Stephen
Powell, Lucy
Qureshi, Yasmin
Rashid, Faisal
Rayner, Angela
Reed, Mr Steve
Rees, Christina
Reeves, Ellie
Reeves, Rachel
Reynolds, Jonathan
Rimmer, Ms Marie
Robinson, Mr Geoffrey
Rodda, Matt
Rowley, Danielle
Ruane, Chris
Russell-Moyle, Lloyd
Ryan, rh Joan
Saville Roberts, Liz
Shah, Naz
Sharma, Mr Virendra
Sheerman, Mr Barry
Sheppard, Tommy
Sherriff, Paula
Shuker, Mr Gavin
Siddiq, Tulip
Skinner, Mr Dennis
Slaughter, Andy
Smeeth, Ruth
Smith, Angela
Smith, Cat
Smith, Eleanor
Smith, Jeff
Smith, Laura
Smith, Nick
Smith, Owen
Smyth, Karin
Snell, Gareth
Sobel, Alex
Spellar, rh John
Starmer, rh Keir
Stephens, Chris
Stevens, Jo
Stone, Jamie
Streeting, Wes
Sweeney, Mr Paul
Swinson, Jo
Tami, Mark
Thewliss, Alison
Thomas, Gareth
Thomas-Symonds, Nick
Thornberry, rh Emily
Timms, rh Stephen
Trickett, Jon
Turley, Anna
Turner, Karl
Twigg, Derek
Twigg, Stephen
Twist, Liz
Umunna, Chuka
Vaz, Valerie
Walker, Thelma
Watson, Tom
West, Catherine
Western, Matt
Whitehead, Dr Alan
Whitfield, Martin
Whitford, Dr Philippa
Williams, Hywel
Williams, Dr Paul
Williamson, Chris
Wilson, Phil

Wishart, Pete
Woodcock, John
Yasin, Mohammad
Zeichner, Daniel

Tellers for the Ayes:

**Tom Brake and
David Linden**

NOES

Adams, Nigel
Afolami, Bim
Afriyie, Adam
Aldous, Peter
Allan, Lucy
Allen, Heidi
Andrew, Stuart
Argar, Edward
Atkins, Victoria
Bacon, Mr Richard
Badenoch, Mrs Kemi
Baker, Mr Steve
Baldwin, Harriett
Barclay, Stephen
Baron, Mr John
Bebb, Guto
Bellingham, Sir Henry
Benyon, rh Richard
Beresford, Sir Paul
Berry, Jake
Blackman, Bob
Blunt, Crispin
Boles, Nick
Bone, Mr Peter
Bowie, Andrew
Bradley, Ben
Bradley, rh Karen
Brady, Sir Graham
Brereton, Jack
Bridgen, Andrew
Brine, Steve
Bruce, Fiona
Buckland, Robert
Burghart, Alex
Burns, Conor
Burt, rh Alistair
Cairns, rh Alun
Campbell, Mr Gregory
Cartledge, James
Cash, Sir William
Caulfield, Maria
Chalk, Alex
Chishti, Rehman
Chope, Sir Christopher
Churchill, Jo
Clark, Colin
Clark, rh Greg
Clarke, rh Mr Kenneth
Clarke, Mr Simon
Cleverly, James
Clifton-Brown, Sir Geoffrey
Coffey, Dr Thérèse
Collins, Damian
Costa, Alberto
Courts, Robert
Cox, Mr Geoffrey
Crabb, rh Stephen
Crouch, Tracey
Davies, Chris
Davies, David T. C.
Davies, Glyn
Davies, Philip
Davis, rh Mr David
Dinenage, Caroline
Djanogly, Mr Jonathan

Docherty, Leo
Dodds, rh Nigel
Donaldson, rh Sir Jeffrey M.
Donelan, Michelle
Dorries, Ms Nadine
Double, Steve
Dowden, Oliver
Doyle-Price, Jackie
Drax, Richard
Duddridge, James
Duguid, David
Duncan, rh Sir Alan
Duncan Smith, rh Mr Iain
Dunne, Mr Philip
Ellis, Michael
Ellwood, rh Mr Tobias
Elphicke, Charlie
Eustice, George
Evans, Mr Nigel
Evennett, rh David
Fabricant, Michael
Fallon, rh Sir Michael
Fernandes, Suella
Field, rh Mark
Ford, Vicky
Foster, Kevin
Fox, rh Dr Liam
Francois, rh Mr Mark
Frazer, Lucy
Freeman, George
Freer, Mike
Fysh, Mr Marcus
Gale, Sir Roger
Garnier, Mark
Gauke, rh Mr David
Ghani, Ms Nusrat
Gibb, rh Nick
Gillan, rh Dame Cheryl
Girvan, Paul
Glen, John
Goldsmith, Zac
Goodwill, Mr Robert
Gove, rh Michael
Graham, Luke
Graham, Richard
Grant, Bill
Grant, Mrs Helen
Gray, James
Grayling, rh Chris
Green, Chris
Green, rh Damian
Greening, rh Justine
Grieve, rh Mr Dominic
Griffiths, Andrew
Gyimah, Mr Sam
Hair, Kirstene
Halfon, rh Robert
Hall, Luke
Hammond, rh Mr Philip
Hammond, Stephen
Hancock, rh Matt
Hands, rh Greg
Harper, rh Mr Mark
Harrington, Richard
Harris, Rebecca

Harrison, Trudy
 Hart, Simon
 Hayes, rh Mr John
 Heald, rh Sir Oliver
 Heappey, James
 Heaton-Harris, Chris
 Heaton-Jones, Peter
 Henderson, Gordon
 Herbert, rh Nick
 Hinds, Damian
 Hoare, Simon
 Hoey, Kate
 Hollingbery, George
 Hollinrake, Kevin
 Hollobone, Mr Philip
 Holloway, Adam
 Howell, John
 Huddleston, Nigel
 Hughes, Eddie
 Hunt, rh Mr Jeremy
 Hurd, Mr Nick
 Jack, Mr Alister
 James, Margot
 Javid, rh Sajid
 Jayawardena, Mr Ranil
 Jenkin, Mr Bernard
 Jenkyns, Andrea
 Jenrick, Robert
 Johnson, Dr Caroline
 Johnson, Gareth
 Johnson, Joseph
 Jones, Andrew
 Jones, rh Mr David
 Jones, Mr Marcus
 Kawczynski, Daniel
 Keegan, Gillian
 Kennedy, Seema
 Kerr, Stephen
 Knight, rh Sir Greg
 Knight, Julian
 Kwarteng, Kwasi
 Lamont, John
 Lancaster, Mark
 Latham, Mrs Pauline
 Leadsom, rh Andrea
 Lee, Dr Phillip
 Lefroy, Jeremy
 Leigh, Sir Edward
 Letwin, rh Sir Oliver
 Lewer, Andrew
 Lewis, rh Brandon
 Lewis, rh Dr Julian
 Lidington, rh Mr David
 Little Pengelly, Emma
 Lopez, Julia
 Lopresti, Jack
 Lord, Mr Jonathan
 Loughton, Tim
 Mackinlay, Craig
 Maclean, Rachel
 Main, Mrs Anne
 Mak, Alan
 Malthouse, Kit
 Mann, Scott
 Masterton, Paul
 May, rh Mrs Theresa
 Maynard, Paul
 McLoughlin, rh Sir Patrick
 McPartland, Stephen
 McVey, rh Ms Esther
 Menzies, Mark
 Mercer, Johnny

Merriman, Huw
 Metcalfe, Stephen
 Miller, rh Mrs Maria
 Milling, Amanda
 Mills, Nigel
 Milton, rh Anne
 Mitchell, rh Mr Andrew
 Moore, Damien
 Mordaunt, rh Penny
 Morgan, rh Nicky
 Morris, Anne Marie
 Morris, David
 Morris, James
 Morton, Wendy
 Mundell, rh David
 Murray, Mrs Sheryll
 Murrison, Dr Andrew
 Neill, Robert
 Newton, Sarah
 Nokes, Caroline
 Norman, Jesse
 O'Brien, Neil
 Offord, Dr Matthew
 Opperman, Guy
 Paisley, Ian
 Parish, Neil
 Patel, rh Priti
 Paterson, rh Mr Owen
 Pawsey, Mark
 Penning, rh Sir Mike
 Penrose, John
 Percy, Andrew
 Perry, Claire
 Philp, Chris
 Pincher, Christopher
 Poulter, Dr Dan
 Pow, Rebecca
 Prentis, Victoria
 Prisk, Mr Mark
 Pritchard, Mark
 Pursglove, Tom
 Quin, Jeremy
 Quince, Will
 Raab, Dominic
 Redwood, rh John
 Rees-Mogg, Mr Jacob
 Robertson, Mr Laurence
 Robinson, Gavin
 Robinson, Mary
 Rosindell, Andrew
 Ross, Douglas
 Rowley, Lee
 Rudd, rh Amber
 Rutley, David
 Sandbach, Antoinette
 Scully, Paul
 Seely, Mr Bob
 Selous, Andrew
 Shannon, Jim
 Shapps, rh Grant
 Sharma, Alok
 Shelbrooke, Alec
 Simpson, David
 Simpson, rh Mr Keith
 Skidmore, Chris
 Smith, Chloe
 Smith, Henry
 Smith, rh Julian
 Smith, Royston
 Soames, rh Sir Nicholas
 Soubry, rh Anna
 Spelman, rh Dame Caroline

Spencer, Mark
 Stephenson, Andrew
 Stevenson, John
 Stewart, Bob
 Stewart, Iain
 Stewart, Rory
 Stride, rh Mel
 Stringer, Graham
 Stuart, Graham
 Sturdy, Julian
 Sunak, Rishi
 Swayne, rh Sir Desmond
 Swire, rh Sir Hugo
 Syms, Sir Robert
 Thomas, Derek
 Thomson, Ross
 Throup, Maggie
 Tomlinson, Justin
 Tomlinson, Michael
 Tracey, Craig
 Tredinnick, David
 Trevelyan, Mrs Anne-Marie
 Truss, rh Elizabeth
 Tugendhat, Tom
 Vaizey, rh Mr Edward

Vara, Mr Shailesh
 Vickers, Martin
 Villiers, rh Theresa
 Walker, Mr Charles
 Walker, Mr Robin
 Wallace, rh Mr Ben
 Warburton, David
 Warman, Matt
 Watling, Giles
 Whately, Helen
 Wheeler, Mrs Heather
 Whittaker, Craig
 Whittingdale, rh Mr John
 Wiggin, Bill
 Williamson, rh Gavin
 Wilson, Sammy
 Wollaston, Dr Sarah
 Wood, Mike
 Wragg, Mr William
 Wright, rh Jeremy
 Zahawi, Nadhim

Tellers for the Noes:
Kelly Tolhurst and
Mims Davies

Question accordingly negated.

Schedule 2

CORRESPONDING POWERS INVOLVING DEVOLVED AUTHORITIES

Joanna Cherry: I beg to move amendment 49, page 17, line 13, leave out “appropriate” and insert “necessary”.

This amendment would ensure that Ministers can only bring forward regulations when it is necessary to do so.

Mr Speaker: With this it will be convenient to discuss the following:

Amendment 50, page 17, line 18, leave out “appropriate” and insert “necessary”.

This amendment would ensure that Ministers can only bring forward regulations when it is necessary to do so.

Government amendments 21 to 27.

Amendment 51, page 22, line 39, leave out “appropriate” and insert “necessary”.

This amendment would ensure that Ministers can only bring forward regulations when it is necessary to do so.

Amendment 52, page 22, line 43, leave out “appropriate” and insert “necessary”.

This amendment would ensure that Ministers can only bring forward regulations when it is necessary to do so.

Government amendment 28.

Amendment 53, page 25, line 12, leave out “appropriate” and insert “necessary”.

This amendment would ensure that Ministers can only bring forward regulations when it is necessary to do so.

Amendment 54, page 25, line 16, leave out “appropriate” and insert “necessary”.

This amendment would ensure that Ministers can only bring forward regulations when it is necessary to do so.

Government amendment 29.

Amendment 3, in clause 11, page 7, line 23, leave out subsections (1) to (3) and insert—

“(1) In section 29(2)(d) of the Scotland Act 1998 (no competence for Scottish Parliament to legislate incompatibly with EU law), omit “or with EU law”.

(2) In section 108A(2)(e) of the Government of Wales Act 2006 (no competence for National Assembly for Wales to legislate incompatibly with EU law), omit “or with EU law”.

(3) In section 6(2)(d) of the Northern Ireland Act (no competency for the Assembly to legislate incompatibly with EU law, omit “is incompatible with EU law”.

(4) The Secretary of State must lay before each House of Parliament proposals for replacing European frameworks with UK ones.

(5) UK-wide frameworks shall be proposed if and only if they are necessary to—

- (a) enable the functioning of the UK internal market,
- (b) ensure compliance with international obligations,
- (c) ensure the UK can negotiate, enter into and implement new trade agreements and international treaties,
- (d) enable the management of common resources,
- (e) administer and provide access to justice in cases with a cross-border element, or
- (f) safeguard the security of the UK.

(6) Ministers of the Crown shall create UK-wide frameworks only if they have consulted with, and secured the agreement of, the affected devolved administrations.”

This amendment removes the Bill’s proposed restrictions on the ability of the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly to legislate on devolved matters and creates new collaborative procedures for the creation of UK-wide frameworks for retained EU law.

Amendment 6, page 7, line 23, leave out subsections (1) and (2) and insert—

“(1) In section 29(2)(d) of the Scotland Act 1998 (no competence for Scottish Parliament to legislate incompatibly with EU law), omit “or with EU law”.

(2) In section 108A(2)(e) of the Government of Wales Act 2006 (no competence for National Assembly for Wales to legislate incompatibly with EU law), omit “or with EU law”.

This amendment would replace the Bill’s changes to the legislative competence of the Scottish Parliament and the National Assembly for Wales in consequence of EU withdrawal, by removing the restriction on legislative competence relating to EU law and ensuring that no further restriction relating to retained EU law is imposed.

Amendment 13, page 7, line 23, leave out subsections (1) to (3) and insert—

“(1) In section 29(2)(d) of the Scotland Act 1998 (no competence for Scottish Parliament to legislate incompatibly with EU law), omit “or with EU law”.

(2) In section 108A (2)(e) of the Government of Wales Act 2006 (no competence for National Assembly for Wales to legislate incompatibly with EU law), omit “or with EU law”.

(3) In section 6(2)(d) of the Northern Ireland Act (no competency for the Assembly to legislate incompatibly with EU law), omit “is incompatible with EU law”.

(3A) The Secretary of State must lay before each House of Parliament proposals for replacing European frameworks with UK ones.

(3B) UK-wide frameworks will be proposed if and only if they are necessary to—

- (a) enable the functioning of the UK internal market, while acknowledging policy divergence;
- (b) ensure compliance with international obligations;
- (c) ensure the UK can negotiate, enter into and implement new trade agreements and international treaties;
- (d) enable the management of common resources;
- (e) administer and provide access to justice in cases with a cross-border element; or
- (f) safeguard the security of the UK.

(3C) Frameworks will respect the devolution settlements and the democratic accountability of the devolved legislatures, and will therefore—

- (a) be based on established conventions and practices, including that the competence of the devolved institutions will not be adjusted without their consent;
- (b) maintain, as a minimum, equivalent flexibility for tailoring policies to the specific needs of each territory as is afforded by current EU rules; and
- (c) lead to a significant increase in decision-making powers for the devolved administrations.

(3D) Frameworks will ensure recognition of the economic and social linkages between Northern Ireland and Ireland by—

- (a) recognising that Northern Ireland will be the only part of the UK that shares a land frontier with the EU; and
- (b) adhering to the Belfast Agreement.

(3E) UK-wide frameworks will be created jointly by the sitting devolved administrations and Ministers of the Crown, with the agreement of all parties involved.”

This amendment removes the Bill’s proposed restrictions on the ability of the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly to legislate on devolved matters and creates a new collaborative procedure for the creation of UK-wide frameworks for retained EU law using the principles as agreed at the Joint Ministerial Committee (EU Negotiations) on 16 October 2017.

Amendment 44, in clause 7, page 5, line 7, leave out “appropriate” and insert “necessary”.

This amendment would ensure that Ministers can only bring forward regulations under Clause 7 when it is necessary to do so.

Amendment 5, page 6, line 18, after “it”, insert—

“() modify the Scotland Act 1998 or the Government of Wales Act 2006,”.

This amendment would prevent the powers of a Minister of the Crown under Clause 7 of the Bill to fix problems in retained EU law from being exercised to amend the Scotland Act 1998 or the Government of Wales Act 2006.

Amendment 45, in clause 8, page 6, line 33, leave out “appropriate” and insert “necessary”.

This amendment would ensure that Ministers can only bring forward regulations when it is necessary to do so.

Amendment 46, in clause 9, page 7, line 3, leave out “appropriate” and insert “necessary”.

This amendment would ensure that Ministers can only bring forward regulations when it is necessary to do so.

Amendment 47, in clause 17, page 14, line 15, leave out “appropriate” and insert “necessary”.

This amendment would ensure that Ministers can only bring forward regulations when it is necessary to do so.

Amendment 48, page 14, line 22, leave out “appropriate” and insert “necessary”.

This amendment would ensure that Ministers can only bring forward regulations when it is necessary to do so.

Amendment 11, in clause 19, page 15, line 11, at beginning insert—

“(1) Subject to subsection (1A)”.

This amendment is consequential to Amendment 12 to Clause 19 that requires legislative consent from the sitting devolved administrations before any of the provisions in this Act come into force.

Amendment 12, page 15, line 18, at end insert—

“(1A) None of the provisions in this Act may come into force until the Prime Minister is satisfied that resolutions have been passed by the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly, signifying consent to the Act unless—

- (a) direct rule is in place;
- (b) the devolved administration has been formally suspended; or
- (c) if the devolved administration has been dissolved for reasons other than recess or an election.”

This amendment requires the Prime Minister to gain legislative consent from the sitting devolved administrations before any of the provisions in this Act come into force.

Government amendments 14 to 20, 30 to 32 and 34.

Joanna Cherry: The amendments I have tabled go to the heart of concerns that many Members have about the wide powers afforded to the Executive by clause 9, schedule 2 and other parts of the Bill in relation to secondary legislation. The purpose of my amendments is to ensure that Ministers can only bring forward regulations under clause 7 and the like when it is “necessary” to do so, rather than when it is “appropriate”. The word “appropriate” is too wide.

These issues were discussed in Committee, but—surprise, surprise—it was very difficult to get a straight answer from Ministers about why they were so wedded to the word “appropriate” and were not interested in changing it to the word “necessary”, as supported by many organisations including Justice and the Law Society of Scotland. The change would also reflect judicial concerns about the breadth of discretion that the judiciary would be given if they had to determine whether something was “appropriate” rather than “necessary”. This will be subject to judicial review because we are talking about secondary legislation. I tried in vain in Committee to get the Minister to say what was meant by “appropriate”. He referred me to the dictionary definition, but that is simply not good enough.

Mr Jim Cunningham (Coventry South) (Lab): It seems to me, and I am sure the hon. and learned Lady will agree, that as far as the Government are concerned, “appropriate” means, “We’ll tell you what we’re going to bring in front of you.”

Joanna Cherry: The hon. Gentleman is absolutely right. That is the gravamen of the concern. The Government are given too much discretion to decide what they consider is appropriate, rather than what is necessary for the purposes of the Bill.

I have no doubt that, later in the debate this afternoon, a Minister will rise to reassure me and others that the Government would never do anything inappropriate, but I think we know what we all think about that. And I am talking not just about this Government; all Governments, particularly when afforded too much Executive power, will seek to abuse it—that is in the nature of the Executive.

In Committee, I was rather struck by a sweeping statement by the right hon. Member for West Dorset (Sir Oliver Letwin), who said that, apparently, we all know what “appropriate” means and that the courts will know what it means. If that is so, why does the Minister not tell us what “appropriate” means in this context? Many distinguished lawyers have said that the courts will not know, and the judiciary themselves have expressed concern about the breadth of discretion given to the Government by the use of the word “appropriate” rather than the word “necessary”.

The matter has been raised by the Delegated Powers and Law Reform Committee, which recommended that the power in clause 7

“should only be available where Ministers can show that it is necessary to make a change to the statute book”.

I have no doubt that an amendment on that will be forthcoming in the House of Lords, but as I said earlier in the debate, it is important that this democratically elected and accountable House debate these matters and that we get some colour from the Government on their position.

The issues raised by the amendment have also been referred to by the Scottish Parliament’s Finance and Constitution Committee, which has produced an interim report on the Bill and supported the recommendation. I think that I am right in saying that the report was supported by a number of Conservative Members of the Scottish Parliament, so this is not really a party political issue. I do not want us to withdraw from the EU, but I recognise the need for this legislation if we are going to do so, and this amendment seeks to circumscribe Executive power.

Sir Oliver Letwin: I can see the hon. and learned Lady’s point that, in the light of the changes that the Government have made to clause 7, it may be appropriate to change “appropriate” to “necessary” in the schedule. However, will she confirm that her amendment 49 does that for devolved authorities’ Ministers, not for the Crown, and that that comes later in the sequence of amendments?

Joanna Cherry: Yes. What is sauce for the goose is sauce for the gander. It would not be very consistent if I thought that the British Executive should not get sweeping powers but the Scottish Executive should. All these arguments about curtailing Executive power apply to all Governments in these islands, not just to this Government. At the moment—my hon. Friend the Member for North East Fife (Stephen Gethins) will address these matters later—the Scottish Government are getting precious few powers in relation to these matters, and that is a grave concern. However, others will address that later.

The Solicitor General said he had listened with care to what was said about this issue in Committee, so what will Ministers do about it? Have they spoken to the judiciary about this? Have they taken on board the judiciary’s concerns about the scope of discretion granted to them and their fear of that, given recent politically motivated attacks on the judiciary? Have Ministers taken on board the concern expressed on both sides of this House and by many organisations outwith it about the broad scope of the powers currently afforded?

As I said, I have no doubt that these concerns will be raised in the Lords, but now is the time for the Government to tell this democratically elected and accountable House what they are going to do to circumscribe the exercise of Executive power in this Bill.

Mr Jenkin: I will speak only briefly to somewhat lament the fact that we have not made more progress on this clause 11 issue. Let me explain the background. The Public Administration and Constitutional Affairs Committee has taken an interest in this matter. We have taken an extensive interest in the inter-institutional

[Mr Jenkin]

relations between the different Parliaments of the United Kingdom and the different Administrations of the United Kingdom, which is a very undeveloped part of our constitution. We have the legal framework, but we do not have the practices, the culture or the institutional underpinning. The debate about the legislative consent motions in relation to this legislation has shown that up to a degree.

I pay tribute to my right hon. Friend the Member for Ashford (Damian Green), recently departed from the Government, who played a crucial role in making considerable advances on the question of how the legislative consent motions in support of this proposed Act of Parliament should be supported by the devolved Parliaments. It seems to me that the process has stalled somewhat, and it is unfortunate that we do not have the Government or others tabling amendments at this stage of the scrutiny of the Bill, when some of us had hoped that that would be the case. I am bound to say that it may reflect the fact that there is not yet a consensus, and it would be more important to reach a consensus on this matter than to table some amendments that do not reflect a consensus.

Dr Philippa Whitford (Central Ayrshire) (SNP): I totally understand the wish, perhaps, to have had more discussion or debate before bringing amendments, but is that not an argument for putting back this debate, rather than that these amendments should come up in the Lords, where not just Scotland's governing party but all Scottish MPs cannot take part in the debate?

Mr Jenkin: I do wish that the Scottish National party would take up its option of positions in the other place, so that it could—

Dr Whitford: MPs.

Mr Jenkin: No—so that the SNP could be represented in the other place, because I have no doubt that this matter will be addressed there. But I agree; I think that is unfortunate and that it would have been preferable for it to have been developed here.

Dr Whitford: Even if the SNP were in the Lords, it is the representatives here who are elected, and representatives from all Scottish parties are disfranchised by the amendment's not being moved today.

Mr Jenkin: I accept that. Whatever compromise or proposals emerge in the other place, we can either debate them, vote on them and accept them, or we can debate them, vote on them, reject them and send back our own proposals to the other place at that point, so this House will have an opportunity to debate this very fully—just as fully as on Report.

This is, ultimately, a question of trust. We need to build up trust. Whatever the future holds for our United—or disunited—Kingdom, there need to be relationships of trust between the four Parliaments of these islands, the four Administrations of these islands, to enable us to make our way in the world as effectively as possible after we have left the European Union. That trust is still somewhat lacking in those relationships, and there may

be one or two who want to foment distrust for their own political reasons. That makes getting this sorted out in an amicable way more challenging, but all the more necessary.

Martin Whitfield: Is not trust based on experience, and is not the experience that we have witnessed over the past few weeks disappointing in that building of trust?

Mr Jenkin: We have come a long way since the Government first published the Bill in draft last summer, when there were very peremptory conversations with the devolved Administrations and they felt very unconsulted about the Bill that had been published. There has been quite a lot of trust building and discussion, and the meetings of the Joint Ministerial Committee, which has discussed these matters and produced joint memorandums, shows that the trust is capable of building. I do think we have gone backwards a little bit in recent weeks, but I hope that the work that my Committee is doing will help. My Committee is going to Cardiff at the beginning of February and then we will be making an official visit, following an unofficial visit late last year, to Edinburgh, to build up these relationships and these understandings between the different Parliaments and the different Administrations. I do hope that in the end we can arrive at the right destination.

Stewart Hosie (Dundee East) (SNP): I welcome the Committee Chair's taking his Committee formally and informally to Edinburgh and I agree with what he says about trust, but I hope that he agrees with me and my party that trust would be ably demonstrated if the Government had tabled an amendment, committing to deliver all the 111 powers to the devolved Administrations.

Mr Jenkin: Trust is about what is offered to the other party. In this case, the Government have been consistently misconstrued. Given the drafting, clause 11 can be read as though the Government intended to hold on to the 111 powers for all time, withholding them from the Scottish Government, but the Government have repeatedly said that that is not the case. My Committee has also consistently said that the Government's intention is that the devolved Administrations and Parliaments should finish with substantially more powers as a result of leaving the EU than they had before.

5 pm

Lady Hermon: We have not had a functioning Assembly in Northern Ireland for a year—since January 2017. How exactly does the hon. Gentleman and his Committee expect to build up trust with the Northern Ireland Assembly? How is that going?

Mr Jenkin: It is very problematic. My Committee has repeatedly attempted to make an official visit to the Province, but that has not been regarded as expedient at this time. However, I sometimes run into the hon. Lady and I talk to other elected representatives of the Province; I hope that there is, at least within this House, trust and understanding between the democratically elected representatives on this matter. However, I invite the hon. Lady to a further conversation offline. We are continuing our inquiry and our work.

I make it clear to my party's Front Benchers that I expect amendments to be tabled to clause 11 to clarify how long the powers should exist. Why is there not a sunset provision at the end of clause 11, so that it is seen clearly as a temporary expedient and not a final destination? Why is there not some qualification to the powers that have been retained, to show that they are for a particular purpose rather than just a blanket withholding?

As I said in Committee, it was instructive that even the work commissioned by the Scottish Parliament demonstrated that most of the powers being recovered from the EU—those with relevance to the UK single market, for example—are naturally reserved powers. We are dealing here with only a relatively small proportion, albeit on significant matters such as the environment, farming and fisheries.

This is an important test for the relationship between Whitehall and its counterparts elsewhere in the United Kingdom—and, indeed, with this Parliament, because the relationship between the Parliaments is just as undeveloped, possibly even less so, than the relationship between the Governments. The Governments have to work together, and on the island of Great Britain we have a single civil service that naturally works together. But the idea of the Parliaments of the United Kingdom working together is a completely alien concept and has not yet come into our political idiom at all.

Our Committee continues to work on the issue. I hope that we shall make some radical recommendations to help us learn from other, decentralised systems of government in other countries. This is in the DNA of their constitutions. We need to develop the same facility, so that after we leave the European Union and the powers have been devolved, the four parts of the United Kingdom work effectively and harmoniously together for the common good and the future of our country.

Anna McMorrin (Cardiff North) (Lab): The biggest scandal about clause 11 is that the UK Government know that it is completely unacceptable; they are just not brave enough to admit it. Ministers, Tory MPs and civil servants have privately—and publicly, sometimes—acknowledged how extremely ill-advised it is to remove the power of the devolved Governments over devolved areas. This UK Government committed to introducing amendments on Report to address this, but where are they? Where is the Government's acknowledgement that they have got this wrong?

Sir Oliver Letwin: No doubt the hon. Lady will develop her argument, but will she just clarify something? It is not the case, is it, that anything is being removed from the devolved authorities? It is a question of whether things that currently reside in Brussels should be devolved rather than returned to Westminster.

Anna McMorrin: There are things that are devolved and on which we work with the EU, and we do not want those devolved areas returned centrally to the UK Government, as part of a power grab, rather than to our devolved Administrations. The Welsh Government are clearly arguing that case, and so are the Scottish Government.

Dr Whitford: Is the issue not the basic principle that when the Scottish Parliament was set up, certain powers were reserved, and if they were not specifically reserved,

they were devolved? That was not originally the case in Wales, but it was later changed. This process reverses that.

Anna McMorrin: That is absolutely the case. It is the case in Scotland and is now the case in Wales. The Welsh and Scottish Governments are clearly arguing this case, and we are now on the brink of a constitutional crisis. This is an issue of trust—trust to exercise devolved powers responsibly, trust to carry out measures that represent the people of Wales and trust to provide meaningful scrutiny of legislation. Why should we in Wales trust a UK Government who are leading us, at any cost, towards such a shambolic, hard Brexit? As it stands, after Brexit, the devolved Governments will be at the mercy of Whitehall, which will have complete control over the time, place, method and future of the powers being repatriated from Brussels. Whitehall may even decide that passing them on is too much trouble, and since the devolved Administrations are given no bargaining powers under the Bill, there will be no opportunities for either Wales or Scotland to demand their return. This is called rolling back the powers of devolution, and we in Wales will not stand for it.

Stephen Kerr (Stirling) (Con): Is the hon. Lady not aware that there are ongoing discussions between the UK Government and the devolved Administrations about this very subject, that there are positive signs that an agreement will be reached—if it has not already been reached—and that therefore she is scaremongering in respect of these powers?

Anna McMorrin: I am aware that discussions are taking place, but I am also aware that the UK Government promised to bring forward an amendment at this stage but have not done so. So where is that trust?

Hywel Williams (Arfon) (PC): Will the hon. Lady agree that a symbol of how seriously this is being taken by the Welsh Government and Welsh parties and in Scotland is the fact that consideration is now being given to continuity Bills to ensure that those powers are retained? In fact, my colleague Steff Lewis in the Assembly will be presenting just such a Bill tomorrow morning.

Anna McMorrin: Yes, that is exactly right, and something I am coming on to. Just today, the Welsh First Minister has said he will take steps to protect Welsh powers after Brexit if UK Ministers do not change the Bill, stating that the Prime Minister's plan to accumulate all the powers from Brussels in London is a "fundamental assault on devolution".

Chris Ruane (Vale of Clwyd) (Lab): Members from all sides have mentioned the issue of trust. Does my hon. Friend think that the Government's attitude to the cancellation of the electrification of the line to Swansea and their promises on EU grants to Wales have helped trust between Cardiff and London?

Anna McMorrin: My hon. Friend is absolutely right. How can we trust a UK Government who cannot make a decision on the tidal lagoon, who cancel electrification, who do not give us fair funding, and who do not give Wales an equal say? The Bill says just that.

[Anna McMorrin]

The First Minister of Wales has explicitly refused consent to the Bill, and if nothing has changed by the end of January, the Welsh Government will introduce a continuity Bill to protect Welsh interests. The invitation from the Welsh Government to co-operate with the UK Government to make the Bill fit for purpose has been ignored. If the UK Government understood why devolution is one of the strengths of the UK rather than—as they seem to think—one of its weaknesses, they could have included a strategy providing for meaningful, positive scrutiny of legislation by the devolved Governments, and a smooth transition of powers from Brussels to the local, devolved Administrations who are best placed to know what is best for their own countries.

Some EU frameworks will need to be replaced by common frameworks in certain devolved areas, such as agriculture, environment and fisheries, but it is unacceptable to sideline the devolved Governments in that process. The Welsh Government have always been involved in EU negotiations, and are involved in them at the moment. I know that because, in a previous role, I have been part of those EU negotiations alongside Welsh Ministers. I know at first hand what an easy process this is, and I know that it is a process that has always worked. For example, Wales leads the way on recycling and climate change. If environmental policy is reserved to Whitehall, what is to stop the deregulation and the rolling back of our progress to abide by the messy agreements that the Government are planning with the likes of Donald Trump?

Luke Graham (Ochil and South Perthshire) (Con): I share the hon. Lady's frustration that the Government have not tabled an amendment, which I think will be well documented in the debate. Does she agree, however, that there is an opportunity for us to have a stronger United Kingdom through UK frameworks? The environmental point is very clear: pollution does not respect national or regional boundaries. We need strong nations, but we need a strong United Kingdom as well.

Anna McMorrin: We did table amendments, but the Government voted against them.

I cannot possibly accept that the UK Government will decide all new policies for all the nations of the UK on issues that are devolved, when they are also acting as the English Government. English interests are not always the same as Welsh or Scottish interests. We know all too well that English interests come first. Wales voted for a devolved Government 20 years ago. I was part of the campaign, and I was proud to see the then UK Labour Government bring that about.

Eddie Hughes (Walsall North) (Con): Surely the point is that we are a United Kingdom, and as we move across the United Kingdom we see a great diversity in our country. Walsall North is very different from some of the sunny areas in the south-east. I think that we need to operate collectively as a nation in these discussions.

Anna McMorrin: If the UK Government were going to work together in that way, surely they would have tabled an amendment at this stage enabling them to do just that.

We now see a more successful and more confident Wales than we saw two decades ago, but I fear that we are about to go backwards. The Tories have made it clear that when it comes to devolution, they just do not get it. Anyone who understands the basics of devolution could tell them that the Bill, in its current form, is taking us backwards. We need a Bill setting up a procedure that devolved Governments could use in order to have a say on the common UK frameworks so that they would not have to depend on Whitehall's good will or trust, and that must be on the face of the Bill. We need a Bill that does not propose regressive restrictions on the ability of devolved Parliaments to legislate on devolved areas; this Bill is not it, and I am disappointed that this UK Government could not get their act together between Committee and Report stage and offer better amendments to salvage it.

5.15 pm

Mr Grieve: It is a pleasure to follow the hon. Member for Cardiff North (Anna McMorrin). I want to raise two points, and the first of them goes to the issue around devolution and clause 11 and the lack of Government amendments. I do not share the hon. Lady's somewhat apocalyptic view on this issue, but I certainly acknowledge that it is not desirable, because it is clearly not the Government's intention for the process of Brexit to result in a diminution of devolved authority either in Scotland or Wales, or for that matter, in so far as Northern Ireland is going to get a viable Administration, in Northern Ireland. My view has always been, on looking at and reading the way the Bill was drafted, that we can do better than what appears in it at present. My understanding is that that is also acknowledged by the Government, although I do slightly regret that the Bill was introduced in its current form, because it seems to me that it was, to an extent, unnecessarily provocative.

However, it is worth bearing it in mind that ultimately the devolution system—I participated in the debates that set it up—had behind it the implication that the adjustments were not just a one-way ratchet, and I want to emphasise that point: the implication was that devolution might at times require adjustments that gave powers back to Westminster, just as they conferred more powers over time to both Cardiff and Edinburgh. That was clear in the course of those debates when Parliament set the original system up, and it has been repeated on a number of occasions since.

Drew Hendry (Inverness, Nairn, Badenoch and Strathspey) (SNP): Does the right hon. and learned Gentleman agree with his colleague in the Scottish Conservative party Adam Tomkins MSP, the constitution spokesman, who said:

"Brexit must be delivered in a way that respects devolution...Looking at the substance of the 111 powers, many can safely be devolved without further ado; why aviation noise, for example, would need to come under a UK-wide framework I do not know"?

Mr Grieve: Yes, 110%; I agree entirely with those sentiments, and the remark I made earlier about it not being a one-way street in the way it is supposed to operate does not in any way detract from what Adam Tomkins had to say, and for that reason I continue to look to my right hon. and hon. Friends on the Treasury

Bench to sort this out, and I share the regret that what should have been done in this House is clearly going to come back for consideration in this House at ping-pong. That is not very satisfactory, and I gently make the point at this stage, as I am confident that there will be the necessary amendments in the Lords, that when the Bill comes back from the Lords there must be sufficient time for us to consider it in detail, because ping-pong often has remarkably little time for detailed consideration of measures. I hope very much that we can get an assurance that, in view of the important constitutional nature of this legislation, we should get that.

I said earlier that I had been rather disappointed by the Government response to a matter I raised in Committee and that we debated earlier this afternoon, but that having been said, we debated the extraordinarily broad nature of the powers conferred on the Executive in respect of clause 7 and I am pleased at the way the Government have responded to the representations I made and the amendments I tabled. In amendment 14, it is rather nice to see the Government echoing the very words that I drafted when this matter was in Committee. I have no doubt that, as drafted, the Government amendments produce a significant safeguard on the way in which the powers can be used. They do that in two ways: first, by introducing an *ejusdem generis* clause, which refers to something of the same nature. In referring to the deficiencies listed, they state that if there are any others, they must be of the same nature as those in the list. The second protection that is now being provided is that, if the Government wish to add to the list of deficiencies, they are going to have to do it by an affirmative resolution of this House.

I entirely accept that this does not go as far as what I was seeking to achieve when I tabled my original amendments, which was to tie the Government down rather more. However, the Government certainly made a perfectly reasonable case in the discussions that I had with them. I think that that might exhibit a certain amount of neurosis on their part—neurosis is very common, as I know from my time in government—that they might have missed something that they ought to have put into the list. The fact that they are willing to come to the House and get an affirmative order to do this provides me with considerable reassurance that this power will now be used in the manner in which it was intended.

Having said all those good things, it is worth pointing out that this and many of the other power grabs in the Bill are quite startling in their scope. It is, however, to the Government's credit that they have been willing to listen on this. Their amendments amount to a considerable improvement, particularly when associated with the other safeguards that we have been offered in respect of triage and scrutiny. I should therefore like to express my gratitude to the Secretary of State and to the Bill team, who have suffered my presence on probably more occasions than they might have wished in discussing how this might be taken forward. This is exactly what I came into this House to do, and it is always rather nice to be able to achieve something—and, furthermore, to achieve it without having to divide the House, as that is always the weapon of last resort for the Government Back Bencher.

With that, I come back to the point at which I started. The test of this legislation will be whether, after enactment, it is seen to be working fairly when it comes into operation. I have no idea when it will come into operation. I suspect that that is still a very long time off, but that is

a product of the folly of the course of action on which we are embarked. All that we can do is to try to moderate it as much as possible.

Stephen Doughty: I should like to speak to amendment 5, a cross-party amendment tabled in my name and those of other hon. Members. I should also like to indicate my strong support for the Opposition Front-Bench amendment 3. In principle, I also support many of the other amendments in this group, although not, I am sorry to say, the Government amendments, which do not go far enough towards addressing the concerns that have legitimately been raised by the devolved Administrations in particular. It is always a pleasure to follow the right hon. and learned Member for Beaconsfield (Mr Grieve), who has made some excellent points, as has my colleague and friend, my hon. Friend the Member for Cardiff North (Anna McMorrin), who shares many of my deep concerns about this part of the legislation, which have not been addressed.

I hesitate to raise this point, but it is odd that we are discussing devolution and Brexit in this, the most important piece of legislation to face the United Kingdom and the devolved nations since the second world war, without the Secretaries of State for Scotland, Wales and Northern Ireland being present in the Chamber with us. I cannot see any of their junior Ministers here either. Perhaps they all have other important business to undertake. That seems rather remiss of them, given that we are considering such serious matters. I raised a point of order with you about this the other day, Mr Speaker, as did other Members. Much of the concern about this part of the Bill relates to promises and assurances that were given by the Secretary of State for Scotland, yet he is not here to account for himself. I have a great deal of respect for him, but these are serious issues that have been raised in good faith, and Ministers should be here to hear our concerns, and those of the devolved Administrations, if we are truly supposed to be bringing the United Kingdom closer together—as the Prime Minister claims to want to do—rather than pushing it apart.

Mr Jenkin: I count 10 Ministers on the Treasury Bench, so it is a little churlish to say that the Government are somehow under-represented when I can see only four members of the Opposition Front-Bench team. I think that says it all. This Government are listening hard to what the hon. Gentleman is saying even though he is being rather tedious.

Stephen Doughty: I do not normally respond negatively to the hon. Gentleman, but he fundamentally misunderstands my point. I did not say that Ministers were not here and listening; they clearly are. I can see the Minister for Africa, a Health Minister, the Skills Minister, Brexit Ministers and the Leader of the House, but where are the representatives of the Departments that are supposed to be doing the frontline discussions with the devolved Administrations? They are not here. *[Interruption.]* The hon. Member for Norwich North (Chloe Smith), a former Northern Ireland Minister, is also here, but I think she moved in the reshuffle. *[Interruption.]* She might be at the Cabinet Office—that is wonderful to hear—but where are the relevant Ministers? They should be listening, because what is the point of their being in their roles if they are not taking part in debates such as this?

[Stephen Doughty]

Moving on, we had a lengthy and technical debate in Committee, and I do not want to repeat all the detailed arguments; I intend to focus on the principles that are stake. Fundamentally, this is about respect. The hon. Member for Harwich and North Essex (Mr Jenkin) spoke about trust, and it is also about trust. It is about respect for Wales, Scotland and Northern Ireland and for democracy in a wider sense, because the powers that the legislatures of Wales, Scotland and Northern Ireland now have are the result of several referendums, several elections, detailed debates and consideration, and a great number of Acts. This is about respect for the devolution settlement and, ultimately, for the Union. I made an election promise to stand up for Wales alongside many of my Welsh Labour colleagues, and I wanted to raise our concerns today because they are so serious.

I have not re-tabled all the amendments that were tabled in Committee, because we have limited ability to consider them at this stage, but I live in hope that the new Cabinet Office Minister and the Government will work to address many of the concerns. However, I have no doubt that Members of the other place, where we have ex-First Ministers, distinguished former Ministers and Members who have served in devolved Administrations, will look carefully at the detailed concerns that were raised in Committee, at statements from the Scottish and Welsh Governments about the deficiencies in the Bill as it stands, and at the Government's failure to address the issues, even in the limited set of amendments that they have tabled for consideration on Report.

I share the serious concerns about clause 11 and the lack of UK-wide frameworks and mechanisms to address many things, which reflects the wider complexity in this endeavour that we are rolling ahead with. We heard about Anguilla earlier on, and who would have thought that that would be a concern? There is so much detail in the complexity of the integration of our relationship with the European Union that the Government simply have not given enough it attention. Whether someone voted leave or remain, trying to address some of the issues is only in the country's interests.

The White Paper of March 2017 claimed that there would be a significant increase in the decision-making power of the devolved Administrations and that former EU frameworks would be subject to decisions by democratically elected representatives of the United Kingdom. That clearly is not the case with this Bill as it stands. We have heard that there are 111 powers, but we are supposed to just take it on trust that all of them will transfer when the UK Government have repeatedly attempted to undermine the devolved Administrations. I raised that during the passage of the Trade Union Act 2016 and when discussing the Agricultural Workers Board. There is a litany of examples of when things end up in the Supreme Court or in complex disagreements, instead of being addressed in the first place.

The Secretary of State for Scotland suggested that amendments would be made at this stage, but we have not seen them. They have obviously become caught up in some shenanigans that were partly dealt with in the reshuffle. The situation is greatly disappointing, not least because the amendments that were drafted by the Welsh and Scottish Governments that were tabled as cross-party amendments by me and many other hon. Members

were proposed in good faith. They were not about stopping Brexit or trying to wreck the Bill; they were serious, well meant and well intentioned and tried to address the serious concerns about the provisions in the Bill. Indeed, we know those concerns are shared by many Conservative Members. It is a shame that the hon. Member for East Renfrewshire (Paul Masterton) has left his place, but he said in Committee that

“clause 11, as drafted, is not fit for purpose and must be changed. It does not need to be tweaked a little; it needs to be amended and replaced with a new version.”—[*Official Report*, 4 December 2017; Vol. 632, c. 731.]

Chris Elmore (Ogmore) (Lab): The Secretary of State for Scotland said that these things would come back on Report. That has not happened, and now the Government are saying that it will go to the Lords. Of course, technically, the Government cannot guarantee any votes in the Lords because they do not have a majority, so this is another area where there is an element of failed trust; they simply do not have the numbers, even if they stack the Lords with a pile of the Prime Minister's friends.

5.30 pm

Stephen Doughty: Indeed, and it is a great concern that we have not had a proper chance to discuss the issue in this place. Given some of the constraining efforts by Government Whips and others at previous stages of this Bill, we will no doubt have constraints at ping-pong, when we consider the amendments made by the Lords. I want these issues to be substantially addressed.

Ian Murray (Edinburgh South) (Lab): Would it not be an act of good faith for the Government to accept amendment 3 today, and then to amend that amendment in the Lords?

Stephen Doughty: Amendment 3 is sensible, well meant and well thought through, and it enjoys substantial support. If the Government just accepted the amendment and moved forward, it would show good faith and we could try to resolve these issues.

As my hon. Friend the Member for Cardiff North said, this Bill will not proceed with the consent of the Scottish Government, the Scottish Parliament, the Welsh Government or the Welsh Assembly without substantial and urgent changes over the next few weeks, or indeed today before the Bill reaches the other place. That is well understood by people across the EU who are watching this process—indeed, I raised it on the visit to Brussels yesterday.

Stephen Kerr: The hon. Gentleman is making a good point about the legislative consent motion and the requirements that need to be in place for it to happen. The Labour amendment would not bring that about. There needs to be an agreement between the UK Government and the devolved Administrations. Without that agreement, it is impossible to replace clause 11 satisfactorily to secure that LCM.

Stephen Doughty: The bottom line is that these concerns have been raised for months. They were raised by the Welsh and Scottish Governments right at the start, when the Bill was published. The UK Government have had plenty of time to resolve things, which is why there

is such deep distrust and suspicion about their intent. Until they come up with something that actually addresses the concerns, we will continue to raise the issue.

Several hon. Members *rose*—

Stephen Doughty: I will happily take more interventions in a moment, but I want to make a little more progress.

My hon. Friend the Member for Cardiff North also briefly referred to this, but it is important that we hear exactly what the First Minister of Wales, Carwyn Jones, said in his statement today:

“The Bill as it currently stands represents a fundamental assault on devolution. It would replace current constraints on the National Assembly’s legislative competence, which will fall away... with a new set of constraints in devolved competences that would be controlled by the UK Government. We have consistently said there is no prospect of the Welsh Government recommending consent to the EU Withdrawal Bill as it is currently drafted... It is a matter of considerable regret that the Government has not, despite the undertaking of the Secretary of State for Scotland, introduced any amendment to Clause 11 which, as it stands, is wholly unacceptable to us.”

He went on to say that he is deeply concerned about the Government’s failure to accept some of the reasonable amendments tabled on a cross-party basis in Committee, and he made it clear that there will be consequences.

The hon. Member for Arfon (Hywel Williams) spoke about a continuity Bill, and the First Minister made it clear today that, over the past eight months, the Welsh Government have been developing a continuity Bill that can be deployed if it becomes clear that it will not be possible to amend the EU (Withdrawal) Bill to ensure it properly reflects the devolution settlement. If amendments are not made, the Welsh Government will submit that continuity Bill to the Presiding Officer of the Welsh Assembly.

The First Minister could not be clearer, and I share his deep frustration, disappointment and concern that, despite all the warm words at different stages of the Bill—perhaps we will see a rapid turnaround from the new Minister for the Cabinet Office—these issues have not been addressed. We could have been debating the finer points today and moving on from this issue if we had ensured that we kept the constitutional framework in place.

Luke Graham: Does the hon. Gentleman recognise that negotiations are two-sided? He talks about the agreement of the Welsh Assembly and the Scottish Parliament, so can he guarantee that if this House were to adopt the Labour amendment, the LCM would be passed in both of those?

Stephen Doughty: I think the Government should accept the series of amendments we have tabled. I am communicating the concerns of the Welsh Government and the Welsh people—indeed, of many who want to respect and maintain the devolution settlement as it is. The hon. Gentleman is asking this question now, but these amendments were put down months ago and these issues have been raised.

Pete Wishart (Perth and North Perthshire) (SNP): This is exclusively the responsibility of the UK Government. They introduced the repeal Bill, designed clause 11 and acknowledged that there are issues for both the Welsh Assembly and the Scottish Parliament, so it is up to

them to fix it. Does the hon. Gentleman agree that this attempt to share blame with Scotland and Wales, as if somehow we are semi-responsible for this impasse, is totally disingenuous?

Stephen Doughty: The hon. Gentleman makes an important point.

Anna McMorrin: Does my hon. Friend agree that this Front-Bench amendment was written alongside and in co-operation with the Welsh Government, which means they will accept what this amendment says? [HON. MEMBERS: “The LCM?”] Yes.

Stephen Doughty: The series of issues we have raised concerns about for months has been clearly set out. These issues have been raised since the Bill was drafted. We are in the absurd situation where the Secretary of State for Scotland admits there are deficiencies in the Bill and many Conservative Members agree with that. I have no doubt that the Minister for the Cabinet Office agrees with it, although I doubt he will say so today. We all recognise there are deficiencies with it, so the question is: why have they not been resolved before we reached this stage? We were hearing a lot from the Scottish Conservative Members, whose position seemed to be somewhat different from that of their counterparts in the Scottish Parliament. The Welsh Conservatives claimed today that they are disappointed; the whole of Wales will be disappointed by their failure to stand up for Wales and their own legislature, in which they sit.

As I said, I do not want to go back into all the technical detail, so I finally wish to come to the nub of this issue: why does all this matter? Why do these issues matter? Why do these technical debates about the constitutional settlement matter? They matter because they have consequences for our Union, for the devolution settlement and for the economic operation of the markets within this United Kingdom. We are already going to be struggling to deal with the serious consequences we will face if we carry on along the Government’s hard Brexit path of, for example, leaving the customs union and the single market, with which I do not agree. Do we really want to add to that a series of complexities, challenges and problems within our own internal markets, logistics and functioning?

There are serious consequences for relationships that we know are already under strain and the subject of lively political debate in the UK. There are also economic consequences of Brexit as a whole for the devolved nations. Just this week, University of Birmingham research showed that the nations and regions of the UK are very exposed economically, with 11.7% of Welsh GDP being exposed. As I said, there are serious consequences to leaving the single market and customs union. We heard yesterday from one of Wales’s largest employers, Airbus—I draw attention to my declaration of interests—which employs a number of people in the defence and space industry next door to my constituency and many people across Wales. Its chief executive, Tom Enders, said that the “wreckage” of Trump will be easier to repair than that of Brexit, given the increased costs and the challenges for competitiveness.

The Welsh people, the Welsh Government and the Welsh Assembly need to have a proper say in where we go on this process, given the implications. As the

[Stephen Doughty]

consequences become clearer, the Welsh people, and indeed the British people, have the right to change their minds on this entire process.

Stephen Kerr: Thank you for allowing me to say a few words in this setting, Mr Speaker. I wish to make it clear that, despite whatever else I may say in this speech, I support this Bill wholeheartedly and I wish it to be a success. Uppermost in my mind when considering the Bill are the ramifications of there not being a Bill. I think about the choice the British people made to leave the EU and I respect it. We made a commitment to act on that instruction and act on it we shall—we will honour that vote. Those who choose to disregard the vote of the British people must answer to the British people. My constituency voted to remain in the EU, but I know that my constituents are democrats who expect me, as their elected Member of Parliament, to ensure that their best interests are served in the light of the outcome and that the result is upheld. Many businesses and individuals in my Stirling constituency are ready to make the best of Brexit.

Ian Murray: The hon. Gentleman is running through the start of the speech he made in Committee, during which I asked him four times to outline how he feels clause 11 is deficient and how he would like that sorted out. Would he like to take this opportunity to tell us?

Stephen Kerr: I thank the hon. Gentleman for remembering my speeches, which makes him very favourable in my sight. I shall come to clause 11, but first I wish to make it clear that the people and businesses of Stirling—the individuals who live in my constituency—want us to make the best of Brexit. All we hear from other parties, as we heard from the First Minister of Scotland yesterday, is an unmitigated diet of doom and gloom. The fact is that, as was disclosed in an esteemed social attitudes survey that was released last week, there are really no differences between the electorates in Scotland and England when it comes to what they want the Government to get on with doing. They want the best possible Brexit, and a smooth Brexit that will work for all the people of this country.

The Bill is a necessary enabling measure. No one in this House wants to put our country and British businesses through a cliff-edge Brexit. The idea that there are Members who do is often repeated, but it is just not true. We want a smooth Brexit and a working statute book at the end of it. I repeat that, and I do not apologise for repeating it.

Martin Whitfield: Does the hon. Gentleman agree that the electorate do not want a deficient Bill to lead them into Brexit?

Stephen Kerr: Let me come to that—I promise that almost my next sentence will be on that. I want to make sure that the Bill and Parliament deliver what my constituents expect.

I now turn to clause 11 and the amendments to it, particularly amendment 3. Let me be absolutely clear about the clause: we must have an agreement between the UK and Scottish Governments to allow for the

passage of a legislative consent motion. I am not convinced that that is a legal necessity, but it is a convention that the Government are honouring and they should be commended for that. I am therefore intensely disappointed, dissatisfied and frustrated that a deal has not been struck between Scotland's two Governments.

In the past few days, there has been a lot of talk in the media about the claim that there is an agreement in principle between the UK and Scottish Governments. The Scottish Government's Brexit Minister, Mike Russell, claimed on television on Sunday that such an agreement existed. Will the Minister tell us the status of the negotiations between Scotland's two Governments? Is there an agreement in principle? Is there an agreement on the frameworks that we all agree are essential for the operation of the UK marketplace, to allow the UK to honour its international obligations and to strike trade deals?

Mr Paul Sweeney (Glasgow North East) (Lab/Co-op): Does the hon. Gentleman accept that the need to make amendments to improve clause 11, which is almost universally accepted as deficient, is not predicated on there first being an agreement on a legislative consent motion, or the agreement with the Scottish Government to which he refers? Amendments should be taken on their merits alone.

Stephen Kerr: That is brave talk, but the facts of the matter are that Conservative Members are seeking to co-operate with the devolved Administrations so that there can be a unanimous approach to the legislative consent motion.

Dr Whitford: Does the hon. Gentleman not see that the way to achieve UK frameworks and to respect devolution would be to have all four Governments around the table as equals? We should not have this place handing things down from on high.

Stephen Kerr: I do not recognise that description of what has been going on. In fact, as lately as October, the UK Government and the devolved Administrations set out the principles by which such an agreement as I am describing would be achieved. I do believe that an agreement is necessary for us to be able to see that clause 11 is fit for purpose. It is a very important part of the passage of this Bill. We have to respect the devolved settlement, and an appropriately amended clause 11, which is subject to the negotiation and agreement of the devolved Administrations, is how to proceed.

5.45 pm

Ian Murray: I will try for the sixth time over two debates to get the hon. Gentleman to answer this question. I ask him to please not say that he is coming on to it, when he never comes on to it. What is deficient in clause 11? What would he like to see changed in order to make it a clause that is not deficient? Does he stand by what he said in the previous debate, that he expects the Government to come forward with amendments before it goes to the other place?

Stephen Kerr: I am going to disappoint the hon. Gentleman—I will come on to that last point. What I believe should exist in clause 11 is the subject matter of

the agreement that is reached between the UK Government and the devolved Administrations, in terms of UK frameworks in particular. We all accept that it is necessary that there are UK frameworks.

Dr Whitford: When I was referring to having all four Governments around the table, I was talking not about negotiating clause 11, but about how to set up frameworks for fishing, food or the environment. Those things should be decided together and not just decided here.

Stephen Kerr: My hon. Friend the Member for Harwich and North Essex (Mr Jenkin), the Chair of the Public Administration and Constitutional Affairs Committee, is not in his place now, but he dealt with that matter in his speech. I must say that I find myself in complete agreement with his sentiment and that of the Committee's recent report, which is that, since we arrived at the position we are at with devolved Government in the United Kingdom, there has been a lack of appropriate machinery for our Governments to work together. There is a lack of appropriate constitutionally agreed machinery for even Parliaments to talk to each other. That must be addressed.

Mr Alister Jack (Dumfries and Galloway) (Con): I absolutely agree with my hon. Friend that amending clause 11 is the right thing to do, but the detail of amendment 3 would be mired in judicial review were it to be accepted. For that reason, it is the wrong route to go down.

Stephen Kerr: I completely agree. Although I could not disagree fundamentally with the wording of the amendment, it is not adequate for its purpose in terms of the withdrawal Bill and the importance of achieving the legislative consent motions that this Government have rightfully determined are the way to proceed with what is—I agree—a major constitutional rearrangement of the affairs of this country because of our exit from the European Union.

Mr Sweeney: We all accept that having those joint frameworks is a desirable and necessary thing, but we are talking about the sequence in which that should be carried out. It is not necessary for us to wait for that to happen before amending clause 11 and making it fit for purpose now. Why do we not crack on and do it today? What is stopping us?

Stephen Kerr: What is stopping us is the fact that there is no point creating an amendment which then itself has to be amended. No one is more disappointed and frustrated than I am that we do not have these amendments. I sat and listened to the Secretary of State for Scotland make the same commitment. I will come on to that as it is a serious matter for me.

Pete Wishart: It is important that the hon. Gentleman understands the sequence and how this works. The repeal Bill is something that this Government have done to Scotland. What we have identified in that repeal Bill is a devolution threat in a clause that has to be corrected. If that is not corrected, there will be no legislative consent motion. It is incumbent on the Government who introduced this Bill to sort it and bring it forward. Then we will see whether we can give a legislative consent motion. That is how it works.

Stephen Kerr: There is the soul of a nationalist. The hon. Gentleman manages to take any issue and to make it into a grotesque grievance, which does not even exist. The fact is that the Government are going to extraordinary lengths to achieve the necessary level of consensus and agreement by which clause 11 can be amended so that it is fit for purpose. I support that, but it does not take one iota away from the fact that I am intensely disappointed. I ask the Ministers again to tell us about the status of the negotiations and where we are on the agreement. If there is an agreement, no one will say any louder, “Where is the amendment that we were promised from the Government?” [*Interruption.*] I am saying it now; I just said it. The Government gave undertakings that the Bill would be amended at the stage before it left this place to go to the House of Lords.

Ian Murray: I am not going to ask the hon. Gentleman for the seventh time, but will he tell the House what mechanism he and his Scottish Conservative MP colleagues would have in this House if the Government do not amend the Bill in the House of Lords?

Stephen Kerr *rose*—

Joanna Cherry: He doesn't know.

Stephen Kerr: The hon. and learned Lady, with her normal reserve, says that I do not know. The fact is that there are established processes by which the amendments that will now have to be made to the Bill in the House of Lords will come back here. Those processes were addressed by the Chair of the Public Administration and Constitutional Affairs Committee.

I do not want my next point to be lost, especially on my hon. Friends on the Government Front Bench—please do not underestimate the depth of disappointment and frustration among Scottish Conservative colleagues in the House. It does not seem appropriate for the Government to blame outside influences for the lack of an amendment. [*Interruption.*] SNP Members say, “Yes.” But it took until October to get an agreement to the principles by which we would proceed towards the agreement that I, and many of us here, regard as essential. Why did it take so long? Well, the fact is that the nationalist Government in Edinburgh are approaching the matter, as usual, with a wrecking mentality. They want to create a constitutional crisis that precipitates their beloved second independence referendum. The First Minister was at it again this week, talking about another independence referendum. The people of Scotland have spoken on this matter, but the SNP will not listen and its Members claim to be the democrats in this House.

Neil Gray (Airdrie and Shotts) (SNP): The hon. Gentleman talks about trust, and about building towards agreement and compromise. Will he advise us as to how he expects that trust, agreement and compromise to come about? My understanding is that the UK Government have not shared any draft amendments to clause 11 with the Scottish Government.

Stephen Kerr: I respect the hon. Gentleman's point of view and question on this matter. Frankly, I believe that we will proceed on the basis of the negotiations, on which I have asked Ministers to update us. Even Ministers in the hon. Gentleman's own Government in Edinburgh

[Stephen Kerr]

talk about these matters in the most positive terms; it is not necessary to dress the issues up as a crisis and make them into some drama. We need to proceed to a point at which we can get to an agreement, which will then be the basis for an amended clause 11.

Ged Killen (Rutherglen and Hamilton West) (Lab/Co-op): I am just looking for some clarity. The hon. Gentleman mentions how difficult it has been to get agreement with the Scottish Government. If the Government continue to fail to get that agreement, is it the case that no amendments to clause 11 will be tabled in the other place?

Stephen Kerr: The hon. Gentleman talks about there not being any prospects of an agreement. There is every prospect of an agreement, and I am quoting the SNP Brexit Minister. There is every possibility and likelihood of an agreement. My view is that it should have been achieved before now, and that we should have had an amendment to the Bill.

Several hon. Members *rose*—

Stephen Kerr: I will give way just one more time because I am sure that Mr Speaker's patience with me is going to wear thin. In fact, I will take one intervention from the Opposition and one from my hon. Friend the Member for Harwich and North Essex.

Anna McMorrin: The Welsh Government and First Minister deemed it necessary to make a statement today about the lack of joined-up working with the UK Government, which is threatening a constitutional crisis; that is coming from a Labour Government in Wales. The very point is that we are on the brink of a constitutional crisis. We need an amendment. We need the Government to support Labour's amendment 3.

Stephen Kerr: The hon. Lady is describing the attitude of the Welsh Government, which in many respects has been more hawk than dove on these matters. I have no doubt that that is for the Labour party's political purposes in Wales, as such things are for the SNP in Scotland.

Mr Jenkin: It would be helpful if the Government gave an assurance today that in the event that there is no agreement with the Scottish or Welsh Governments, they will still amend clause 11—unilaterally, if necessary—to ensure that its effect is ameliorated as reasonably as possible. If the Scottish and Welsh Governments refuse to agree to that, it will be a problem for them and not for this Parliament.

Stephen Kerr: I completely agree with my hon. Friend. I believe that we must not be foolishly optimistic but realistic. When SNP Ministers talk as positively as they have, which is a different sound from the one that we hear from SNP Members here, then we have every reason to believe that wise heads—adult heads—will have sway and there will be an agreement.

I repeat—I do not want this not to be heard—that the Government made a clear commitment to the House on the amendments to clause 11, and I took those commitments at face value. As a Conservative Member,

I never want to get to the point where I cannot take commitments given to me by right hon. and hon. Members at face value, because I hope, frankly, that they can continue to trust commitments that I might make to them. I really do want to understand why we have arrived at this point. I am afraid that there is a point of principle and accountability involved in answering these questions. What happened in the Departments in the past few weeks and months? Did they somehow lose focus? Were we not clear enough about what our expectations were?

I share with the House a concern that has resurfaced time and again since I was elected as Member for Stirling: since the devolution settlement UK Governments of all flavours have tended to devolve and forget, and that is a very dangerous practice. Again, I appeal to the Government to consider the appropriate machinery that creates the means by which our Governments work together, because that is what my constituents want. They are tired of the voices of conflict that they hear regularly in Scotland. They want us to be conciliatory. They want us to work by consensus and through collaboration.

When the devolution settlements first went through, when Labour was in power, there was a fashionable term that is still appropriate—"sofa government". With a Labour Prime Minister in London and Labour First Ministers in Edinburgh and Cardiff, it was all very cosy, and so there was no need for any of the machinery that I am describing. In fact, one of the Scottish Labour leaders described their party in those days as the "branch office" of the party in London. By contrast, we as Unionists should believe in and work to the principles of partnership, and I believe that that is possible.

The reason behind amendments to clause 11 was to strengthen devolution and by doing so strengthen the Union. The nationalists will always create their narrative of grievance and scream "power grab" at every imagined opportunity. A strong amendment would have pulled the rug from under their squalid argument. It would have shown them up as the creators of grievance rather than giving grievance a voice, which we are hearing today.

Let me touch briefly on the rather weak amendments being offered up by the Opposition parties. The SNP amendment has no chance of passing and does nothing to address many of the concerns that Conservative Members have. The Labour amendment is well-intentioned but poorly drafted, and will only make room for legal wrangling and uncertainty. Not only that, but it shows no understanding that devolution in the UK is asymmetrical. The Scottish, Welsh and Northern Irish Parliaments are very different creatures, and there will undoubtedly be a need for frameworks that cover different parts of the United Kingdom and not just whole-United Kingdom frameworks.

For the good of Scotland, any powers that are returning to the UK from Brussels that are not reserved must, by definition, be devolved. I accept that UK frameworks are required. They can pragmatically solve problems, and they should do so through an equal partnership where all sides—Cardiff, Edinburgh, London and Stormont—can come together to solve problems and to share ideas. This is pragmatic partnership building. It is Unionism at its best, and even the enlightened nationalists seem to sign up for this. Everyone seems to agree with it, so

again I am left wondering why we would allow this Bill to leave this House and go to the other place without a suitable amendment.

I make no bones about it: it sticks in my craw to think that unelected Lords will make the vital amendments to this vital constitutional Bill. It is not really good enough, and as a Member of the House of Commons I hang my head to think that we have somehow dropped the ball. The Bill will leave this House unamended and in an unsatisfactory state, and we are now dependent on unelected Lords to do our job for us.

6 pm

The Government had control of the timetable—the deadlines were created by them—but they have let this Chamber down by not delivering on what they promised. I really want to hear from a Minister at the Dispatch Box what the Government now plan to do in detail about amending clause 11. I want to hear much more about the shape of the amendment they will bring forward. It is time to get into the detail: we have had enough of the generalities and of the reassuring news, and we now want the detail.

Let me conclude—[*Interruption.*] SNPs Members will all be very disappointed, but I think that is only fair. The Government have a great track record of listening to the concerns of their Back Benchers. Despite what I am saying, I want that to be a matter of record as well. That is what makes dealing with the situation we find ourselves in so much more difficult. This is an aberration, not what we are used to. The Government listened to our concerns about the Budget and acted on them. I know from my own experience the intensity with which Ministers have listened to suggestions from Back Benchers like me on matters such as the roll-out of universal credit. I cannot speak too highly of the former Minister for Digital, my right hon. Friend the Member for West Suffolk (Matt Hancock), for responding to the challenges and difficulties we have experienced in Scotland with the roll-out of superfast broadband, especially in rural areas.

However, this critical clause is of huge importance to me and many of us in the Scottish Conservative party. For the promises made to us not to have been kept is a poor show. I want it clearly understood that my constituents voted to remain in the EU, but they accept the UK vote and want an efficient withdrawal to be executed by the Government, and the Bill will do that. However, we must also deliver on the powers for the Scottish Parliament in Edinburgh, and the Government have failed on this element of the Bill. I therefore expect some interesting and convincing explanations and some convincing commitments from the Minister tonight. Although the Government have run out of time to make their own amendments, they can take the time tonight to make amends.

Jenny Chapman (Darlington) (Lab): It is a pleasure to follow the hon. Member for Stirling (Stephen Kerr), and I can sense the torture he is putting himself through. The shadow Secretary of State for Scotland, my hon. Friend the Member for Kirkcaldy and Cowdenbeath (Lesley Laird), who is sitting on the Bench beside me, described his trying to come up with a reason for not voting with the Opposition on amendment 3 as “dancing around handbags”. My only advice to him is that he can be as tortured as he likes and in as much turmoil as he

clearly feels, but unless he votes accordingly, the Government will never take him seriously and his pleas will go unanswered, as they have so far. He has a good hour to reflect on that and to consider what he wants to do this evening, and I hope that he decides in the end to vote with us on amendment 3.

Mr Sweeney: Does my hon. Friend not agree that the game-changing arithmetic is with the Scottish Conservative bloc of 13 MPs, and if they come together, show some gumption and stand up for the national interest, they can actually turn this around and improve clause 11 today? There is nothing stopping them: they could overturn the DUP bloc and change this if they brought forward their own amendments.

Jenny Chapman: That is exactly what I am saying to those Conservative Members. I do not want to make it more difficult by goading them too much—I will leave that to my SNP colleagues—because I understand how they must be feeling but this is an important moment this evening. If we agreed amendment 3, we would be sending a very clear signal to the Government and requiring them to come back with something in the Lords—with the support, without a doubt, of the votes of Labour peers—to amend the Bill as we ought to be amending it this evening.

I want to keep this very simple. I will speak to amendment 3 in my name and those of my Opposition colleagues. It was disappointing to have to table this amendment. It should not be necessary, because the Government, with the support of the devolved authorities, should have tabled their own amendment, but they have not done so, so here we are.

From the outset, it has been clear that one of the greatest problems with this deeply flawed Bill is that it threatens the devolution settlements that underpin our Union. The Scottish and Welsh First Ministers have described it as a naked power grab, and there is a clear danger that a major piece of constitutional legislation that amends devolution settlements will not receive the consent of the devolved Administrations, which would be a real failure for the Government.

What is the problem? As we argued in Committee, the presumption at the heart of clause 11 is that, as powers return from Brussels, they will be held in Westminster rather than being passed to the devolved Administrations. The Government say that will be temporary, but they have put no time limits on the hoarding of those powers, and there is no collaborative mechanism for the creation of UK-wide frameworks and the devolution of power. Instead, that is assumed to be in the gift of Ministers.

The problem has been recognised by Conservative Members. The hon. Member for East Renfrewshire (Paul Masterton) said in Committee:

“On Second Reading, I said that I would not allow legislation to pass that undermined the Union or the devolution settlement, and that remains my position today.”

He also said that

“clause 11, as drafted, is not fit for purpose and must be changed.”—[*Official Report*, 4 December 2017; Vol. 632, c. 729-31.]

He was not alone. The hon. Member for West Aberdeenshire and Kincardine (Andrew Bowie) said that “changes will have to be made to clause 11 as it stands”.—[*Official Report*, 4 December 2017; Vol. 632, c. 796.]

[*Jenny Chapman*]

The hon. Member for Stirling (Stephen Kerr) said that the Bill must be amended and added:

“As the intergovernmental discussions progress and the Bill returns to this House, as it will, before it goes to the other place, it is very much my hope that there will be some greater detail in clause 11 to help all hon. Members to have a degree of confidence in its intent.”—[*Official Report*, 4 December 2017; Vol. 632, c. 803.]

Today, he said that he is deeply disappointed that that is not the case.

Conservatives in Scotland must have been pleased when it appeared that the Government had listened and promised to amend clause 11 on Report. The Secretary of State for Scotland told the House that the hon. Member for East Renfrewshire had clearly set out why clause 11 needed to be amended, and he went on to say that the Government would table amendments to clause 11 on Report. The promised amendments have not been forthcoming, and the Government now say that they will be tabled in the Lords. But as the shadow Secretary of State for Scotland has said, the lack of transparency is becoming a habit.

This is not good enough. Conservative Scottish and Welsh Members have been reasonable and given the Government a chance, but they have let them down. Now it is time to force the Government’s hand by voting for our amendment, because devolution settlements are more important than any party interest.

Ross Thomson (Aberdeen South) (Con): The EU referendum result was clear, and it was a decision by the House to put that question to the people. They gave their answer. Whichever way we voted in the referendum ourselves, we have been given instructions that must be carried out. In Scotland, as much as others might wish to portray the picture differently, more than 1 million Scots voted to leave the European Union, 600,000 of whom came from the SNP yes side.

It is inherently the case that, as we leave the European Union, those powers that it exercises on our behalf will come back to the UK and to Scotland. That has always been the golden opportunity to exercise more powers in Scotland over areas such as fishing and agriculture. That is why Members on the other side of the House should welcome that. Rather than fighting to keep those powers in Brussels, we should be fighting to take them here.

We have one opportunity to get this right. We do not get a dress rehearsal for leaving the European Union. There is one time to negotiate and get it right, and it is in nobody’s interest to see a rushed process or to get anything wrong that could damage our constitution. As the House knows, Conservative Members believe inherently in the power of our single market here in the UK.

Deidre Brock (Edinburgh North and Leith) (SNP): The hon. Gentleman’s colleague, the hon. Member for Stirling (Stephen Kerr), quoted the Scottish social attitudes survey. Some 62% of Scots in that survey think that all decisions about fishing should be taken by the Scottish Government, and 59% think that all farming decisions should be made by the Scottish Government as well. Does the hon. Gentleman agree?

Ross Thomson: I thank the hon. Lady for her intervention. I know that Members can be selective, but that survey also showed that the majority of Scots want immigration to stay at the UK-wide level. It is really important that we still have UK-wide frameworks and things that are kept at the UK-wide level.

Deidre Brock: Will the hon. Gentleman give way?

Ross Thomson: No, thank you.

The survey also shows that Scots want to leave the single market. The Scottish Government published a paper yesterday saying Scotland has to remain in the single market, but Scots want to leave the single market—the survey is very clear. So Members can be very selective in the things that we quote.

As I said, it is important that we get this right. Even the hon. and learned Member for Edinburgh South West (Joanna Cherry)—she is not in her place at the moment—said in her introductory remarks that, although she had voted to remain, it is really important that we get the Bill right. Having the Bill is important.

Conservative Members not only want but require there to be proper changes to the EU withdrawal Bill, because we want to see the Scottish Parliament grant its legislative consent, and the Lords require that as well before they make changes. It is in the interests of all Administrations, whether in Scotland, Northern Ireland or Wales, that we find a way to reach agreement. Therefore, I urge in the strongest of terms that the Scottish and UK Governments work and engage positively to ensure that negotiations advance well and that that important agreement can be reached. I welcome the fact that the UK Government have been absolutely clear to date that they want a constructive and consensual approach and that nothing will be imposed on any of the devolved Administrations.

Ian Murray: The hon. Gentleman is making the same argument as the hon. Member for Stirling (Stephen Kerr) with regard to the negotiations being complete and the negotiations and the conclusion to them then influencing amendments in the other place. If the negotiations do not conclude by the time this Bill passes through the other place, what mechanisms do he or any of his Scottish Conservative MP colleagues have in this place to amend the Bill?

Ross Thomson: I thank the hon. Gentleman for his intervention. I am glad that he has recognised that my colleagues and I are saying the same thing, because it is the right thing and the sensible thing, and that is why we have been consistent in our approach. I am also glad that he acknowledged the power and influence that we hold on the Conservative Benches, compared with the Labour Benches, because there are more Scottish Conservative MPs than Scottish Labour MPs.

However, we recognise that reaching agreement is in the interests of both Governments; both want to see a conclusion. Even Mike Russell himself—I have sat in the Scottish Parliament Chamber listening to his diatribes and to him railing against Brexit—wants to reach agreement with the UK Government; in fact, he said that in the Scottish Affairs Committee. Agreement is in the interests of all, and I am positive that changes

will be made in the Lords and that we will get agreement, because it is not in any Government's interests not to secure it.

Alison Thewliss (Glasgow Central) (SNP): Will the hon. Gentleman give way?

Ross Thomson: Can I make a little more progress? I will take more interventions.

Looking at the amendment before us, it is clear that there is no safeguard in terms of UK-wide frameworks, which many of us agree are important when it comes to areas such as agriculture or animal and plant welfare standards. Further, and importantly, it does not secure any Joint Ministerial Committee consent, and it does not guarantee the legislative consent that is essential in the Scottish Parliament.

We may all have areas of disagreement, but it is important that we do not pre-empt things by voting for this amendment tonight and that we work constructively to ensure we can get the JMC and our national Parliaments and Assemblies on board. I do not take the characterisation made by the hon. Member for Glasgow North East (Mr Sweeney) that we can somehow speed ahead with the process and that, fingers crossed, things will be amended and then come back. We need to be working more collaboratively and constructively with the Scottish Government.

Neil Gray: On that point, does the hon. Gentleman share my concern that the UK Government do not appear to have shared any draft amendment to clause 11 with the Scottish Government? Has he seen any draft amendment? Has he been involved in any of those discussions?

6.15 pm

Ross Thomson: I thank the hon. Gentleman for his intervention. Obviously, Government Back Benchers have not been directly involved in negotiations between the Governments, but boy, have we been meeting with our ministerial colleagues and making our position and our asks very clear, and I am sure Ministers will reiterate what those asks have been. This is important, because it is in both Governments' interests that we reach a conclusion. I would ask the Minister, have SNP Ministers shared with you some of the negotiating aims that they are looking for? This is a two-way process.

Given the amount of work that colleagues on the Government side of the House have put into this, there is genuine disappointment and frustration that those amendments have not been tabled on Report; we are disappointed that they will have to come through from the Lords. However, as I said, we recognise that this process is very complex, and that the implications if we do not get it right are very far-reaching. So, we need to ensure that when it comes to UK-wide frameworks, we get agreement on both sides. Some powers will naturally go back to the Scottish Parliament, but some issues are best approached at a UK-wide level, and there is still no agreement between both Governments on that.

If we do agree to the amendment, we must look at what happens where there is disagreement between both Governments in future in the exercise of some of these powers. The way in which those disputes are resolved is inherently complex; it is not simple. I do not think any of those points is addressed in the amendment before us.

I shall touch on a point that was raised by the hon. Member for Cardiff North (Anna McMorrin). I know she is standing up for her area in the way she thinks best, but a lot of the rhetoric sounds very familiar. It is very like what many of my hon. Friends have been dealing with for a long time in Scotland, with the rise of nationalism and with the independence referendum. It is very easy to batter the UK Government in that way, but I believe it is very dangerous and divisive to do so. Maybe the hon. Lady can learn lessons from her Scottish Labour colleagues. It was as a result of that ambivalence towards the Union that Scottish Labour found itself a third party in the Scottish Parliament, and that it has again found itself a third party in Scotland since the general election. That is why there are more of us sitting on the Conservative Benches—because we believe that standing up for the Union is a good thing, not just battering all the time.

Anna McMorrin: The Labour Government in Wales are not a nationalist Government, and if the UK Government were to work co-operatively with both the Welsh Government and the Scottish Government we would not be in this situation. We need that amendment, and the behaviour of this Government means that we are heading for a constitutional crisis. I do not want that constitutional crisis, and neither the First Minister for Wales nor, I think, the First Minister for Scotland wants it.

Ross Thomson: I do not accept the hon. Lady's characterisation of the UK Government's behaviour. I have seen people in the UK Government acting in good faith, and in fairness, I have seen that Scottish Government Ministers usually privately act in good faith. The public dance within the media and in public is something different, and I know that the SNP have to get from where they are to where they can accept UK-wide frameworks, but I know they are on that journey. I believe that both Governments are acting in good faith.

The most interesting thing to emerge from this is that the Scottish Government and the SNP are demanding more powers; they demand that all 111 should rest with the Scottish Parliament, regardless of the effect on the UK internal market. But they never talk about outcomes from these powers. They demand more and more, but they never tell us how they want to use them. Sadly, the nationalist narrative now is to just demand more, demand more, demand more, because they want independence. It does not matter how much you try to dress it up. The First Minister herself said that independence "transcends" everything else. It does not matter how the Scottish Parliament is currently exercising its powers, but they will never be enough, because independence is always the end goal, which was why, yet again at the weekend, we heard about potential new dates this year for another referendum. That is why there are fewer SNP Members sitting in the House—people in constituencies such as mine, and Stirling, and West Aberdeenshire and Kincardine, to name just a few, are absolutely fed up with that rhetoric. As my hon. Friend the Member for Stirling rightly said, people want our Governments to work more constructively together. They are fed up with the rhetoric, fed up with the ongoing bickering and fighting and point-scoring. They want to see both Governments working together, and both Governments have demonstrated that they can do it. Both can work together

[Ross Thomson]

over city deals, for example, to deliver for Scotland and for regions. People get really fed up when they see “The Andrew Marr Show” on Sunday morning and yet again there is the kind of rhetoric that we have had to endure in Scotland for not just months, but years.

Dr Whitford: Did the hon. Gentleman watch the programme? The entire session was about Brexit. Andrew Marr asked the First Minister about independence—she was asked by someone else. You have just spent about five minutes talking about it, but suddenly it is the SNP banging on about it.

Mr Speaker: I have done no such thing. I have been a very good boy!

Ross Thomson: I was not talking about the questions asked but about the answer given. That is the broken record. The First Minister has always had the opportunity to accept the result of 2014. She never has and she never will. That is why independence transcends everything else for the SNP. It does not speak in the national interest, but only ever in the nationalist interest.

To conclude, powers will come back from Europe and will be exercised directly in Scotland by the Scottish Parliament and Scottish Government Ministers. I know that the Scottish Government do not have a great track record when it comes to managing things in Scotland, so I understand their trepidation about any other powers going to the First Minister. That is no doubt why they want to keep all those powers in Brussels.

At least those of us on the Government side actually want devolution—not the kind of crazy centralisation that we have seen from the SNP. That is the hallmark of its Government and of the party here. That is why on this side we will stand up for Scotland and deliver for Scotland.

Hywel Williams: I shall return, for a moment, to the European Union (Withdrawal) Bill.

I rise to speak to amendments 12 and 13 and the consequential 11 in my name and those of my hon. Friends. Amendment 12 to clause 19 would require the UK Government to gain the consent of the sitting devolved Administrations before the Bill came into force. At this stage, hon. Members should not rehearse previous arguments or submit previous amendments, so following my attempted amendment on day one of Committee which also sought to require the legislative consent of the devolved Administrations, I have addressed the critical point raised by other Members about Northern Ireland.

At the time of that previous amendment, there was no Northern Ireland Assembly to grant consent to the Bill and that, unfortunately, remains the case. My amendment, therefore, sets out that consent is required from all devolved Administrations unless direct rule is in place or the Administration have been formally suspended or dissolved for reasons other than recess or an election. Across the House, many of us would like the Northern Ireland Assembly to be up and running and serving its people once again, but if that was still not the case once the Bill was enacted, the amendment would still require the consent of the other Administrations.

To echo the Under-Secretary of State for Exiting the European Union, the hon. Member for Worcester (Mr Walker), this Bill is about continuity, certainty and control. It is now clear that the convention of gaining legislative consent is flawed, as it has been held to be just that: a convention. In contrast, the devolved Administrations have come to see it as a normal and required aspect of legislative processes. It seems to me that until recently, at least in how the process worked from day to day, that was also the view of the Westminster Government, who have sought legislative consent from the nations on hundreds of occasions since devolution.

The Minister has now confirmed that his Government are seeking legislative consent for this Bill as well. Given their own consistent actions, I am mystified about why they do not wish the principle of consent to be anywhere in the Bill—unless, of course, they plan to renege on that commitment, too. If I were a cynic, I might suspect that the Government here are happy enough to request consent as long as there is no risk that it might be refused, as might happen in this case. That is the Catch 22: consent is there only when it is granted.

I also note that hon. Members, including me, have repeatedly asked Ministers what would happen were consent to be refused. In response there has consistently been—well, no response at all. One case in point will suffice. At Welsh questions on 13 December, I asked the Secretary of State for Wales:

“What recent discussions he has had with the Welsh Government on a legislative consent motion for the European Union (Withdrawal) Bill.”

I added:

“I have asked the Secretary of State a number of times, both orally and in writing, what would happen if the National Assembly for Wales were to withhold its consent for the withdrawal Bill, and he has gone from looking hopelessly Panglossian to being unsure, evasive and even furtive. Will he now tell the House what would happen if the National Assembly for Wales withheld its consent for the Bill?”

His answer made my case—that the Government were either clueless or evasive—for me:

“I am optimistic that our work with the Welsh Government will lead to a legislative consent motion.”—[*Official Report*, 13 December 2017; Vol. 633, c. 381.]

That was all: hopeless optimism and no real answer. Our leaving the EU has been characterised as taking back control, but surely to deny the sitting devolved Administrations their fair say on whether the Bill should be passed goes against the three principles of the Bill that the Minister set out: to provide continuity and certainty and to take back control. Control for whom?

I turn now to amendment 13 to clause 11, which also stands in my name and those of my hon. Friends. It is clear that the Bill in its current form would weaken the devolution settlements that the people of Wales, Scotland and Northern Ireland have enjoyed for 20 years. Even this Government have made it clear that clause 11 is not good enough and said that it will be amended. Our amendment seeks to guarantee that any future frameworks respect the democratic accountability of the devolved legislatures by being based on established conventions and practices that will not be adjusted without the consent of these institutions. That is the moot point: it is matter of consent.

The amendment holds that
“flexibility for tailoring policies to the specific needs”

of the nations should be allowed, as is currently enjoyed under EU rules, and—most crucially—that these frameworks would

“lead to a significant increase in decision-making powers for the devolved administrations.”

Before Christmas, the Scottish Secretary gave a strong commitment that clause 11 would be amended on Report, based on the criticisms from across the Committee of the whole House. Unsurprisingly, I suppose, the Government have U-turned on this promise and failed to table any amendments that address the concerns about devolution raised by Members from across the House. What is even more striking is that this was brought to the Government’s attention again two days before the deadline for tabling amendments, yet they failed to act. In this, they have merely confirmed my point in an earlier debate that it appears they still have not accepted that the UK is a unitary nation and that we have more than one Parliament within the British state.

The Welsh Government cannot just continue to hope that something might turn up, waiting in hope for this Tory Government to see reason, so I am glad that the hon. Member for Cardiff North (Anna McMorrin) noted that the First Minister had at last made a statement. I would also be glad if he could agree to the proposal for a continuity Bill that my friend in the Assembly, Steff Lewis, is bringing forward tomorrow. My party’s position in the long run is clear—we want the people of Wales to run their own affairs—but in the interim our sincerely held view is that we need a collaborative procedure for the creation of UK-wide frameworks to ensure good governance for the people of Wales.

Given that the Government are so determined to press ahead and remove us from the already functioning EU frameworks, these UK-wide frameworks will have a significant impact on the existing devolved settlements and therefore must be created jointly by all the sitting Governments, and not be dictated by Ministers of the Crown here. This is only the first step to ensuring that devolution is not just respected but upheld during the upheaval that the Government are creating by leaving the European single market and customs union.

Anna McMorrin: Does the hon. Gentleman agree that systems are already in place under which the Welsh and UK Governments negotiate together on EU discussions? UK Ministers are Ministers of the Crown, as are Welsh Ministers. That is already in place and just needs to continue. The amendment is necessary if it is to continue.

Hywel Williams: I thank the hon. Lady for her intervention. It brings me to the very point I was going to make. The Joint Ministerial Committee (EU Negotiations), to which she was referring, had a very rocky start. Some hon. Members will know that it met last February and then not again until October. During that time, momentous events were taking place here. Huge changes were being made in the relationship between Wales and the EU, and in the United Kingdom’s relationship with the EU. However, the JMC, the very mechanism that was supposed to elicit the views of Welsh Ministers—and Scottish and Northern Irish Ministers, for that matter—did not meet. I am glad to say that since that suspension it seems to have recovered somewhat: the October meeting was much more positive.

6.30 pm

The principles that underpin the JMC were agreed in order to ensure close working between the UK Government and the devolved Administrations on reserved matters and excepted matters that would have a significant impact on devolved Administrations. It was agreed that those principles would apply to common frameworks, but to ensure that that happens, we need to enshrine it in statute.

The Government habitually insist that “nothing is agreed until everything is agreed”. They must realise that unless they agree to the changes in the Bill that Members in all parts of the House want to see, they will not gain the consent of the devolved Administrations that they claim to be so easily able to obtain.

Ian Murray: I am delighted to follow the hon. Members for Stirling (Stephen Kerr) and for Aberdeen South (Ross Thomson), who highlighted the problem that we have had with the Government. I think that there should be an act of good faith this evening: the Government should accept amendment 3, tabled by Opposition Front Benchers, and if they want to alter it in the other place, they will be able to do so.

One of the key problems—and the hon. Members for Stirling and for Aberdeen South failed to answer this question—is that their premise for amending the Bill now is that when the negotiations are concluded between the UK and Scottish Governments through the JMC, the UK Government will take the basis of the negotiated settlement to the other place, make the appropriate amendments to the Bill, and then bring it back here. If the negotiations fall apart—and I take them in good faith, but the Scottish and UK Governments do not have a particularly good track record of cordial discussions, and it might be in one of the political interests of a political party of any colour to bring those negotiations down—there will not, according to their argument, be an amendment in the other place, and the Bill will therefore be unamended.

In that event, there would be no mechanism for the hon. Members for Stirling and for Aberdeen South, or, indeed, the hon. Member for East Renfrewshire (Paul Masterton), who raised these issues, to correct what they claim is a deficient clause. The hon. Member for Stirling said that it was not fit for purpose, and the hon. Member for Aberdeen South said that he would like amendments to be tabled on Report. The hon. Member for East Renfrewshire had previously abstained on the amendments to clause 11 because Ministers had promised him that they would table amendments. When making that promise, they never said that those amendments were dependent on the conclusions of a negotiated settlement, and the Scottish Conservative Members did not say that in their remarks to the press at that time of an emergency meeting between the 12 of them—excluding the Secretary of State for Scotland—to discuss this very issue. This has been concocted to save them embarrassment, and I feel sorry for them on that basis. Now they are saying again, in the Chamber, that they will not vote for amendment 3 because they have been promised that there will be an amendment in the House of Lords.

If that does not happen, there will be no mechanism enabling the 13 Conservative Scottish Members who said that they would fight to amend this “deficient” clause to do so. The Bill will come back unamended, we

[Ian Murray]

will have no powers to change it, and a “deficient”, “not fit for purpose” clause—their words, not mine—will end up on the statute book. That is not acceptable to this elected House.

I share those Members’ frustration that the unelected House will now be given the responsibility of changing the Bill, but let us look at the technicalities. The Government have no majority in the other place, so technically the other place may vote down any Government amendment. I admit that that is unlikely, but the promises that were given to the Back-Bench Scottish Conservative MPs were merely that. They have been let down already.

As my hon. Friend the Member for Darlington (Jenny Chapman) said, the best option would be to vote for amendment 3 this evening to establish the principle of amending clause 11, and if alterations are required in the other place following the conclusion of agreements—or, indeed, if the Government decide that they want to spend some time concluding the amendments—they can be made there and be brought back to this place, and we can then make those changes during the ping-pong.

I cannot understand why the Government have not brought forward the promised amendments on Report. We are always asked in this place to take the Government in good faith; they said those amendments would come forward, and on that basis in Committee I withdrew amendments, as did hon. Friends, and the Back-Bench Scottish Conservative MP the hon. Member for East Renfrewshire (Paul Masterton) withdrew his opposition and voted for the clause and the Bill. We did so on the basis of those promises, and they have not been delivered.

I have no faith in those promises from the Government. I have no faith that the Scottish Government and UK Government, given that they play off against each other politically all the time, will come to an agreement that can be changed in the other place, and therefore the best way to resolve the problem this evening would be for this House to come to a consensual agreement on amendment 3 in the name of my colleagues on the Opposition Front Bench, so we can then say that the principle of changing clause 11 is on the face of the Bill.

Stephen Gethins (North East Fife) (SNP): I will speak to amendment 6 in my name and that of hon. Friends and colleagues. It is crucial in protecting the legislative competence of the Scottish Parliament and the Welsh Assembly. I am grateful for the cross-party support, but most of all I want to acknowledge the officials in the Welsh Assembly Government and in the Scottish Government who worked together to produce good amendments that we can support on a cross-party basis. We were able to introduce them in Committee and to reintroduce them on Report. I have absolutely no idea why the might of the UK civil service has been unable to do so for either stage. At this stage of the debate, I hoped to have the opportunity to debate the amendments promised to us by the UK Government to amend clause 11. I know that the fact that that has not happened has been a deep disappointment across the Chamber.

It is somewhat startling that amendments have been tabled that appear to be based on a presumption that clause 11 remains the same. That is why we cannot back those minor amendments. We were also told that the amendments had been tabled without consulting or

agreeing with the devolved Administrations. We have heard a great deal about consultation and agreement, but I have no idea how we can strike an agreement on amendments without first seeing them; we have not even seen them. Members of the Scottish Government, and, I understand the Welsh Government, have not seen them either.

Unfortunately, the right hon. Member for Chingford and Woodford Green (Mr Duncan Smith) is not in his place, but on a proposal about EU nationals today from the Commission he remarked that the Government should just smile and do nothing. It would appear that the Government are taking half that advice because we are not seeing that many smiles.

We have heard a great deal from the Scottish Conservatives about their unhappiness with their own Government. I wonder whether they will join in the opposition tonight and vote for the amendments that we have tabled, or vote for Labour Front Benchers’ amendment 3, which we do not think is perfect, but it is better than what we have and we will support it. With the Scottish Conservatives and the Opposition, we have a majority in this place. That is a powerful voice that we could have here. Will the Scottish Conservatives vote with us, or will they be yet more Lobby fodder willing to prop up a failing and faltering UK Government who do not keep their promises?

Mr Jenkin: Will the hon. Gentleman give way?

Stephen Gethins: I am going to make some progress.

On 6 December, the Secretary of State for Scotland was asked by MPs across this House about the amendments to clause 11. He said:

“The answer is that it will happen on Report”—

the stage we are at now. He added:

“We have been very clear about this”—

terribly clear it would seem—

“The Committee stage is about listening and adapting to issues... we will table amendments to clause 11.”—[*Official Report*, 6 December 2017; Vol. 632, c. 1021.]

They have not. Now we are at the stage where this will go to the House of Lords. It is a democratic abomination that the Scottish Parliament will have less of a say, and this House consequently will have less of a say, than the House of Lords. The Scottish Conservatives seem to be embarrassed about that. I wonder whether they are joined by anybody else who is even remotely embarrassed.

Pete Wishart: As has been said, the Government do not even have a majority in the House of Lords. What does my hon. Friend feel about the newly ennobled Bishop of Chichester, who will now have a bigger say on these amendments about critical issues to do with the devolution settlement than my hon. Friend, the hon. Member for Stirling (Stephen Kerr) and me?

Stephen Gethins: As usual, my hon. Friend makes a very good point.

I want to make it clear that the points I make about the House of Lords have no bearing on its Members’ personal characteristics. Rather, I am referring to the anti-democratic situation in which we find ourselves. I presume that we are now in a situation in which a Scotland Office Minister, appointed after losing an

election, will debate these matters with Lords who are there by accident of birth or as a result of political patronage, and that this will happen after Third Reading. That is absolutely shameful. It should shame everyone involved. “Bring back democracy”, Vote Leave supporters cried. “Return our independence”, they cried. They also cried, “Bring back our blue passports”, even though they could have had those all along. After this, we can even have commemorative stamps. Does no one see the irony for democracy? I know that the Speaker wants me to make some progress on this—

Mr Speaker: Order. That is rather an understatement. I am looking for an opportunity for the Minister to reply to the debate, so I am sure that the hon. Gentleman will be approaching his peroration ere long.

Stephen Gethins: I will. I know that the Minister wants to respond and pick up on some of the points that have been raised, but as I represent the governing party of Scotland, I would also like to make some points on where we are with this—

Mr Speaker: Order. I say with due courtesy, but absolute insistence, to the hon. Gentleman that the Minister will rise to speak no later than 6.45. That is not advice; I am telling the hon. Gentleman that that is the situation.

Stephen Gethins: I should like to thank the Speaker for his guidance on that—

Mr Speaker: Order. Sorry, that was not guidance. That is a ruling. End of subject.

Stephen Gethins: Thank you, Mr Speaker.

Let me make these points. What accountability is there on the promises that were made during the EU referendum? The Secretary of State for Scotland told us that we would have a “powers bonanza”, but there has been nothing. The Environment Secretary said that we would get powers over immigration, but there has been no accountability over that. The Foreign Secretary said that there would be £350 million for the NHS, and quite remarkably, he doubled down on that last night. No shame whatever. Is it any wonder that the latest NatCen survey shows that, rather than 59% of people in Scotland thinking that the Government are handling this badly, the figure has shot up to 67%? The hon. Member for Stirling (Stephen Kerr) mentioned this earlier.

Let us compare that to the attitude of the Scottish Government on this. The amendments that have gone down have been drafted by their working with colleagues from across this House and across the Administrations. We published our amendments in due time. Even yesterday, the Scottish Government used the economists that they have at their disposal to publish—not keep secret—their analysis of Scotland’s place in Europe. It showed an 8.5% loss in GDP, equating to £2,500 for every person in Scotland, through losing the value of EU nationals. Leaving the single market will be devastating. On this, I make a gentle point to our Labour colleagues, many of whom have stuck out their neck on the single market. This Government are on the ropes and we could have a majority that could achieve a sensible outcome. I urge my colleagues on the Labour Benches to reconsider some of their options on this. We can stay in the single market.

In conclusion, compromises can be reached but we must see the amendments. All of this is happening even though we were told that the only way to stay in the EU was to vote no. Two thousand years ago, the first Scot in recorded history, Calgacus, was said to have told his followers about the Romans:

“They are the only people on earth to covet wealth and poverty with equal craving. They plunder, they butcher, they ravish, and call it by the...name of ‘empire’.”

As we leave the European Union, we have nothing on clause 11, nothing on the rights of EU citizens, nothing about what will happen to our trade, and nothing on the opportunities for young people. That leads me to conclude that the only plan that the Brexiteers have is to create a desert and call it Brexit.

The Minister for the Cabinet Office and Chancellor of the Duchy of Lancaster (Mr David Lidington): The debate has been lively and has ranged quite widely over various aspects of the impact of this country’s withdrawal from the European Union on the devolution settlements. I therefore want to make it clear from the start that the Government’s expectation and intention are that the return of competences from the European Union will result in a very significant addition to the powers exercised in future by the devolved Administrations on the bases set out in their respective devolution statutes. However, we have to go about this complex task in the right way for the sake of individuals, families and businesses in every part of the United Kingdom, because the devolution settlements were negotiated, debated and enacted on the basis of certain competences being known to be within the power of the European Union and, on the quite reasonable assumption at the time that the devolution statutes went through this House, that that would continue to be the situation.

6.45 pm

Broadly speaking, there are two key reasons why the Government have proposed the overall approach that is set out in the Bill. First, some EU competences straddle elements of both devolved and reserved powers. For example, the common fisheries policy deals with matters that would logically fall within the terms of the devolution settlements, but it also comprehends both multilateral and EU third country international agreements, which under the terms of the Scotland Act 1998—it would also apply to the other devolution Acts—are expressly reserved to the United Kingdom by virtue of their being international agreements. Secondly, the Government’s purpose is to ensure that the interests of everyone in every part of the United Kingdom is protected by the continuation of a single United Kingdom market in both goods and services. In plain language, that means that a manufacturer in Paisley would still be able to sell to a customer in Preston and not have to worry about a set of different product standards or chemical regulations, for example.

I cannot emphasise strongly enough that no power whatsoever that is currently exercised by the devolved Administrations will be removed or harmed by this Bill. On day one after we leave the European Union, those devolved powers will remain as before. Competences currently exercised at European Union level will transfer to the United Kingdom and will remain at United Kingdom level until, but only until, we can sort out the practicalities of apportioning competences in accordance

with the devolution Acts while protecting the single market of the United Kingdom and the provisions of the United Kingdom's international agreements.

The Government want the process of apportioning powers to be as smooth and as swift as possible. Therefore, since the Bill was in Committee, we have reflected carefully on the debates and have discussed the way forward with political leaders in Scotland, Wales and Northern Ireland. We are proposing a number of amendments that respond to the concerns expressed during those earlier debates and are actively taking forward discussions with the leaders of the devolved Administrations with a view to bringing forward additional amendments in the House of Lords.

Moving on to the detail—

Martin Whitfield *rose*—

Lady Hermon *rose*—

Mr Lidington: I will give way briefly to the hon. Lady, who has not made a speech in this debate.

Lady Hermon: May I congratulate the right hon. Gentleman on his new job? I was absolutely delighted for him. He just mentioned that, in the absence of a Northern Ireland Assembly functioning as we would want it, he has had discussions with leaders of political parties in Northern Ireland—that is what I understood him to say—so will he list which leaders of which parties he has had discussions with?

Mr Lidington: Parties have all been briefed on the Government's position and therefore have had the opportunity to put forward their points of view. Obviously, in the absence of a functioning Assembly and Executive in Northern Ireland, we have regular contact with the civil service authorities in Northern Ireland, which are maintaining the administration of Northern Ireland in accordance with Northern Ireland law.

Lady Hermon: I am grateful to the Minister for taking another intervention.

I am very disappointed. I sit as an independent, and I take my seat in this House. Sinn Féin Members, seven of them, are absentee MPs. I would be extremely offended if I thought for one moment that the leader of Sinn Féin in Northern Ireland—she is not elected to this House—had been consulted when I had not.

Mr Lidington: The hon. Lady and I have known each other for a long time, and having now had overall responsibility for intergovernmental relations and devolution in the United Kingdom for seven days, I am happy to undertake to make it a priority to have that conversation with her to ensure that her views are properly heard.

Government amendments 26 and 27 will replace the current requirements for devolved Ministers to seek the consent of the United Kingdom Government when exercising the correcting power in specific ways with requirements instead to consult the United Kingdom Government. That achieves the same effect as Committee amendment 169, which was proposed by the Scottish and Welsh Governments and tabled in the name of the hon. Member for Cardiff South and Penarth (Stephen Doughty). Having discussed the matter with those

Administrations and having listened to the debate in Committee, we have agreed to accept that proposal, with the addition of extending the change to the power by conferring it on the Northern Ireland Executive.

The United Kingdom Government have a vital role in considering the broader consequences for other parts of the UK where devolved Ministers legislate under these powers, and we think this change is justified. It remains important that, in using the conferred power, no action is taken that inadvertently places us in breach of EU law while we are still a member state or that would prejudice or pre-empt the outcome of negotiations; but on reflection, we consider that the devolved Administrations consulting with the UK Government before legislating in these specific circumstances relating to our negotiations will provide a sufficient safeguard and will preserve the autonomy of the devolved Administrations in correcting their laws.

Patrick Grady (Glasgow North) (SNP): Will the Minister give way?

Mr Lidington: The hon. Gentleman will forgive me, but there are a lot of amendments in this group and I want to try to do justice to them.

Government amendments 25, 28 and 29 tackle a technical but important issue by allowing the devolved Administrations to use the powers conferred on them by schedule 2 to modify directly retained EU legislation in areas where a common framework is not needed. While we work with the devolved Administrations on where frameworks are or are not needed, we are maintaining existing common approaches to provide much welcomed certainty. To aid that, direct EU legislation that currently applies uniformly across the UK will be corrected at UK level in the first instance to avoid the risk of early, unhelpful divergence in areas where it may ultimately be determined that a common approach should apply. We have listened to the views of Opposition Members, my hon. Friends who represent constituencies in Scotland and Wales, the devolved Administrations and Committees in the devolved legislatures.

Given that the UK Government are committed to making swift progress on the frameworks, we agree that, where a matter is released from the clause 11 competence arrangement, the powers in the Bill should be fully available to the devolved Administrations to modify retained direct EU legislation, and we intend that that will be in the majority of areas. We and the devolved Administrations continue to make good progress in those framework discussions. We intend to agree as many areas as possible where frameworks are not needed in advance of exit day, so that those areas may transfer directly to the devolved Administrations without the need for an intervening period in which to operate the holding pattern described in the clauses.

Like my hon. Friends the Members for Harwich and North Essex (Mr Jenkin), for Ochil and South Perthshire (Luke Graham), for Stirling (Stephen Kerr) and for Aberdeen South (Ross Thomson), I am disappointed that we have been unable to reach agreement with the Governments of Scotland and Wales to make amendments to clause 11 on an agreed basis. That remains the Government's ambition. When I spoke to the Deputy First Minister of Scotland and the First Minister of Wales a few hours after being appointed to my new

responsibilities last week, I emphasised that I was instructing our officials to work with theirs even more intensively to try to achieve that agreement.

The discussions so far have revealed a great deal of common ground between us. For example, we are all agreed that common UK frameworks will be required in some areas even after we have left the EU. That was also recognised in Committee and reflected a shared understanding about protecting the internal UK market, managing common resources and meeting international obligations. But this is a complex area and we need to get it right, and we do not believe that amendments 3, 6 and 13 would achieve that. It is our assessment that in only a minority of cases will we require a legislative framework, in whole or in part.

I can confirm today that the Government will shortly publish our analysis of the areas where frameworks will and will not be needed, so that we are transparent about this progress as our discussions on both clause 11 and frameworks move into greater detail. I also wish to acknowledge the co-operative approach of both the Scottish and Welsh Governments and their officials in working with us towards the right outcome. I have full confidence that we will deliver this Bill with the legislative consent of both the Scottish Parliament and the National Assembly for Wales.

Let me turn to the Opposition amendments. Amendment 3, from the Opposition Front-Bench team, and amendments 6 and 13, standing in the names of the hon. Members for North East Fife (Stephen Gethins) and for Arfon (Hywel Williams), relate to the temporary arrangements established by clause 11, so that we might determine where and how frameworks would operate. The trouble with these amendments is that they would strip away certainty in areas where our citizens and our businesses rely on having common approaches across the UK, and they would pre-empt our framework discussions. They would risk our ending up when we leave the EU with unchecked divergence where common approaches were in place, with no guarantees of if and when they might be re-established. That is simply not good enough. I do not think it right to accept such amendments, which would inadvertently risk creating new barriers to living and doing business right across the UK, however well-intentioned they might be.

Ross Thomson: Does my right hon. Friend agree that we have heard a lot of talk about respect between both Governments and that being why we should accept the amendment, but that in not securing Joint Ministerial Committee agreement and in not securing a legislative consent motion this actually shows no respect for that process and is simply a stunt?

Mr Lidington: I agree with my hon. Friend.

Let me turn to the amendments from the hon. and learned Member for Edinburgh South West (Joanna Cherry), who again raised the important debate between “necessary” and “appropriate” provisions made under the Bill. Members will not be surprised to know that “necessary” is a very strict legal test. It could be interpreted by a court as “logically essential”, and where two or more choices of law to correct EU law are available to Ministers, arguably neither one is strictly necessary because there is an alternative. So Ministers need to be able to exercise discretion to choose the most appropriate course.

For example, if two agencies could arguably carry out a particular function, the UK Government—or in this case the devolved Administration—must propose that which would be the most appropriate choice. That is why we have chosen the word “appropriate” and would wish to stick to that.

The Government remain of the view that the power in clause 7(1) is crucial. We do not take delegated powers lightly, and we want them to be tailored as tightly to their purpose as possible. We have therefore listened to hon. Members’ concerns about the scope of the power in clause 7(1), and in bringing forward Government amendments 14 and 15, we have built on the amendment tabled by my right hon. and learned Friend the Member for Beaconsfield (Mr Grieve), who was supported by my hon. Friend the Member for Weston-super-Mare (John Penrose).

We must ensure that we can correct all deficiencies that may arise from our withdrawal, but our amendments put it beyond doubt that some of the wilder speculation on how powers in the Bill would be used will not be possible, by providing an exhaustive list of the types of deficiency and taking up the constructive suggestion of my hon. and learned Friend the Member for Torridge and West Devon (Mr Cox). That is the act of a responsible Government responding to the debate we have listened to in the House. I hope that—

7 pm

Debate interrupted (Programme Order, this day).

The Speaker put forthwith the Question already proposed from the Chair (Standing Order No. 83E), That the amendment be made.

Question negated.

The Speaker then put forthwith the Questions necessary for the disposal of the business to be concluded at that time (Standing Order No. 83E).

Amendments proposed: 21, page 17, line 24, leave out “reference” and insert “references”.

This amendment is consequential on amendment 15.

Amendment 22, page 17, line 24, after “7(2)” insert “and (2A) (but not the reference to a Minister of the Crown in section 7(2A)(b))”.

This amendment is consequential on amendment 15.

Amendment 23, page 17, line 25, leave out “a reference” and insert “references”.

This amendment is consequential on amendment 15.

Amendment 24, page 17, line 26, after “authority” insert

“and the references to section 7(1) being read as references to sub-paragraph (1) or (2) above”.

This amendment is consequential on amendment 15.

Amendments 25, page 18, line 9, at end insert—

“() This paragraph does not prevent the Scottish Ministers from making provision in regulations under this Part if—

- (a) the provision is made when there is an Order in Council under section 29(4C) of the Scotland Act 1998, and
- (b) the provision would, by virtue of the Order, not be in breach of the restriction in subsection (4A) of section 29 of that Act if the provision were made in an Act of the Scottish Parliament when that subsection and the Order are in force.

() This paragraph does not prevent the Welsh Ministers from making provision in regulations under this Part if—

- (a) the provision is made when there is an Order in Council under section 108A(10) of the Government of Wales Act 2006, and
- (b) the provision would, by virtue of the Order, not be in breach of the restriction in subsection (8) of section 108A of that Act if the provision were made in an Act of the National Assembly for Wales when that subsection and the Order are in force.

() This paragraph does not prevent a Northern Ireland department from making provision in regulations under this Part if—

- (a) the provision is made when there is an Order in Council under section 6(8) of the Northern Ireland Act 1998, and
- (b) the provision would, by virtue of the Order, not be in breach of the restriction in subsection (6) of section 6 of that Act if the provision were made in an Act of the Northern Ireland Assembly when that subsection and the Order are in force.”

This amendment allows a devolved authority to make provision by regulations to prevent, remedy or mitigate deficiencies in retained EU law, under Part 1 of Schedule 2, so as to modify retained direct EU legislation or anything that is retained EU law under Clause 4. In relation to each devolved authority, a modification would be allowed where the relevant devolved legislature would not, by making the modification in an Act, breach the restriction inserted by Clause 11 relating to retained EU law, because of an Order in Council made under the power conferred by that Clause. The amendment would also allow regulations to be made, in equivalent circumstances, that are inconsistent with modifications of retained direct EU legislation etc made by a Minister of the Crown or the Bill.

Amendment 26, page 18, line 15, leave out

“without the consent of a Minister of the Crown”.

As the Bill stands, a devolved authority cannot exercise its powers to prevent, remedy or mitigate deficiencies in retained EU law, under Part 1 of Schedule 2, to make regulations that come into force before exit day and remove certain reciprocal arrangements, without the consent of a Minister of the Crown. This amendment and amendment 27 would replace that consent requirement with a requirement that the devolved authority consults the Secretary of State.

Amendment 27, page 18, line 20, at end insert “,

unless the regulations are, to that extent, made after consulting with the Secretary of State.”

See amendment 26.

Amendment 28, page 23, line 32, at end insert—

“() This paragraph does not prevent the Scottish Ministers from making provision in regulations under this Part if—

- (a) the provision is made when there is an Order in Council under section 29(4C) of the Scotland Act 1998, and
- (b) the provision would, by virtue of the Order, not be in breach of the restriction in subsection (4A) of section 29 of that Act if the provision were made in an Act of the Scottish Parliament when that subsection and the Order are in force.

() This paragraph does not prevent the Welsh Ministers from making provision in regulations under this Part if—

- (a) the provision is made when there is an Order in Council under section 108A(10) of the Government of Wales Act 2006, and
- (b) the provision would, by virtue of the Order, not be in breach of the restriction in subsection (8) of section 108A of that Act if the provision were made in an Act of the National Assembly for Wales when that subsection and the Order are in force.

() This paragraph does not prevent a Northern Ireland department from making provision in regulations under this Part if—

- (a) the provision is made when there is an Order in Council under section 6(8) of the Northern Ireland Act 1998, and
- (b) the provision would, by virtue of the Order, not be in breach of the restriction in subsection (6) of section 6 of that Act if the provision were made in an Act of the Northern Ireland Assembly when that subsection and the Order are in force.”

This amendment allows a devolved authority to make provision by regulations to prevent or remedy a breach of international law arising from withdrawal, under Part 2 of Schedule 2, so as to modify retained direct EU legislation or anything that is retained EU law under Clause 4. In relation to each devolved authority, a modification would be allowed where the relevant devolved legislature would not, by making the modification in an Act, breach the restriction inserted by Clause 11 relating to retained EU law, because of an Order in Council made under the power conferred by that Clause. The amendment would also allow regulations to be made, in equivalent circumstances, that are inconsistent with modifications of retained direct EU legislation etc made by a Minister of the Crown or the Bill.

Amendment 29, page 26, line 11, at end insert—

() This paragraph does not prevent the Scottish Ministers from making provision in regulations under this Part if—

- (a) the provision is made when there is an Order in Council under section 29(4C) of the Scotland Act 1998, and
- (b) the provision would, by virtue of the Order, not be in breach of the restriction in subsection (4A) of section 29 of that Act if the provision were made in an Act of the Scottish Parliament when that subsection and the Order are in force.

() This paragraph does not prevent the Welsh Ministers from making provision in regulations under this Part if—

- (a) the provision is made when there is an Order in Council under section 108A(10) of the Government of Wales Act 2006, and
- (b) the provision would, by virtue of the Order, not be in breach of the restriction in subsection (8) of section 108A of that Act if the provision were made in an Act of the National Assembly for Wales when that subsection and the Order are in force.

() This paragraph does not prevent a Northern Ireland department from making provision in regulations under this Part if—

- (a) the provision is made when there is an Order in Council under section 6(8) of the Northern Ireland Act 1998, and
- (b) the provision would, by virtue of the Order, not be in breach of the restriction in subsection (6) of section 6 of that Act if the provision were made in an Act of the Northern Ireland Assembly when that subsection and the Order are in force.”—(Mr Lidington.)

This amendment allows a devolved authority to make provision by regulations to implement the withdrawal agreement, under Part 3 of Schedule 2, so as to modify retained direct EU legislation or anything that is retained EU law under Clause 4. In relation to each devolved authority, a modification would be allowed where the relevant devolved legislature would not, by making the modification in an Act, breach the restriction inserted by Clause 11 relating to retained EU law, because of an Order in Council made under the power conferred by that Clause. The amendment would also allow regulations to be made, in equivalent circumstances, that are inconsistent with modifications of retained direct EU legislation etc made by a Minister of the Crown or the Bill.

Question put (single Question on amendments moved by a Minister of the Crown), That amendments 21 to 29 be made.

The House divided: Ayes 317, Noes 297.

Division No. 94]

[7 pm

AYES

Adams, Nigel
 Afolami, Bim
 Afriyie, Adam
 Aldous, Peter
 Allan, Lucy
 Allen, Heidi
 Argar, Edward
 Atkins, Victoria
 Bacon, Mr Richard
 Badenoch, Mrs Kemi
 Baker, Mr Steve
 Baldwin, Harriett
 Barclay, Stephen
 Baron, Mr John
 Bebb, Guto
 Bellingham, Sir Henry
 Benyon, rh Richard
 Beresford, Sir Paul
 Berry, Jake
 Blackman, Bob
 Blunt, Crispin
 Boles, Nick
 Bone, Mr Peter
 Bottomley, Sir Peter
 Bowie, Andrew
 Bradley, Ben
 Bradley, rh Karen
 Brady, Sir Graham
 Brereton, Jack
 Bridgen, Andrew
 Brine, Steve
 Bruce, Fiona
 Buckland, Robert
 Burghart, Alex
 Burns, Conor
 Burt, rh Alistair
 Cairns, rh Alun
 Campbell, Mr Gregory
 Cartlidge, James
 Cash, Sir William
 Caulfield, Maria
 Chalk, Alex
 Chishti, Rehman
 Chope, Sir Christopher
 Churchill, Jo
 Clark, Colin
 Clark, rh Greg
 Clarke, rh Mr Kenneth
 Clarke, Mr Simon
 Cleverly, James
 Clifton-Brown, Sir Geoffrey
 Coffey, Dr Thérèse
 Collins, Damian
 Costa, Alberto
 Courts, Robert
 Cox, Mr Geoffrey
 Crabb, rh Stephen
 Crouch, Tracey
 Davies, Chris
 Davies, David T. C.
 Davies, Glyn
 Davies, Mims
 Davies, Philip
 Davis, rh Mr David
 Dinage, Caroline
 Djanogly, Mr Jonathan
 Docherty, Leo

Dodds, rh Nigel
 Donaldson, rh Sir Jeffrey M.
 Donelan, Michelle
 Dorries, Ms Nadine
 Double, Steve
 Dowden, Oliver
 Doyle-Price, Jackie
 Drax, Richard
 Duddridge, James
 Duguid, David
 Duncan, rh Sir Alan
 Duncan Smith, rh Mr Iain
 Dunne, Mr Philip
 Ellis, Michael
 Ellwood, rh Mr Tobias
 Elphicke, Charlie
 Eustice, George
 Evans, Mr Nigel
 Evennett, rh David
 Fabricant, Michael
 Fallon, rh Sir Michael
 Fernandes, Suella
 Field, rh Mark
 Ford, Vicky
 Foster, Kevin
 Fox, rh Dr Liam
 Francois, rh Mr Mark
 Frazer, Lucy
 Freeman, George
 Freer, Mike
 Fysh, Mr Marcus
 Gale, Sir Roger
 Garnier, Mark
 Gauke, rh Mr David
 Ghani, Ms Nusrat
 Gibb, rh Nick
 Gillan, rh Dame Cheryl
 Girvan, Paul
 Glen, John
 Goldsmith, Zac
 Goodwill, Mr Robert
 Gove, rh Michael
 Graham, Luke
 Graham, Richard
 Grant, Bill
 Grant, Mrs Helen
 Gray, James
 Grayling, rh Chris
 Green, Chris
 Green, rh Damian
 Greening, rh Justine
 Grieve, rh Mr Dominic
 Griffiths, Andrew
 Gyimah, Mr Sam
 Hair, Kirstene
 Halfon, rh Robert
 Hall, Luke
 Hammond, rh Mr Philip
 Hammond, Stephen
 Hancock, rh Matt
 Hands, rh Greg
 Harper, rh Mr Mark
 Harrington, Richard
 Harris, Rebecca
 Harrison, Trudy
 Hart, Simon
 Hayes, rh Mr John

Heald, rh Sir Oliver
 Heapey, James
 Heaton-Harris, Chris
 Heaton-Jones, Peter
 Henderson, Gordon
 Herbert, rh Nick
 Hinds, Damian
 Hoare, Simon
 Hollingbery, George
 Hollinrake, Kevin
 Hollobone, Mr Philip
 Holloway, Adam
 Howell, John
 Huddleston, Nigel
 Hughes, Eddie
 Hunt, rh Mr Jeremy
 Hurd, Mr Nick
 Jack, Mr Alister
 James, Margot
 Javid, rh Sajid
 Jayawardena, Mr Ranil
 Jenkin, Mr Bernard
 Jenkyns, Andrea
 Jenrick, Robert
 Johnson, Dr Caroline
 Johnson, Gareth
 Johnson, Joseph
 Jones, Andrew
 Jones, rh Mr David
 Jones, Mr Marcus
 Kawczynski, Daniel
 Keegan, Gillian
 Kennedy, Seema
 Kerr, Stephen
 Knight, rh Sir Greg
 Knight, Julian
 Kwarteng, Kwasi
 Lamont, John
 Lancaster, Mark
 Latham, Mrs Pauline
 Leadsom, rh Andrea
 Lee, Dr Phillip
 Lefroy, Jeremy
 Leigh, Sir Edward
 Letwin, rh Sir Oliver
 Lewer, Andrew
 Lewis, rh Brandon
 Lewis, rh Dr Julian
 Lidington, rh Mr David
 Little Pengelly, Emma
 Lopez, Julia
 Lopresti, Jack
 Lord, Mr Jonathan
 Loughton, Tim
 Mackinlay, Craig
 Maclean, Rachel
 Main, Mrs Anne
 Mak, Alan
 Malthouse, Kit
 Mann, Scott
 Masterton, Paul
 Maynard, Paul
 McLoughlin, rh Sir Patrick
 McPartland, Stephen
 McVey, rh Ms Esther
 Menzies, Mark
 Mercer, Johnny
 Merriman, Huw
 Metcalfe, Stephen
 Miller, rh Mrs Maria
 Milling, Amanda
 Mills, Nigel

Milton, rh Anne
 Mitchell, rh Mr Andrew
 Moore, Damien
 Mordaunt, rh Penny
 Morgan, rh Nicky
 Morris, Anne Marie
 Morris, David
 Morris, James
 Morton, Wendy
 Mundell, rh David
 Murray, Mrs Sheryll
 Murrison, Dr Andrew
 Neill, Robert
 Newton, Sarah
 Nokes, Caroline
 Norman, Jesse
 O'Brien, Neil
 Offord, Dr Matthew
 Opperman, Guy
 Paisley, Ian
 Parish, Neil
 Patel, rh Priti
 Paterson, rh Mr Owen
 Pawsey, Mark
 Penning, rh Sir Mike
 Penrose, John
 Percy, Andrew
 Perry, Claire
 Philp, Chris
 Pincher, Christopher
 Poulter, Dr Dan
 Pow, Rebecca
 Prentis, Victoria
 Prisk, Mr Mark
 Pritchard, Mark
 Pursglove, Tom
 Quin, Jeremy
 Quince, Will
 Raab, Dominic
 Redwood, rh John
 Rees-Mogg, Mr Jacob
 Robertson, Mr Laurence
 Robinson, Gavin
 Robinson, Mary
 Rosindell, Andrew
 Ross, Douglas
 Rowley, Lee
 Rudd, rh Amber
 Rutley, David
 Sandbach, Antoinette
 Scully, Paul
 Seely, Mr Bob
 Selous, Andrew
 Shannon, Jim
 Shapps, rh Grant
 Sharma, Alok
 Shelbrooke, Alec
 Simpson, David
 Simpson, rh Mr Keith
 Skidmore, Chris
 Smith, Chloe
 Smith, Henry
 Smith, rh Julian
 Smith, Royston
 Soames, rh Sir Nicholas
 Soubry, rh Anna
 Spelman, rh Dame Caroline
 Spencer, Mark
 Stevenson, John
 Stewart, Bob
 Stewart, Iain
 Stewart, Rory

Stride, rh Mel
 Stuart, Graham
 Sturdy, Julian
 Sunak, Rishi
 Swayne, rh Sir Desmond
 Swire, rh Sir Hugo
 Syms, Sir Robert
 Thomas, Derek
 Thomson, Ross
 Throup, Maggie
 Tolhurst, Kelly
 Tomlinson, Justin
 Tomlinson, Michael
 Tracey, Craig
 Tredinnick, David
 Trevelyan, Mrs Anne-Marie
 Truss, rh Elizabeth
 Tugendhat, Tom
 Vaizey, rh Mr Edward
 Vara, Mr Shailesh
 Vickers, Martin
 Villiers, rh Theresa

Walker, Mr Charles
 Walker, Mr Robin
 Wallace, rh Mr Ben
 Warburton, David
 Warman, Matt
 Watling, Giles
 Whately, Helen
 Wheeler, Mrs Heather
 Whittaker, Craig
 Whittingdale, rh Mr John
 Wiggin, Bill
 Williamson, rh Gavin
 Wilson, Sammy
 Wollaston, Dr Sarah
 Wood, Mike
 Wragg, Mr William
 Wright, rh Jeremy
 Zahawi, Nadhim

Tellers for the Ayes:

Stuart Andrew and
 Andrew Stephenson

NOES

Abbott, rh Ms Diane
 Abrahams, Debbie
 Alexander, Heidi
 Ali, Rushanara
 Allin-Khan, Dr Rosena
 Amesbury, Mike
 Antoniazzi, Tonia
 Ashworth, Jonathan
 Austin, Ian
 Bailey, Mr Adrian
 Bardell, Hannah
 Barron, rh Sir Kevin
 Beckett, rh Margaret
 Benn, rh Hilary
 Betts, Mr Clive
 Black, Mhairi
 Blackford, rh Ian
 Blackman, Kirsty
 Blackman-Woods, Dr Roberta
 Blomfield, Paul
 Brabin, Tracy
 Bradshaw, rh Mr Ben
 Brennan, Kevin
 Brock, Deidre
 Brown, Alan
 Brown, Lyn
 Brown, rh Mr Nicholas
 Bryant, Chris
 Buck, Ms Karen
 Burden, Richard
 Burgon, Richard
 Butler, Dawn
 Byrne, rh Liam
 Cadbury, Ruth
 Cameron, Dr Lisa
 Campbell, rh Mr Alan
 Campbell, Mr Ronnie
 Carden, Dan
 Champion, Sarah
 Chapman, Douglas
 Chapman, Jenny
 Charalambous, Bambos
 Cherry, Joanna
 Clwyd, rh Ann
 Coaker, Vernon
 Coffey, Ann
 Cooper, Julie

Cooper, Rosie
 Cooper, rh Yvette
 Corbyn, rh Jeremy
 Cowan, Ronnie
 Coyle, Neil
 Crawley, Angela
 Creagh, Mary
 Creasy, Stella
 Cruddas, Jon
 Cryer, John
 Cummins, Judith
 Cunningham, Alex
 Cunningham, Mr Jim
 Dakin, Nic
 Davey, rh Sir Edward
 David, Wayne
 Day, Martyn
 De Cordova, Marsha
 De Piero, Gloria
 Debbonaire, Thangam
 Dent Coad, Emma
 Dhesi, Mr Tanmanjeet Singh
 Docherty-Hughes, Martin
 Dodds, Anneliese
 Doughty, Stephen
 Dowd, Peter
 Drew, Dr David
 Dromey, Jack
 Duffield, Rosie
 Eagle, Ms Angela
 Eagle, Maria
 Edwards, Jonathan
 Efford, Clive
 Elliott, Julie
 Ellman, Mrs Louise
 Elmore, Chris
 Esterson, Bill
 Evans, Chris
 Farrelly, Paul
 Farron, Tim
 Fitzpatrick, Jim
 Fletcher, Colleen
 Flint, rh Caroline
 Flynn, Paul
 Fovargue, Yvonne
 Foxcroft, Vicky
 Frith, James

Furniss, Gill
 Gaffney, Hugh
 Gapes, Mike
 Gardiner, Barry
 George, Ruth
 Gethins, Stephen
 Gibson, Patricia
 Gill, Preet Kaur
 Glindon, Mary
 Godsiff, Mr Roger
 Goodman, Helen
 Grady, Patrick
 Grant, Peter
 Gray, Neil
 Green, Kate
 Greenwood, Lilian
 Greenwood, Margaret
 Griffith, Nia
 Grogan, John
 Gwynne, Andrew
 Haigh, Louise
 Hamilton, Fabian
 Hardy, Emma
 Harman, rh Ms Harriet
 Harris, Carolyn
 Hayes, Helen
 Hayman, Sue
 Healey, rh John
 Hendrick, Sir Mark
 Hendry, Drew
 Hepburn, Mr Stephen
 Hermon, Lady
 Hill, Mike
 Hillier, Meg
 Hobhouse, Wera
 Hodge, rh Dame Margaret
 Hodgson, Mrs Sharon
 Hollern, Kate
 Hopkins, Kelvin
 Hosie, Stewart
 Howarth, rh Mr George
 Huq, Dr Rupa
 Hussain, Imran
 Jardine, Christine
 Jarvis, Dan
 Johnson, Diana
 Jones, Darren
 Jones, Gerald
 Jones, Helen
 Jones, Mr Kevan
 Jones, Sarah
 Jones, Susan Elan
 Kane, Mike
 Keeley, Barbara
 Kendall, Liz
 Khan, Afzal
 Killen, Ged
 Kinnock, Stephen
 Kyle, Peter
 Laird, Lesley
 Lake, Ben
 Lamb, rh Norman
 Lammy, rh Mr David
 Lavery, Ian
 Law, Chris
 Lee, Ms Karen
 Leslie, Mr Chris
 Lewell-Buck, Mrs Emma
 Lewis, Clive
 Lewis, Mr Ivan
 Lloyd, Stephen
 Lloyd, Tony

Long Bailey, Rebecca
 Lucas, Caroline
 Lucas, Ian C.
 Lynch, Holly
 MacNeil, Angus Brendan
 Madders, Justin
 Mahmood, Mr Khalid
 Mahmood, Shabana
 Malhotra, Seema
 Mann, John
 Marsden, Gordon
 Martin, Sandy
 Maskell, Rachael
 Matheson, Christian
 Mc Nally, John
 McCabe, Steve
 McCarthy, Kerry
 McDonagh, Siobhain
 McDonald, Andy
 McDonald, Stewart Malcolm
 McDonald, Stuart C.
 McDonnell, rh John
 McFadden, rh Mr Pat
 McGinn, Conor
 McGovern, Alison
 McInnes, Liz
 McKinnell, Catherine
 McMahan, Jim
 McMorris, Anna
 Mearns, Ian
 Miliband, rh Edward
 Monaghan, Carol
 Moon, Mrs Madeleine
 Moran, Layla
 Morden, Jessica
 Morgan, Stephen
 Morris, Grahame
 Murray, Ian
 Nandy, Lisa
 Newlands, Gavin
 Norris, Alex
 O'Hara, Brendan
 Onasanya, Fiona
 Onn, Melanie
 Onwurah, Chi
 Osamor, Kate
 Owen, Albert
 Peacock, Stephanie
 Pearce, Teresa
 Pennycook, Matthew
 Perkins, Toby
 Phillips, Jess
 Phillipson, Bridget
 Pidcock, Laura
 Platt, Jo
 Pollard, Luke
 Pound, Stephen
 Powell, Lucy
 Qureshi, Yasmin
 Rashid, Faisal
 Rayner, Angela
 Reed, Mr Steve
 Rees, Christina
 Reeves, Ellie
 Reeves, Rachel
 Reynolds, Jonathan
 Rimmer, Ms Marie
 Robinson, Mr Geoffrey
 Rodda, Matt
 Rowley, Danielle
 Ruane, Chris
 Russell-Moyle, Lloyd

Ryan, rh Joan
 Saville Roberts, Liz
 Shah, Naz
 Sharma, Mr Virendra
 Sheerman, Mr Barry
 Sheppard, Tommy
 Sherriff, Paula
 Shuker, Mr Gavin
 Siddiq, Tulip
 Skinner, Mr Dennis
 Slaughter, Andy
 Smeeth, Ruth
 Smith, Angela
 Smith, Cat
 Smith, Eleanor
 Smith, Jeff
 Smith, Laura
 Smith, Nick
 Smith, Owen
 Smyth, Karin
 Snell, Gareth
 Sobel, Alex
 Spellar, rh John
 Starmer, rh Keir
 Stephens, Chris
 Stevens, Jo
 Stone, Jamie
 Streeting, Wes
 Sweeney, Mr Paul
 Swinson, Jo
 Tami, Mark

Thewliss, Alison
 Thomas, Gareth
 Thomas-Symonds, Nick
 Thornberry, rh Emily
 Timms, rh Stephen
 Trickett, Jon
 Turley, Anna
 Turner, Karl
 Twigg, Derek
 Twigg, Stephen
 Twist, Liz
 Umunna, Chuka
 Vaz, Valerie
 Walker, Thelma
 Watson, Tom
 West, Catherine
 Western, Matt
 Whitehead, Dr Alan
 Whitfield, Martin
 Whitford, Dr Philippa
 Williams, Hywel
 Williams, Dr Paul
 Williamson, Chris
 Wilson, Phil
 Wishart, Pete
 Woodcock, John
 Yasin, Mohammad
 Zeichner, Daniel

Tellers for the Noes:
Marion Fellows and
David Linden

Question accordingly agreed to.
Amendments 21 to 29 agreed to.

Clause 11

RETAINING EU RESTRICTIONS IN EU DEVOLUTION LEGISLATION ETC.

Amendment proposed: 3, page 7, line 23, leave out subsections (1) to (3) and insert—

“(1) In section 29(2)(d) of the Scotland Act 1998 (no competence for Scottish Parliament to legislate incompatibly with EU law), omit “or with EU law”.

(2) In section 108A(2)(e) of the Government of Wales Act 2006 (no competence for National Assembly for Wales to legislate incompatibly with EU law), omit “or with EU law”.

(3) In section 6(2)(d) of the Northern Ireland Act (no competency for the Assembly to legislate incompatibly with EU law, omit “is incompatible with EU law”.

(4) The Secretary of State must lay before each House of Parliament proposals for replacing European frameworks with UK ones.

(5) UK-wide frameworks shall be proposed if and only if they are necessary to—

- (a) enable the functioning of the UK internal market,
- (b) ensure compliance with international obligations,
- (c) ensure the UK can negotiate, enter into and implement new trade agreements and international treaties,
- (d) enable the management of common resources,
- (e) administer and provide access to justice in cases with a cross-border element, or
- (f) safeguard the security of the UK.

(6) Ministers of the Crown shall create UK-wide frameworks only if they have consulted with, and secured the agreement of, the affected devolved administrations.”—(*Jenny Chapman.*)

This amendment removes the Bill's proposed restrictions on the ability of the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly to legislate on devolved

matters and creates new collaborative procedures for the creation of UK-wide frameworks for retained EU law.

The House divided: Ayes 297, Noes 321.

Division No. 95]

[7.16 pm

AYES

Abbott, rh Ms Diane
 Abrahams, Debbie
 Alexander, Heidi
 Ali, Rushanara
 Allin-Khan, Dr Rosena
 Amesbury, Mike
 Antoniazzi, Tonia
 Ashworth, Jonathan
 Austin, Ian
 Bailey, Mr Adrian
 Bardell, Hannah
 Barron, rh Sir Kevin
 Beckett, rh Margaret
 Benn, rh Hilary
 Betts, Mr Clive
 Black, Mhairi
 Blackford, rh Ian
 Blackman, Kirsty
 Blackman-Woods, Dr Roberta
 Blomfield, Paul
 Brabin, Tracy
 Bradshaw, rh Mr Ben
 Brennan, Kevin
 Brock, Deidre
 Brown, Alan
 Brown, Lyn
 Brown, rh Mr Nicholas
 Bryant, Chris
 Buck, Ms Karen
 Burden, Richard
 Burgon, Richard
 Butler, Dawn
 Byrne, rh Liam
 Cadbury, Ruth
 Cameron, Dr Lisa
 Campbell, rh Mr Alan
 Campbell, Mr Ronnie
 Carden, Dan
 Carmichael, rh Mr Alistair
 Champion, Sarah
 Chapman, Douglas
 Chapman, Jenny
 Charalambous, Bambos
 Cherry, Joanna
 Clwyd, rh Ann
 Coaker, Vernon
 Coffey, Ann
 Cooper, Julie
 Cooper, Rosie
 Cooper, rh Yvette
 Corbyn, rh Jeremy
 Cowan, Ronnie
 Coyle, Neil
 Crawley, Angela
 Creagh, Mary
 Creasy, Stella
 Cruddas, Jon
 Cryer, John
 Cummins, Judith
 Cunningham, Alex
 Cunningham, Mr Jim
 Dakin, Nic
 Davey, rh Sir Edward
 David, Wayne
 Day, Martyn
 De Cordova, Marsha
 De Piero, Gloria
 Debbonaire, Thangam
 Dent Coad, Emma
 Dhesi, Mr Tanmanjeet Singh
 Docherty-Hughes, Martin
 Dodds, Anneliese
 Doughty, Stephen
 Dowd, Peter
 Drew, Dr David
 Dromey, Jack
 Duffield, Rosie
 Eagle, Ms Angela
 Eagle, Maria
 Edwards, Jonathan
 Efford, Clive
 Elliott, Julie
 Ellman, Mrs Louise
 Elmore, Chris
 Esterson, Bill
 Evans, Chris
 Farrelly, Paul
 Farron, Tim
 Fellows, Marion
 Fitzpatrick, Jim
 Flint, rh Caroline
 Flynn, Paul
 Fovargue, Yvonne
 Frith, James
 Furniss, Gill
 Gaffney, Hugh
 Gapes, Mike
 Gardiner, Barry
 George, Ruth
 Gethins, Stephen
 Gibson, Patricia
 Gill, Preet Kaur
 Glindon, Mary
 Godsiff, Mr Roger
 Goodman, Helen
 Grady, Patrick
 Grant, Peter
 Gray, Neil
 Green, Kate
 Greenwood, Lilian
 Greenwood, Margaret
 Griffith, Nia
 Grogan, John
 Gwynne, Andrew
 Haigh, Louise
 Hamilton, Fabian
 Hardy, Emma
 Harman, rh Ms Harriet
 Harris, Carolyn
 Hayes, Helen
 Hayman, Sue
 Healey, rh John
 Hendrick, Sir Mark
 Hendry, Drew
 Hepburn, Mr Stephen
 Hermon, Lady
 Hill, Mike
 Hillier, Meg
 Hobhouse, Wera
 Hodge, rh Dame Margaret

Hodgson, Mrs Sharon
 Hollern, Kate
 Hosie, Stewart
 Howarth, rh Mr George
 Huq, Dr Rupa
 Hussain, Imran
 Jardine, Christine
 Jarvis, Dan
 Johnson, Diana
 Jones, Darren
 Jones, Gerald
 Jones, Helen
 Jones, Mr Kevan
 Jones, Sarah
 Jones, Susan Elan
 Kane, Mike
 Keeley, Barbara
 Kendall, Liz
 Khan, Afzal
 Killen, Ged
 Kinnock, Stephen
 Kyle, Peter
 Laird, Lesley
 Lake, Ben
 Lamb, rh Norman
 Lammy, rh Mr David
 Lavery, Ian
 Law, Chris
 Lee, Ms Karen
 Leslie, Mr Chris
 Lewell-Buck, Mrs Emma
 Lewis, Clive
 Lewis, Mr Ivan
 Linden, David
 Lloyd, Stephen
 Lloyd, Tony
 Long Bailey, Rebecca
 Lucas, Caroline
 Lucas, Ian C.
 Lynch, Holly
 MacNeil, Angus Brendan
 Madders, Justin
 Mahmood, Mr Khalid
 Mahmood, Shabana
 Malhotra, Seema
 Mann, John
 Marsden, Gordon
 Martin, Sandy
 Maskell, Rachael
 Matheson, Christian
 Mc Nally, John
 McCabe, Steve
 McCarthy, Kerry
 McDonagh, Siobhain
 McDonald, Andy
 McDonald, Stewart Malcolm
 McDonald, Stuart C.
 McDonnell, rh John
 McFadden, rh Mr Pat
 McGinn, Conor
 McGovern, Alison
 McInnes, Liz
 McKinnell, Catherine
 McMahan, Jim
 McMorrin, Anna
 Mearns, Ian
 Miliband, rh Edward
 Monaghan, Carol
 Moon, Mrs Madeleine
 Moran, Layla
 Morden, Jessica
 Morgan, Stephen

Morris, Grahame
 Murray, Ian
 Nandy, Lisa
 Newlands, Gavin
 Norris, Alex
 O'Hara, Brendan
 Onasanya, Fiona
 Onn, Melanie
 Onwurah, Chi
 Osamor, Kate
 Owen, Albert
 Peacock, Stephanie
 Pearce, Teresa
 Pennycook, Matthew
 Perkins, Toby
 Phillips, Jess
 Phillipson, Bridget
 Pidcock, Laura
 Platt, Jo
 Pollard, Luke
 Pound, Stephen
 Powell, Lucy
 Qureshi, Yasmin
 Rashid, Faisal
 Rayner, Angela
 Reed, Mr Steve
 Rees, Christina
 Reeves, Ellie
 Reeves, Rachel
 Reynolds, Jonathan
 Rimmer, Ms Marie
 Robinson, Mr Geoffrey
 Rodda, Matt
 Rowley, Danielle
 Ruane, Chris
 Russell-Moyle, Lloyd
 Ryan, rh Joan
 Saville Roberts, Liz
 Shah, Naz
 Sharma, Mr Virendra
 Sheerman, Mr Barry
 Sheppard, Tommy
 Sherriff, Paula
 Shuker, Mr Gavin
 Siddiq, Tulip
 Skinner, Mr Dennis
 Slaughter, Andy
 Smeeth, Ruth
 Smith, Angela
 Smith, Cat
 Smith, Eleanor
 Smith, Jeff
 Smith, Laura
 Smith, Nick
 Smith, Owen
 Smyth, Karin
 Snell, Gareth
 Sobel, Alex
 Spellar, rh John
 Starmer, rh Keir
 Stephens, Chris
 Stevens, Jo
 Stone, Jamie
 Streeting, Wes
 Sweeney, Mr Paul
 Swinson, Jo
 Tami, Mark
 Thewliss, Alison
 Thomas, Gareth
 Thomas-Symonds, Nick
 Thornberry, rh Emily
 Timms, rh Stephen

Trickett, Jon
 Turley, Anna
 Turner, Karl
 Twigg, Derek
 Twigg, Stephen
 Twist, Liz
 Umunna, Chuka
 Vaz, Valerie
 Walker, Thelma
 Watson, Tom
 West, Catherine
 Western, Matt
 Whitehead, Dr Alan

Whitfield, Martin
 Whitford, Dr Philippa
 Williams, Hywel
 Williams, Dr Paul
 Williamson, Chris
 Wilson, Phil
 Wishart, Pete
 Woodcock, John
 Yasin, Mohammad
 Zeichner, Daniel

Tellers for the Ayes:
Colleen Fletcher and
Vicky Foxcroft

NOES

Adams, Nigel
 Afolami, Bim
 Afriyie, Adam
 Aldous, Peter
 Allan, Lucy
 Allen, Heidi
 Argar, Edward
 Atkins, Victoria
 Bacon, Mr Richard
 Badenoch, Mrs Kemi
 Baker, Mr Steve
 Baldwin, Harriett
 Barclay, Stephen
 Baron, Mr John
 Bebb, Guto
 Bellingham, Sir Henry
 Benyon, rh Richard
 Beresford, Sir Paul
 Berry, Jake
 Blackman, Bob
 Blunt, Crispin
 Boles, Nick
 Bone, Mr Peter
 Bottomley, Sir Peter
 Bowie, Andrew
 Bradley, Ben
 Bradley, rh Karen
 Brady, Sir Graham
 Brereton, Jack
 Bridgen, Andrew
 Brine, Steve
 Bruce, Fiona
 Buckland, Robert
 Burghart, Alex
 Burns, Conor
 Burt, rh Alistair
 Cairns, rh Alun
 Campbell, Mr Gregory
 Cartledge, James
 Cash, Sir William
 Caulfield, Maria
 Chalk, Alex
 Chishtii, Rehman
 Chope, Sir Christopher
 Churchill, Jo
 Clark, Colin
 Clark, rh Greg
 Clarke, rh Mr Kenneth
 Clarke, Mr Simon
 Cleverly, James
 Clifton-Brown, Sir Geoffrey
 Coffey, Dr Thérèse
 Collins, Damian
 Costa, Alberto
 Courts, Robert
 Cox, Mr Geoffrey
 Crabb, rh Stephen
 Crouch, Tracey
 Davies, Chris
 Davies, David T. C.
 Davies, Glyn
 Davies, Mims
 Davies, Philip
 Davis, rh Mr David
 Dinenage, Caroline
 Djanogly, Mr Jonathan
 Docherty, Leo
 Dodds, rh Nigel
 Donaldson, rh Sir Jeffrey M.
 Donelan, Michelle
 Dorries, Ms Nadine
 Double, Steve
 Dowden, Oliver
 Doyle-Price, Jackie
 Drax, Richard
 Duddridge, James
 Duguid, David
 Duncan, rh Sir Alan
 Duncan Smith, rh Mr Iain
 Dunne, Mr Philip
 Ellis, Michael
 Ellwood, rh Mr Tobias
 Elphicke, Charlie
 Eustice, George
 Evans, Mr Nigel
 Evennett, rh David
 Fabricant, Michael
 Fallon, rh Sir Michael
 Fernandes, Suella
 Field, rh Frank
 Field, rh Mark
 Ford, Vicky
 Foster, Kevin
 Fox, rh Dr Liam
 Francois, rh Mr Mark
 Frazer, Lucy
 Freeman, George
 Freer, Mike
 Fysh, Mr Marcus
 Gale, Sir Roger
 Garnier, Mark
 Gauke, rh Mr David
 Ghani, Ms Nusrat
 Gibb, rh Nick
 Gillan, rh Dame Cheryl
 Girvan, Paul
 Glen, John
 Goldsmith, Zac
 Goodwill, Mr Robert
 Gove, rh Michael
 Graham, Luke
 Graham, Richard

Grant, Bill
 Grant, Mrs Helen
 Gray, James
 Grayling, rh Chris
 Green, Chris
 Green, rh Damian
 Greening, rh Justine
 Grieve, rh Mr Dominic
 Griffiths, Andrew
 Gyimah, Mr Sam
 Hair, Kirstene
 Halfon, rh Robert
 Hall, Luke
 Hammond, rh Mr Philip
 Hammond, Stephen
 Hancock, rh Matt
 Hands, rh Greg
 Harper, rh Mr Mark
 Harrington, Richard
 Harris, Rebecca
 Harrison, Trudy
 Hart, Simon
 Hayes, rh Mr John
 Heald, rh Sir Oliver
 Heappey, James
 Heaton-Harris, Chris
 Heaton-Jones, Peter
 Henderson, Gordon
 Herbert, rh Nick
 Hinds, Damian
 Hoare, Simon
 Hoey, Kate
 Hollingbery, George
 Hollinrake, Kevin
 Hollobone, Mr Philip
 Holloway, Adam
 Howell, John
 Huddleston, Nigel
 Hughes, Eddie
 Hunt, rh Mr Jeremy
 Hurd, Mr Nick
 Jack, Mr Alister
 James, Margot
 Javid, rh Sajid
 Jayawardena, Mr Ranil
 Jenkin, Mr Bernard
 Jenkyns, Andrea
 Jenrick, Robert
 Johnson, Dr Caroline
 Johnson, Gareth
 Johnson, Joseph
 Jones, Andrew
 Jones, rh Mr David
 Jones, Mr Marcus
 Kawczynski, Daniel
 Keegan, Gillian
 Kennedy, Seema
 Kerr, Stephen
 Knight, rh Sir Greg
 Knight, Julian
 Kwarteng, Kwasi
 Lamont, John
 Lancaster, Mark
 Latham, Mrs Pauline
 Leadsom, rh Andrea
 Lee, Dr Phillip
 Lefroy, Jeremy
 Leigh, Sir Edward
 Letwin, rh Sir Oliver
 Lewer, Andrew
 Lewis, rh Brandon
 Lewis, rh Dr Julian
 Lidington, rh Mr David
 Little Pengelly, Emma
 Lopez, Julia
 Lopresti, Jack
 Lord, Mr Jonathan
 Loughton, Tim
 Mackinlay, Craig
 Maclean, Rachel
 Main, Mrs Anne
 Mak, Alan
 Malthouse, Kit
 Mann, Scott
 Masterton, Paul
 Maynard, Paul
 McLoughlin, rh Sir Patrick
 McPartland, Stephen
 McVey, rh Ms Esther
 Menzies, Mark
 Mercer, Johnny
 Merriman, Huw
 Metcalfe, Stephen
 Miller, rh Mrs Maria
 Milling, Amanda
 Mills, Nigel
 Milton, rh Anne
 Mitchell, rh Mr Andrew
 Moore, Damien
 Mordaunt, rh Penny
 Morgan, rh Nicky
 Morris, Anne Marie
 Morris, David
 Morris, James
 Morton, Wendy
 Mundell, rh David
 Murray, Mrs Sheryll
 Murrison, Dr Andrew
 Neill, Robert
 Newton, Sarah
 Nokes, Caroline
 Norman, Jesse
 O'Brien, Neil
 Offord, Dr Matthew
 Opperman, Guy
 Paisley, Ian
 Parish, Neil
 Patel, rh Priti
 Paterson, rh Mr Owen
 Pawsey, Mark
 Penning, rh Sir Mike
 Penrose, John
 Percy, Andrew
 Perry, Claire
 Philp, Chris
 Pincher, Christopher
 Poulter, Dr Dan
 Pow, Rebecca
 Prentis, Victoria
 Prisk, Mr Mark
 Pritchard, Mark
 Pursglove, Tom
 Quin, Jeremy
 Quince, Will
 Raab, Dominic
 Redwood, rh John
 Rees-Mogg, Mr Jacob
 Robertson, Mr Laurence
 Robinson, Gavin
 Robinson, Mary
 Rosindell, Andrew
 Ross, Douglas
 Rowley, Lee
 Rudd, rh Amber

Rutley, David
 Sandbach, Antoinette
 Scully, Paul
 Seely, Mr Bob
 Selous, Andrew
 Shannon, Jim
 Shapps, rh Grant
 Sharma, Alok
 Shelbrooke, Alec
 Simpson, David
 Simpson, rh Mr Keith
 Skidmore, Chris
 Smith, Chloe
 Smith, Henry
 Smith, rh Julian
 Smith, Royston
 Soames, rh Sir Nicholas
 Soubry, rh Anna
 Spelman, rh Dame Caroline
 Spencer, Mark
 Stevenson, John
 Stewart, Bob
 Stewart, Iain
 Stewart, Rory
 Stride, rh Mel
 Stringer, Graham
 Stuart, Graham
 Sturdy, Julian
 Sunak, Rishi
 Swayne, rh Sir Desmond
 Swire, rh Sir Hugo
 Syms, Sir Robert
 Thomas, Derek
 Thomson, Ross
 Throup, Maggie
 Tolhurst, Kelly
 Tomlinson, Justin
 Tomlinson, Michael
 Tracey, Craig
 Tredinnick, David
 Trevelyan, Mrs Anne-Marie
 Truss, rh Elizabeth
 Tugendhat, Tom
 Vaizey, rh Mr Edward
 Vara, Mr Shailesh
 Vickers, Martin
 Villiers, rh Theresa
 Walker, Mr Charles
 Walker, Mr Robin
 Wallace, rh Mr Ben
 Warburton, David
 Warman, Matt
 Watling, Giles
 Whately, Helen
 Wheeler, Mrs Heather
 Whittaker, Craig
 Whittingdale, rh Mr John
 Wiggin, Bill
 Williamson, rh Gavin
 Wilson, Sammy
 Wollaston, Dr Sarah
 Wood, Mike
 Wragg, Mr William
 Wright, rh Jeremy
 Zahawi, Nadhim
Tellers for the Noes:
Stuart Andrew and
Andrew Stephenson

Question accordingly negated.

Bill to be further considered tomorrow.

PETITION

East End Jobcentre Closures

7.32 pm

David Linden (Glasgow East) (SNP): With the—
[Interruption.]

Mr Speaker: Order. If, unaccountably, there are right hon. and hon. Members who do not wish to hear the contents of the petition, perhaps they can leave the Chamber quickly and quietly. The hon. Member for Stratford-on-Avon (Nadhim Zahawi) has a most interesting conversation, I am sure. It is best conducted outside the Chamber, for which we are grateful. Nevertheless, the hon. Member for Glasgow East (David Linden) still has the joy and exhilaration of addressing an almost packed House.

David Linden: Thank you very much, Mr Speaker.

I rise to present a petition on behalf of the constituents of Glasgow East. With the UK Government already having betrayed the communities of Anniesland and Maryhill by closing their jobcentre, this is the last attempt to save our jobcentres in Glasgow East.

The petition states:

The petition of residents of Glasgow East constituency, declares that the Department for Work and Pensions plans to close Jobcentres in Glasgow, including Parkhead Jobcentre and Easterhouse Jobcentre, will impact tens of thousands of people in receipt of Jobseeker's Allowance, Employment Support Allowance and Universal Credit,

[*David Linden*]

and that the consequences will be severely felt by some of the most vulnerable and disadvantaged people; have concerns that these closures will result in the poorest communities not being serviced by a Jobcentre and make it even harder for those seeking employment to get support, with people running a greater risk of falling foul of the UK Government's sanctions regime; and are further concerned that these plans will also impact Scottish workers who will be forced to relocate to other Jobcentres.

The petitioners therefore request the House of Commons to urge the Government to halt any move to close Glasgow's Jobcentres, publish thorough Equality Assessments and go through a full and proper consultation before making any decisions on the future of the estate.

And the petitioners remain, etc.

[P002097]

Patient Transport Services: Northern Lincolnshire

Motion made, and Question proposed, That this House do now adjourn.—(*Craig Whittaker.*)

7.35 pm

Andrew Percy (Brigg and Goole) (Con): I welcome the Minister of State, Department of Health and Social Care, my hon. Friend the Member for Gosport (Caroline Dinenage), who will respond to tonight's debate. It is, I think, her first time in action as a Health Minister. Although this subject is not directly part of her departmental portfolio, we are grateful to her for coming to respond to the debate.

I obtained the debate to draw attention to the appalling standard of the patient transport services that Thames Ambulance Service Ltd has been providing to my constituents in north Lincolnshire. That concern is shared by other local Members of Parliament—indeed, all of us, not just across north Lincolnshire but through to the City of Hull, where Thames Ambulance Service also provides patient transport services. A common theme that constituents have raised with me and my team is that they themselves raised these concerns with Thames Ambulance Service but received no satisfactory response from the company. Having loved ones stranded when at their most vulnerable, following chemotherapy, or learning that elderly relatives with severe dementia or Alzheimer's have been stranded or forgotten in very low temperatures, is of course very emotive for family members. Their questions to Thames Ambulance Service often go unanswered, in a thoroughly unacceptable way.

Helen Goodman (Bishop Auckland) (Lab): The hon. Gentleman is making a very good speech. The service is also a problem in the rural parts of my constituency. Old people are now refusing to go to hospital appointments because they are worried about whether they can get there and get back, because the transport is so bad. Does he agree that this is fundamentally a health issue?

Andrew Percy: I am sorry to learn that the experiences extend also to County Durham, because going to hospital is stressful enough in and of itself, particularly if one is very elderly or very vulnerable, as many people who use these services are, but especially so if one is not sure whether one will get home at the end of one's treatment or after an appointment.

This is not, of course, a reflection on the frontline staff of Thames Ambulance Service, who are doing their very best in very difficult circumstances. I will come on to what some of the whistleblowers who have contacted us from that service have told us.

Nic Dakin (Scunthorpe) (Lab) *rose*—

Andrew Percy: Of course I will give way to my neighbour in Scunthorpe.

Nic Dakin: I congratulate the hon. Gentleman on securing this debate. I have regularly had messages commenting about patient transport arriving late to pick people up, sometimes too late to get to appointments in time; patient transport sending unsuitable vehicles, so that disabled patients cannot access the transport;

transport arriving late to a pick-up from hospital. That is a consistent theme. I have met with Thames. They held their hands up and said they had got problems. They said they were going to sort them out, but sadly, a month later, the problem is not getting any better.

Andrew Percy: I thank my hon. Friend and neighbour for that intervention. This is the problem. In many ways, it is nice that Thames Ambulance Service have met him. The correspondence that I have repeatedly sent them, chased by their official complaints procedure, by their chief executive, has not been responded to. So constituents who have not had a response have come to me, and I have then gone to Thames Ambulance Service, which has not responded to me. The service has not got any better. I will cite a few of the examples that my constituents have given, which are similar to my hon. Friend's experience.

These experiences are being wrought on very vulnerable people. I want to go through a number of examples from my constituency. I will not name patients.

Diana Johnson (Kingston upon Hull North) (Lab): I congratulate the hon. Gentleman on securing this evening's debate. In Hull, we were also covered by Thames Ambulance Service. They are already under a contract performance notice because of their failure to do what their contract says they should. A constituent—a cancer patient—contacted me just today to tell me about being left, being forgotten, not being able to get to chemotherapy sessions, not being able to get to radiotherapy sessions. That constituent had seen people who had had to wait up to four hours for a journey back to Scarborough or Lincolnshire, in a waiting area with only upright chairs, when all one would want to do at that stage is sleep. It is totally unacceptable and the service does not seem to have improved, despite that contract performance notice.

Andrew Percy: It is saddening that the same experiences are happening just across the river in the city of Hull as well. This appears to be a consistent theme wherever this company provides ambulance transport services. Unfortunately, the hon. Lady describes an experience that many of my constituents have shared.

In fairness to the north Lincolnshire clinical commissioning group, it has, through the scrutiny processes at North Lincolnshire Council, effectively put the company on notice and informed it that the service is not good enough. Despite that, the improvements have not happened.

Melanie Onn (Great Grimsby) (Lab): I thank the hon. Gentleman for giving way. It is fair to say that all our constituents have suffered for reasons that Thames Ambulance Service Ltd has brought on itself to some extent. It has decided not to pay volunteer drivers, who have been the backbone of the service for some time, to travel to and from where patients must be collected. That means that it has lost 40 of those volunteer drivers. Should it not be rewarding the people who have been the backbone of the service rather than treating them that shoddily?

Andrew Percy: I could not disagree with a word the hon. Lady said. She has stolen my thunder—[*Interruption.*] No, it is good! I was going to come on to the company's treatment of volunteer drivers. Not only has it said that

it will not pay them for mileage unless a patient is in the vehicle, but at three months' notice it told them that if their vehicles were more than five years old, they could no longer be volunteer drivers. Despite that having been its policy for a considerable time, a company cannot give volunteers three months' notice like that—say, effectively, "Change your vehicle or give up on the service." Through its own actions, the company has made an already struggling service much worse. It has absolutely brought the situation on itself.

I have dealt with the issue of volunteer drivers, and I thank the hon. Member for Great Grimsby (Melanie Onn) for raising it. I want to give a couple of examples from my constituency to demonstrate how poor the service has been. One of my constituents in Brigg was given short notice that their transport was to be cancelled because there were no ambulances. That meant that this person, who suffers from mobility issues, had to cancel an important scan. It is impossible for them to get in or out of vehicles unless they have been specially arranged.

The mother of another constituent from Crowle on the Isle of Axholme is 87 years old; she suffers from dementia, is partially sighted and has been repeatedly left stranded following appointments arranged way in advance. My constituent has completely lost trust in the service and family members have had to take time off work to ensure that the lady gets to hospital. The service is there to ensure that that does not have to happen. The situation is completely unacceptable.

Another constituent from the Isle of Axholme has repeatedly been left stranded and unable to book an ambulance. They have been forced to use expensive taxis, which meant that the trip doubled in length. On one occasion the service failed to fulfil a pick-up arranged in advance, and that again required them to use a taxi. The service is totally unacceptable.

Martin Vickers (Cleethorpes) (Con) *rose*—

Andrew Percy: I give way to my north Lincolnshire colleague.

Martin Vickers: Like the Opposition Members and my hon. Friend, I have a long list of complaints from constituents, but I want to highlight a particularly bad case. On two occasions—once at Scunthorpe Hospital and once at Grimsby Hospital—a 91-year-old gentleman in Barton-upon-Humber had to wait for four hours before transport was provided to get him home. On one occasion, he did not get home until past midnight. The situation is extremely serious.

Andrew Percy: Absolutely. As my hon. Friend has highlighted again in this debate, we are not talking about one or two cases: Members of Parliament across our area have multiple cases. I want to highlight another one. Another constituent of mine, this time from Burton-upon-Stather, has to attend Castle Hill Hospital for chemotherapy every single day. His experience is of ambulances frequently being late, of other patients missing their appointments and of late collection for following treatment. As he has pointed out, receiving chemotherapy means that he is already very ill and weakened, but not just once but regularly he has had to wait up to three hours for an ambulance to collect him. He has also had issues with the booking system and trying to get a place at all.

[*Andrew Percy*]

My final example is of another constituent living just outside Burton-upon-Stather: 82 years old, suffering from Alzheimer's, in a wheelchair and with very poor mobility, he is totally dependent on the assistance of others to get to and from hospital. Again, his experience is of frequently waiting for the service to collect him from Scunthorpe Hospital. Not so long ago, during snowy, freezing weather, he was left for over three hours in a hospital doorway, waiting for a lift. In the end, hospital staff intervened and brought him inside to warm up, but yet again the experience of the complaints process was that Thames Ambulance Service was wholly unresponsive in dealing with complaints.

Jim Shannon (Strangford) (DUP): I congratulate the hon. Gentleman on securing this debate. The consensus in the Chamber is clear. The current format has people waiting at home for transport to hospital—for a scan or other procedure—and then having it cancelled. Does he agree that it is not just about cancelled operations and appointments or wasted slots, but about the financial impact on the service and on the patients, who then have to go to the back of the queue, and about the trauma they go through as a result?

Andrew Percy: It has a whole knock-on effect, whether it be individuals having to find their own transport, missed appointments or rescheduled appointments—it is all incredibly expensive—and it is not just patients who have these terrible experiences, of course; it is also the drivers. I have had whistleblowers from the service contact my office. One said they come on duty at 12 o'clock and are expected at the same time to be at Castle Hill Hospital in Hull with patients. They have described themselves as being at their wits' end and thoroughly stressed. One contacted me recently about a 100-year-old lady who had to wait three and a half hours to get home.

Nic Dakin: It is interesting to reflect that back before Thames took over the contract we did not have these problems. When we, as northern Lincolnshire MPs, met the hospital trust, it confirmed that these problems were related to how Thames was operating the contract and that it was adding to their problems trying to deliver high-quality care.

Andrew Percy: That is absolutely right. There is an argument for saying that those who provide the emergency services—East Midlands Ambulance Service in the case of Scunthorpe—are better able to provide the patient transport services, just as in Goole we would want Yorkshire Ambulance Service to provide the patient transport. There seems to be some sense in that, unless it is a very strong local community transport organisation that we know we can trust. Yes, there are always examples of failure, but we did not have this recurrent theme of failure under the previous system.

Melanie Onn *rose*—

Andrew Percy: I will give way to the hon. Lady, but then I want to give the Minister enough time to respond.

Melanie Onn: I thank the hon. Gentleman for giving way; he is being very generous this evening. Following on from the point made by my hon. Friend the Member

for Scunthorpe (**Nic Dakin**), our local hospital trust is already in special measures—it has gone into special measures for the second time—and senior board members are raising Thames as a potential difficulty and challenge in their efforts to meet their key performance indicators and get out of special measures. This is something the Government need to take really seriously.

Andrew Percy: It is incredible that what is judged to be a failing trust has a failing transport patient service that is making it even more difficult for it to get out of special measures. That is another reason I brought this matter to the House today.

Following on from the intervention of the hon. Member for Scunthorpe (**Nic Dakin**), one of my requests is to the Department for Transport—so not directly in the gift of the Minister in the Department of Health and Social Care—which is currently undertaking a transport accessibility consultation. It might be sensible if the issue of patient transport were to be wound up as part of that. That is one of my asks. I know that the Minister cannot respond, as it is not her Department, but it would be useful if she could pursue it interdepartmentally.

I want to give the Minister enough time to respond, so I will not say much more, but the concerns that I have described are shared by the clinical commissioning group, which has raised these issues with North Lincolnshire Council's health scrutiny panel on a number of occasions and has told the panel that there will be further sanctions if the service does not improve. Sadly, that was said at the end of October, and, as other Members' interventions have made clear, there has been no turnaround since then.

Martin Vickers: I agree with my hon. Friend that action needs to be taken. Does he agree that the service has had long enough to get its act together, and that the Minister ought to be consulting the local health trust and the CCG with a view to terminating the contract?

Andrew Percy: I think that that is absolutely true. The chairman of the scrutiny panel, Holly Mumby-Croft, who is a councillor for the Broughton and Appleby ward in my constituency, has said that the "volume of people" who have contacted the panel directly is "very unusual". It is for people to go directly to a scrutiny panel; not many are aware of the position of the council. That alone suggests that the problem cannot be solved through the usual channels. After the most recent appearance of Thames Ambulance Service before the panel, the chairman said:

"I have seen actually no improvement. None at all. It is worse."

There is something seriously failing here, and it is putting the performance of our local hospitals at risk. More important, it is having a huge impact on our constituents.

I realise that the Government did not commission the service, and that it was commissioned by the CCG, which is responsible for the performance of the contract. However, I have some asks of the Minister.

Could the whole issue of patient transport be considered as part of the consultation that is currently being undertaken by the Department for Transport? Will the Minister and the Department look at the performance of Thames Ambulance Service in north Lincolnshire, and perhaps also in Hull, to see whether anything can be done directly by the Department to improve its performance?

Will they, if necessary, look into what powers are available to establish whether or not this is a business that should be operating within the health service at all? If it is routinely leaving people with three and a half to four hours to get home, surely we need to ask, whether through NHS England or locally, whether this organisation should be allowed to provide transport services.

I accept that responsibility lies directly with the commissioners. I therefore urge the Minister to engage with the north Lincolnshire CCG and put maximum pressure on it to ensure that the powers made available in the contract tender to impose fines or even terminate the contract are used if there are not serious improvements very quickly. I have no confidence that the service will improve. I think it is time that the contract was terminated, and that either the local authority or the local ambulance service has another opportunity to tender. All of us in our area want the same thing. We want a patient transport service that does what it is meant to do: take people to hospital and get them home in a timely manner.

I look forward to the Minister's response.

7.53 pm

The Minister of State, Department of Health and Social Care (Caroline Dinagen): I congratulate my hon. Friend the Member for Brigg and Goole (Andrew Percy) on securing the debate. As he has so elegantly articulated, the provision of patient transport services is important to many people throughout the country.

Let me take this opportunity to give heartfelt thanks to all the staff in the health and care system. They work tirelessly in often difficult circumstances, routinely going above and beyond the call of duty to keep patients safe. Those dedicated people make our NHS truly great. No one knows that better than my hon. Friend, who spends weekends volunteering as a first responder with the Yorkshire Ambulance Service. He deserves massive thanks for everything that he does in that role, as do all first responders up and down the country.

We recognise that effective patient transport services are vitally important, not only to ensure the provision of high-quality, safe services for patients, but to ensure that patient flow through hospitals is not slowed by missed medical appointments or delayed patient discharges. We are clear that local NHS CCGs must ensure that reliable, safe and comfortable patient transport services are delivered and maintained.

Patient transport services, like almost all other health services, are locally commissioned and provided to ensure that they are well adapted to local conditions. It is for local CCGs to set appropriate expectations of service with their providers and to take swift action where they fall short. However, that is not to say that the Government have no expectations of how these services should be delivered and should function. There is well-established national guidance on who is eligible to use patient transport services which makes it very clear that patients should reach appointments in reasonable time and comfort without detriment to their medical condition. NHS England has also communicated with the CCGs about their responsibilities when commissioning patient transport services via its CCG bulletin.

Nic Dakin: I congratulate the Minister on taking up her new post, which I am sure she will do very well. She said that CCGs should take swift action when things are

not working. What does swift action look like? This has been going on for some time now; how quickly should the people of northern Lincolnshire expect to have the patient transport service they deserve?

Caroline Dinagen: Of course, we have devolved this matter locally and it is up to the local CCG to take action. I know that a recovery plan is in place and the delivery of the plan is now being monitored weekly, but the hon. Gentleman is right, and, like my hon. Friend the Member for Brigg and Goole, he has kept on articulating this issue and asking these questions on behalf of his constituents, to try to find out when they will see a visible difference to the service, because it is currently not good enough.

Patient transport providers are also required to be registered and inspected by the Care Quality Commission, the independent regulator of health services. This Government have given the CQC more powers, and it is now able to rate independent healthcare transport providers in the same way as NHS ambulance services. We fully support the CQC in its work to ensure that users of patient transport services are protected, and where services are not good enough and the necessary improvements have not been made, it can take further action, including issuing fines, service restrictions, and ultimately the cancellation of a provider's registration.

Additionally, we are very supportive of the Department for Transport-led total transport initiative, which I think was what my hon. Friend the Member for Brigg and Goole was referring to, and which is currently piloting the joint commissioning of public sector-funded transport in order to reduce the risk of services overlapping, improve efficiency, and provide a better overall service to passengers.

From the local work carried out so far, it has become clear there are a range of potential benefits for the NHS, including helping to avoid bed blocking—where patients sometimes cannot go home because non-emergency patient transport is not available—and improving access to NHS services by reducing missed appointments due to late or unavailable transport. We have asked NHS England to ensure that CCGs are all engaging in this important work.

Melanie Onn: I welcome the Minister to her new role and wish her the best of luck, but from what she is saying I am not entirely clear how the Government will follow up and pressure will be brought to bear on the CCGs in the delivery of the contract. I had a 97-year-old lady, whom the new chief executive of the Diana, Princess of Wales Hospital and the Northern Lincolnshire and Goole NHS Foundation Trust met. She had had to wait for eight hours in the emergency care centre for transport to go home. There needs to be a little more urgency in the Minister's response.

Caroline Dinagen: I completely understand why the hon. Lady is articulating that; every one of these incidents is absolutely unacceptable and in many cases very distressing. The issue with devolving such clinical decisions to local areas, however, is that we have to allow the CCG to take the necessary steps to ensure the service is put back on to a better footing.

Diana Johnson: This is not just one CCG; it involves more than one. I have already mentioned the fact that Hull contracts with Thames Ambulance Service. Does

[Diana Johnson]

the Minister really think that this business—it is a profit-making business—is fit for purpose?

Caroline Dinenge: The hon. Lady is absolutely right to raise that point. I am aware that similar problems have been identified with the same provider in other parts of Yorkshire and the east midlands. Improvements must of course be made, which is why commissioners are working to oversee and manage the necessary improvements and trying to achieve the level of performance that is required.

Turning to the particular issues affecting northern Lincolnshire, my hon. Friend the Member for Brigg and Goole and other hon. Members across the House are absolutely right to point out the problems with the services commissioned in and around their constituencies. I have read some of the cases today, including some distressing cases involving patients with conditions such as dementia and cancer experiencing long delays with their transport. Such delays are clearly a source of incredible distress for people who are already facing a very difficult time in their lives. Many of them may be very vulnerable, and we are absolutely clear that this needs to change.

North Lincolnshire CCG awarded a patient transport contract to Thames Ambulance Service in October 2016 following an open procurement process. Issues around the quality of service are acknowledged, and we are aware that people have experienced delays. That is clearly unacceptable. I assure my hon. Friend and other Members that a range of actions is being undertaken to ensure the delivery of an appropriately high-quality service. The CCG is working closely to support Thames Ambulance Service to achieve the required level of performance. It has served a contract notice to the provider based on delivery against key performance indicators, the number of patient complaints, and issues associated with data reporting.

A robust recovery plan has been put in place, and delivery against this is carefully monitored on an ongoing basis. Key actions include the recruitment of six additional staff in north Lincolnshire and the mobilisation of

additional vehicles. I understand these staff have recently been trained and deployed. A patient transport co-ordinator has also been employed, working with the hospital to improve the process for patients being discharged. The CCG has also worked with the provider to improve its complaints process, and I am advised that its backlog of complaints has now been cleared.

I hope that my hon. Friend is also reassured by the level of Care Quality Commission engagement with Thames Ambulance Service. In its inspection report of April 2017, the CQC uncovered a number of areas for improvement, ultimately issuing enforcement action against the provider in respect of regulation 17, which covers good governance; regulation 13, covering safeguarding; and regulation 5, which deals with requirements relating to registered managers. The CQC continues to monitor the provider closely to ensure that the required improvements are being made. It is currently undertaking a fresh review of the service and will issue a further report when its latest inspection is complete. We expect this to be published and available online before the end of March. That will be exactly the same for the provider in the constituency of the hon. Member for Kingston upon Hull North (Diana Johnson).

Finally, I am also advised that the CCG has reviewed the application of the eligibility criteria for patient transport services across the area to ensure that they are being applied evenly. Through this process, it has determined that some patients who have historically accessed these services may no longer be considered eligible. We obviously have to take steps to ensure that the service is more consistent and that the CCG is working with the provider to ensure that affected patients are informed as soon as possible and given helpful advice on how to access alternative services if they are required. I would like to thank my hon. Friend again for bringing these matters to our attention, and I very much hope he is reassured that all appropriate actions are beginning to be taken to restore the delivery of effective patient transport services to his constituents.

Question put and agreed to.

8.4 pm

House adjourned.

Westminster Hall

Tuesday 16 January 2018

[NADINE DORRIES *in the Chair*]

Junk Food Advertising and Childhood Obesity

9.30 am

Maggie Throup (Erewash) (Con): I beg to move,

That this House has considered the effect of junk food advertising on obesity in children.

It is a pleasure to serve under your chairmanship, Ms Dorries, for what I think is the first time. I thank colleagues across all parties for supporting my bid for this debate to the Backbench Business Committee, and I thank the Backbench Business Committee for understanding the importance of junk food advertising and its impact on childhood obesity and for granting this debate.

If hon. Members will excuse the pun, the size of the issue is getting bigger. Some 23% of children in reception are overweight or obese, rising to 34% of children in year 6, and the prevalence is higher for boys than girls in both age groups. Over the last 30 years, there has been a substantial increase in average weight in the UK and, at the same time, a decline in the quality of diets. It is predicted that if current trends continue, half of all children will be obese or overweight by 2020, which is just two years away.

Obese children are about five times more likely to remain obese in adulthood, so acting early can protect them from a lifetime of avoidable ill-health and disease. Obesity can lead to a number of serious and potentially life-threatening conditions, such as type 2 diabetes, heart disease and cancer. Recently, cases of type 2 diabetes have been reported in teenagers, although until now it has been recognised as a disease of older age. Obesity costs the national health service an estimated £5.1 billion and the UK economy £27 billion each year, so it is of the utmost economic importance that the obesity epidemic is addressed. I fear that those costs are grossly underestimated.

Obesity is strongly linked to socioeconomic deprivation. Findings from the most recent national child measurement programme show that inequalities in obesity prevalence between the most and least deprived quintiles of children in reception are widening faster than expected. Obesity is also twice as prevalent among children living in the most deprived parts of England than among those in the least, and patterns are similar across Scotland and Wales. That reflects the fact that families from lower socioeconomic backgrounds across the UK have the poorest diets, high in saturated fat and low in fruit, vegetable and fibre consumption.

Research also shows that the poorest UK households are exposed to twice as many television food adverts than the most affluent viewers. That exposure is problematic. Food advertising in the UK disproportionately features unhealthy food items, and young children are especially vulnerable to marketing techniques that promote unhealthy food. The pervasive harms of adverts place untold

pressures on the poorest in society. Children with low nutritional knowledge are more likely than those with higher literacy to select unhealthy meals after seeing junk food adverts. Junk food marketing exacerbates health inequalities, especially among very young children and adolescents.

Over the last couple of years, there has been much focus on the impact of sugar on children's health and the growing problem of obesity. However, we must not lose sight of the role that foods high in fats and salt play in the epidemic of obesity sweeping our nation. I am sure that Jamie Oliver's visualisation of the amount of sugar in fizzy drinks in teaspoons helped the public to understand the issue, but we need to go further. The salt content of processed food has decreased over the past decade, mainly as a result of successful campaigning, and it is now common to find low-fat alternatives on supermarket shelves, but there is more still to do. As we focus our minds on trying to rid ourselves of those few extra pounds we mysteriously gained over the festive season, it is the right time to focus the Government's mind on continuing measures to continue to tackle the obesity epidemic.

Paul Blomfield (Sheffield Central) (Lab): I congratulate the hon. Lady on securing this debate, and she is making a powerful contribution about the scale of the crisis. Prevention is clearly more important than cure, but given where we are now, does she acknowledge that we also need to focus on cure? Does she share my concern that too few clinical commissioning groups are commissioning tier 3 services, which can make positive interventions to support seriously obese children?

Maggie Throup: I agree completely. We need to consider prevention, cure and treatment. It is a huge problem, and it will not go away unless we tackle every aspect of it. The hon. Gentleman makes a good point.

The debate in Parliament on the impact of junk food, by which I mean food high in fats, salt and sugar, is not new. I talked to somebody just last week who gave me the insight that we have been discussing it for getting on for 15 years—probably more than that, if we backtrack even further—and we still do not have the courage to ban the advertising of products with such a major impact on the health of our nation and our future generations.

Recently, the Select Committee on Health held an inquiry and produced a report, "Childhood obesity—brave and bold action", followed up in a short report early last year. Both reports contained a strong call for a ban on junk food advertising before the 9 o'clock watershed, yet that was sadly missing from the Government publication "Childhood obesity: a plan for action", introduced in August 2016.

I am delighted that new rules on advertising were introduced by the Committee of Advertising Practice in July 2017—their impact is still being analysed. The rules banned the advertising in children's media of food or drink products high in fat, salt or sugar. The restrictions now apply across all non-broadcast media, including print, cinema, online and social media, but that does not solve the problem. In 2015, Public Health England recommended extending current restrictions to apply across the full range of programmes that children are likely to watch, rather than limiting them to children-specific

[*Maggie Throup*]

programming. Yes, restrictions apply to advertising high fat, salt and sugar products during prime time, but only when the audience is made up of 20% children or more.

A recent study commissioned by the Obesity Health Alliance found that 59% of food and drink adverts shown during family viewing time would be banned from children's TV, yet hundreds of thousands of children are exposed to them every week. In the worst-case example, children were bombarded with nine adverts for products high in fat, salt and sugar in one 30-minute period. Adverts for fast food and takeaways appeared more than twice as often as any other type of food and drink advert, while adverts for fruit and vegetables made up just over 1% of food and drink adverts shown during family viewing times. The study also showed that the number of children watching TV peaks between 7 pm and 8 pm, definitely not when children-only programmes are shown.

Although I recognise that advertising restrictions in the UK on high fat, salt or sugar products are among the toughest in the world, we need to be even tougher. The childhood obesity plan published by the Government in August 2016 states that it is only the start of the conversation. This debate aims to help continue that conversation and focus on other measures that the Government can take to stop and reverse the obesity epidemic.

Mr Gregory Campbell (East Londonderry) (DUP): I congratulate the hon. Lady on securing this debate, which is similar to one that I secured six years ago in Westminster Hall. The situation has worsened considerably in that time. Does she agree that the plan that she just elaborated on needs action points from the Government along the lines that she has intimated? We need outcome targets so that the next generation of children will see a significant improvement, rather than the deterioration in the current generation.

Maggie Throup: I agree completely, and I thank the hon. Gentleman for that intervention. I was always taught that measures put in place with no targets or goals to meet are meaningless. We need to know where we want to be, and by when.

Dr Dan Poulter (Central Suffolk and North Ipswich) (Con): I congratulate my hon. Friend on securing this debate. I am sure she will agree that the obesity problem is growing and that measures to tackle it have been wholly inadequate. As with smoking, when we know something is harmful, we need a step change in measures to deal with it. An out-and-out ban on advertising—other hon. Members may comment on that—and a consideration of how we could severely restrict how high fat, salt and sugar foods and drinks are sold may be ways to take the strategy forward.

Maggie Throup: My hon. Friend is right—his background makes him an expert in the field—that no one measure will solve the problem. The Health Committee has called for “bold and brave action”, but we are a long way from seeing that.

No one measure will successfully tackle childhood or adult obesity. It is more than just sugar—many different aspects of food are causing the obesity epidemic. The

soft drinks industry levy will play its part, as will Public Health England's message, which was well publicised over Christmas and new year, that children should have only two snacks a day. Tackling junk food advertising is an important part of the jigsaw.

Conor McGinn (St Helens North) (Lab): When the sugar tax was introduced, Vimto, which has its headquarters in my constituency, would have avoided it on 60% of its products because they were already sugar free. That figure is now 100% because industry growth has been led by the fact that 70% of demand is for sugar-free drinks. In contrast, £200 million was taken from the public health budget in 2015-16, £85 million was taken in 2016-17, and 3.9% will be taken each year up to 2020. In some respects, the industry and the public are ahead of the Government.

Maggie Throup: There has been a step change in the industry. It has realised that if it does not take steps itself, more punitive measures may be imposed. Hopefully, debates such as this one will help the industry and other corporate bodies to take responsibility, which is a good way to address the issue.

It is well recognised that children and young people are particularly vulnerable to junk food advertising. Evidence shows a link between advertising and the types of food that that group prefer to buy and eat. Restrictions to advertising in or around programmes specifically made for children were introduced 10 years ago, but no Government since have made any effort to update the broadcast rules, despite widespread recognition of the health harms of junk food advertising. Anybody watching “Newsnight” last night will have seen that advertisers are finding ways to circumvent the rules, which is not what rules are there for.

By applying broadcast restrictions only to children's programming, the pattern of TV viewing by children today is not taken into account.

Louise Haigh (Sheffield, Heeley) (Lab): The hon. Lady makes a powerful case about advertising. Evidence suggests that children as young as 18 months old can recognise branded products, so it has a significant and pernicious impact on very young children. Many people may not expect that. Does she agree that the rules need to be extended, not just for broadcast to ensure that they affect family viewing time, but to online advertising as well?

Maggie Throup: I completely agree. Some of the new restrictions imposed by the Committee of Advertising Practice in July aimed to do that, so that whatever method a child is viewing by, whether it is gaming or whatever, it is controlled. At a meeting just before Christmas, the committee said that it had still not been able to analyse the impact of the restrictions. Hopefully, in a few months' time, we will get some feedback as to whether they are working or not—let us hope that they are.

Children are viewing TV—and lots of other media, as the hon. Lady said—in different ways, so we are calling for that to be taken into consideration to ensure that legislation is up to date. The rules are outdated and we urgently need an update to reflect changing viewing patterns.

We could debate whether restrictions on advertising are the responsibility of the Department of Health and Social Care or of the Department for Digital, Culture, Media and Sport, but ultimately we are discussing the health of our future generations. The Department of Health and Social Care should grasp that responsibility and make a difference.

The soft drinks industry levy, which has received a tremendous amount of attention, is a matter for the Treasury, but it appeared in the childhood obesity plan published by the then Department of Health in August 2016. There is no reason why introducing advertising restrictions for the sake of our nation's health should be deemed to be under the DCMS remit.

The Minister indicated to me that it was too early to have this debate as he may not be able to give any concrete answers, but it is never too early to have a debate on an issue that affects our children's health. "Childhood obesity: a plan for action" states that it is just the "start of a conversation". It would be wrong of us, as parliamentarians, not to take every opportunity to continue that conversation. I hope that this debate influences the next stages of the measures to tackle childhood and adult obesity.

We have passed the stage of assuming that the implementation of further restrictions to the advertising of food and drinks high in fats, salt and sugar is part of a nanny state. There is now consensus across the House that responsibility and duty of care needs to be shown to our children and young people through bold and brave actions that will have an impact not only on future generations but on people today.

Before I finish, I have two more thoughts to throw into the mix. First, we should be mindful that there must be an element of personal and parental responsibility. Secondly, it is not a coincidence of scheduling that these adverts run alongside some of our biggest TV shows, such as the "The X Factor", "Britain's Got Talent", "I'm a Celebrity", "Hollyoaks" and "The Simpsons". If we are to truly effect change, we need some of that star magic, as Jamie Oliver demonstrated.

The power of celebrity cannot be underestimated. With that in mind, I call on household names such as Simon Cowell, Ant and Dec, Dermot O'Leary and Amanda Holden to take some corporate responsibility, stand up to broadcasters and say that they will no longer be used as a hook to sell harmful junk food to our children and theirs.

Dr Poulter: My hon. Friend has made excellent points throughout her speech. Certain sports teams and events are sponsored by junk food advertising and companies such as KFC. In that context, corporate responsibility is important, but do the Government need to look at banning such advertising, as they did with tobacco advertising in Formula 1 many years ago?

Maggie Throup: As ever, my hon. Friend makes a good point. Everybody has responsibility: the Government have responsibility for their legislation and how it is implemented, and there is corporate responsibility.

Finally, perhaps we will start to see organic change from within the industry itself, rather than needing the Minister to formally effect change through regulation. That is the most effective way to get the change that we

need, as we have seen with the reformulation that is going on already. If the industry gets the message loud and clear, it can do it on its own terms rather than being forced into it.

9.49 am

Matt Rodda (Reading East) (Lab): I echo the points made by the hon. Member for Erewash (Maggie Throup) and by my hon. Friend the Member for Sheffield, Heeley (Louise Haigh) in her intervention.

The effect of diet on children's health is a serious and substantial problem facing our country. If unchecked, poor diet could undermine the health of millions of children. I believe that it risks setting back the historic advances made in children's health in recent decades, including since world war two.

Child ill health is such a significant problem. It is notable in my constituency, where there is a higher than average rate of child obesity, and there are also significant differences in life expectancy between different parts of the constituency. That is in a relatively typical town in the south-east of England.

Other issues related to health inequality include a growth in the consumption of unhealthy food, which is a particular challenge to families, who are struggling with this issue. Better information and less pressure on parents and children could make a significant difference, as was mentioned earlier.

It is my experience that parents are inundated—I do not say that word lightly—with advertising material on a very wide range of media. Messages about fast and unhealthy food are everywhere—on television, on billboards, on takeaway hoardings, on shopfronts, in newspapers, and in shops and supermarkets when people are purchasing food. They are literally everywhere in my constituency. In contrast, factual information from the NHS or from responsible manufacturers is scarce and hard to find.

I commend those manufacturers and retailers who have taken steps in that regard. My hon. Friend the Member for St Helens North (Conor McGinn) mentioned a company in his constituency and there are many others. I believe that the Co-op shops have a very effective system of colour-coded labelling, warning of the problems of high levels of salt and sugar, and many other retailers and manufacturers are trying that system. I commend them for their efforts in supporting what should be a national effort to help families on this matter. I hope that the industry will do more to promote that approach and that it will work with parents, schools, the NHS, and central and local Government.

However, the contrast between advertising and sensible advice is enormous. To put it in simple terms, a child or parent in my constituency is likely to see junk food advertising when they get up on TV before they go to school, on the way to school, when they come home from school and in the evening. That is simply an overwhelming set of messages that drives people in one direction. Sadly, the messages in the other direction are tiny in comparison and there is limited public money to support them, as was mentioned earlier.

That all adds up to something that is really quite substantial, and in addition we have to take into account the fact that families have also been under the severe pressure of rising food bills. We should take into account the additional problem that many people face, as their

[Matt Rodda]

incomes have fallen in real terms in recent years, particularly since 2010, while food prices have gone up substantially—I think it may be by 3% at the moment.

Taking all that into account—the power of advertising, the substantial imbalance in information and the pressure on family budgets—I believe that action is urgently needed and I ask hon. Members to support the motion today and call on the Government to listen to this debate, to understand and acknowledge the serious concerns that are being raised, and to take—as was said earlier—bold and brave action to address this issue.

9.53 am

Andrew Selous (South West Bedfordshire) (Con): I congratulate my hon. Friend the Member for Erewash (Maggie Throup) on an excellent speech.

Our thinking on this issue has been somewhat muddled in the past, and I encourage the Government to be bold as they work to improve their child obesity strategy further. There is a huge public interest here. As taxpayers, we all have to support the NHS; something like 10% of the budget of NHS England is involved with obesity-related issues, whether that is type 2 diabetes or a range of other health conditions caused by obesity. So every one of us, as taxpayers, has an interest in this issue.

It is also an issue of social justice, in that—unlike at any other time throughout history, really—it is now the poorest children who are the most overweight. We have flipped what has happened throughout history, when it used to be the poor who were thin and emaciated, and the better-off who were plump and well fed. We cannot allow an unemployable underclass to grow up—children who are obese, who go on into adult life being obese and have a low self-image and low self-confidence, who then struggle to get work as a result, and who have a low income or are on benefits. We are talking about the loss of a lifetime of opportunity if we do not grasp this issue, so it really matters.

It is serious. Lord Patel, who chaired the House of Lords Committee on the future sustainability of health and social care, told the—[*Interruption.*]

Ms Nadine Dorries (in the Chair): Order. I remind Members that conversations are for outside. Thank you.

Andrew Selous: Thank you, Ms Dorries. Lord Patel told the Commons Health Committee on 24 October last year that the United Kingdom had the second worst obesity problem in the world, after the United States of America. I want to see action on a range of issues. Credit where credit is due—the sugary drinks levy has been successful, but the Government are now measuring nine types of food. We look forward eagerly to the release of that data in March this year. If we have established the principle with sugary drinks, there is no reason why we should not extend that approach to other foods, so that it will lead in the main part to reformulation, as the hon. Member for Sheffield Central (Paul Blomfield) said earlier.

I had a good meeting with Kellogg's a couple of weeks ago. It is making serious efforts to make their breakfast cereals have much less sugar, so there is movement

in the right direction, and by extending the framework of the sugary drinks levy to other foods, we could encourage that process further, which would be helpful.

If the Government are worried that there will be devastation in the food and drinks industry, they should take heart from what happened in Thailand. We know from a recent study by the University of Bangkok what happened when Popeye was featured a lot on television in Thailand. Of course, Popeye—as we all know from our own childhoods—ate lots of spinach and one particular television programme showed children developing fantastic muscles through eating lots of spinach. Those children who watched lots of Popeye programmes doubled their intake of spinach and other green vegetables. So, if some food and drinks manufacturers end up making less harmful foods, perhaps we will see an increase in the healthy and nutritious part of our food industry, which we all want to encourage and we all want to see have a great future in this country.

Like my hon. Friend the Member for Erewash, I do not think that only one measure is the solution to this problem. I welcome the specific focus of this debate on ramping down advertising to children, but there is a whole range of measures we can take, including clear food and drink labelling. The traffic light system labels should be on all food in our supermarkets. They are clear and easy to understand; the public can understand them. Also, when we go into a restaurant, why not make the number of calories in what we are ordering available? That would give people information.

We could do so much more in planning. I would like to see health as an objective in planning policy, and to see local authorities having the ability to turn down planning permission for unhealthy fast food outlets right next to schools. We cannot beat the food industry over the head and then allow a proliferation of shops selling unhealthy food right next to our schools. We need to be measured, we need to be fair and we need to have a policy that applies across government.

I would like the Minister to get on an aeroplane and go over to Amsterdam. I am extremely grateful to the Centre for Social Justice for drawing our attention to the Amsterdam healthy weight programme. The Minister looks as if he has not had that much foreign travel, so perhaps we can get him on a plane to Amsterdam before too long. It would not be a jolly; it would be a very serious piece of work. We do not need a pilot or to try a few things here or there, to see what works. We have four years of hard data from the Netherlands, showing that if there is a city-wide approach, led by political leaders, progress can be made. In Amsterdam between 2013 and today there has been a 12% reduction in the number of obese children across the board and an 18% reduction in obesity among the most deprived children. Mayor Eric van der Burg has shown that with political will, a ban on advertisements of fast and junk food in every metro station in Amsterdam, consideration of the built environment, and consideration of health in every policy, progress can be made.

I have raised the matter with Simon Stevens in the Health Committee, and I raise it now in the presence of the Minister: let us see action. We do not need to reinvent the wheel; a model just the other side of the channel has delivered results and we need to replicate that here.

We need to support our health professionals as well. There is an initiative called “make every contact count”, in which every clinician—at the GP surgery or in hospital—is supposed to talk about healthy lifestyles and weight at every opportunity but, in reality, it rarely happens, as they are overworked and time-pressured. Nevertheless, we need to hold firm to that, and to help GPs have sensible and sensitive conversations, recognising that people may find it a difficult and sensitive subject. It is not about embarrassing or upsetting anyone. I am lucky to be able to eat like a horse and look like a rake, but I recognise that not everyone is like that. This is a challenge; many environmental factors make it difficult for many families.

We need to encourage our schools to do the right thing. I pay tribute to Ardley Hill Academy and Linslade School in my constituency. They both have a fantastic graphic on the wall of different types of drink, showing the number of sugar lumps in each. The bottle of water at the end has, of course, none. What an amazing graphic.

Derek Thomas (St Ives) (Con): My hon. Friend has made some excellent points. Will he give credit to the many schools across the country, including in west Cornwall, that do the daily mile? Every child does 15 minutes’ exercise or walks a mile every day. He is right to encourage schools, but it must be soul-destroying for teachers to go home and see TV advertising undoing their good work.

Andrew Selous: I could not be more grateful to my hon. Friend. He is absolutely right. The daily mile started at St Ninians School in Stirling in Scotland, and it is a fantastic initiative. If children cannot run, they can walk it. They do not have to bring in special gear. The teachers do it as well, and the health benefits have been phenomenal. The headteacher has said that pupils all look like rosy-cheeked children from the 1950s. Colds and sniffles have disappeared from the school, virtually no one sees the school nurse, and obesity and weight problems have come right down. My hon. Friend has mentioned another fantastic example of a whole-community approach, and that is the approach I encourage the Government to take when they come up with their new plans in March.

10.2 am

Jim Shannon (Strangford) (DUP): It is a pleasure to speak in the debate, Ms Dorries. I congratulate the hon. Member for Erewash (Maggie Throup) on setting the scene so very well and giving us the chance to participate.

As a type 2 diabetic, I have had to learn to have a new lifestyle. I used to have a takeaway almost every night, and two bottles of coke on top. Add stress to that, and all of a sudden I was 17 stone. I am pleased that I am now keeping my weight down to about 13 stone. What is important to say is that I knew there was something wrong but did not realise what. If only I had known that the symptoms were diabetes-related. When I was diagnosed some 11 years ago, food management was important but it would have been more important 10 or 15 years before that, when my lifestyle was grossly affecting my health. I say that as an adult who does not want his grandchildren, Katie and Mia, to be in the same position, with a preventable life-changing illness.

I commend my hon. Friend the Member for East Londonderry (Mr Campbell) for his Westminster Hall debate on childhood obesity way back in November 2011. Even at that stage changes were afoot. I suppose the question today, six years later is: have they made a difference? I want to give some Northern Ireland stats. The Northern Ireland Department of Health’s “Health Survey (NI): First Results 2016/17” highlighted something that was not so much a shock as a disappointment: about 75% of children aged two to 15 were classed as either normal weight or underweight. That is interesting. At the same time, 17% were classed as overweight and 8% as obese. Over the last decade, the proportions of children classed as overweight or obese have remained at similar levels. Although some might consider that a victory, I would say it is a disappointment, because we should be trying to lower the figures. To have 8% of children classified as obese does not bode well for the ticking time bomb of diabetes. More clearly needs to be done.

I will give some detail about what we are doing back home to show why it is important to be on top of the matter. I recently met constituents who were part of a pilot programme that used social media and games to address healthy eating with children and parents. There has been discussion of funding for permanent schemes since the successful pilot but, as usual, funding is hard to source. Before I left the hotel this morning, I saw on TV children exercising in a school—in London, I think—with Gabby Logan as part of the backroom team. The children did not seem to be doing a lot of exercise, but it was enough to make a difference at that age. There are a number of schemes across the United Kingdom of Great Britain and Northern Ireland, and we, in this place, must determine to have schemes like that one back home, setting aside funding to train children, and also to re-train their parents.

Schools in Northern Ireland have attempted to bite the bullet, as it were—if I may use a pun for us in Northern Ireland—with schemes that allow children to come in early and have their breakfast at a subsidised cost. They have also altered school meals so that they are healthier options and have implemented school rules under which only water and fruit are allowed at break-times. We have a scheme in Northern Ireland—my hon. Friend can probably confirm this—whereby up to 100,000 portions go out to schools. That might not seem a terrible lot, but it is when compared with the population and the number of children we have.

I congratulate the schools on attempting to do everything in their power, but the fact remains that something must be done to help parents understand how their choices affect children. If children are eating healthily—eating their wee bit of fruit—it is terrible if mum and dad, and I say this with respect, are tucking into pizza, chips and a bottle of coke. They must set an example in the home; it is not for the children alone to eat healthily. If children are asked whether they prefer a chocolate bar or a piece of fruit, the vast majority opt for the unhealthy snack. That is fine in moderation, but the fact is that people do not give their children snacks in moderation, and we need to help to change that.

The so-called sugar tax has undoubtedly helped. I welcome what the Government have done and I supported the legislation as it went through Parliament but, as was mentioned in an intervention and as I have stated

[*Jim Shannon*]

before, we need to address fat and salt as well. Some of my colleagues, friends and others in the House might say that the nanny state is not what we want, but I very much believe that we sometimes need it to enforce what is best for people. Chocolate bars are made smaller to keep the prices down, which is great, as the bars obviously contain fewer calories. We have implemented packaging requirements that ensure that products clearly show how much fat and calories are in them, and that is great as well. Well done to Tesco for allowing children to eat a piece of fruit as their mothers shop, but are three-for-two offers on junk food wise when someone sets out to buy only one but wants a bargain? Yes McDonald's is fine as a treat, and well done to the company for allowing healthier options in "happy meals", but it is not great if people have them on a regular basis.

It all comes back to the message: all things in moderation. All those initiatives are great, but they are not doing the job quickly enough. Under the smoking initiative, we have greatly monitored and lessened the amount and form of advertising, and that needs to be done for junk food with equal pursuit, zeal and enthusiasm. I am happy to swallow the accusation of a nanny state if it means that my grandchildren and other children are healthy, happy and content with their fruit at school and with their wholemeal bread and balanced diet, along with the occasional treat. We should not deprive them of their treats, but we must ensure that treats are not an everyday occurrence.

A better way of handling advertising would help parents to teach their children balance without the children feeling hard done by, or different from what they see on TV. We must do all we can—I must do all I can—for the future of our children and grandchildren in the hope that the lessons will also impact on how adults eat and live their lives. The nation as a whole will benefit. I look to the Minister for the comprehensive response we always get from him. I have already apologised to you, Mrs Dorries, the Minister and the shadow Minister, but I have to leave for a meeting with a Minister.

10.10 am

Kirstene Hair (Angus) (Con): It is a pleasure to serve under your chairmanship, Mrs Dorries. I congratulate my hon. Friend the Member for Erewash (Maggie Throup) on securing this important debate. Childhood obesity is a stubborn problem in Scotland. Some 29% of Scottish children are at risk of being overweight or obese, and that figure has remained static since 1998. While recent years have seen a welcome decline in childhood obesity from 17% in 2014 to 14% in 2016, that figure is still no better than 20 years ago. As other Members have mentioned, obesity increases someone's chances of developing heart disease and type 2 diabetes, among other conditions.

Every child deserves the healthiest possible start to life, so it is vital that the UK Government and the Scottish Government continue to work across every channel to reduce childhood obesity. They should not simply tinker at the side lines, but introduce a number of radical reforms to extend life chances, reduce the pressure on the health service and create a healthier society overall. Our childhood obesity problem has many causes,

and there are many things that the Government can do to help address it. One is the curtailing of the advertisement of unhealthy food in environments where children are likely to encounter it. Evidence shows that children's exposure to food advertisements can have a major influence on a child's diet and therefore their weight. Cutting their exposure to advertisements for unhealthy food is therefore a vital tool in the fight against childhood obesity.

I am pleased by the tough line already being taken on junk food advertisements. The total ban on advertising less healthy food during children's TV programmes or on children's TV channels is a common-sense restriction. None the less, TV is not everything. Children are spending less and less time watching TV and more and more time on the internet.

Conor McGinn: We are talking about TV, and we have heard a lot about advertising, but it is important to look at what happens between the adverts: the programming. Some 18 months ago, ITV launched a very good initiative called "I am Team GB", where it switched off the channel for an hour. Some 2,500 sports clubs across the UK opened their doors and more than 4 million people were motivated to take part in sport. Research shows that food-related programming promoting a healthy lifestyle has as much if not more of an impact than advertising. In issuing charters, it is important that the Government also regulate that programming so that we see a joined-up approach with good programming that promotes healthy living.

Ms Nadine Dorries (in the Chair): Order. I remind Members that interventions should be interventions and not speeches.

Kirstene Hair: I completely agree with the hon. Gentleman. We need a collaborative approach, and not just one reform needs to take place.

Internet usage overtook TV viewing among children for the first time in 2016. As we know, advertising can be more tailored than ever. Custom-made adverts are being beamed relentlessly at easily influenced children, which is without a doubt having the desired effect for those who promote such adverts. It is therefore time for a shift in focus. The battle to ensure that children are exposed as little as possible to unhealthy food advertisements must move from TV to other arenas, especially online. Although that is more difficult, it is no excuse to sit back. That is why I am pleased that, as of June, the ban on advertisements for unhealthy food targeted at children, or featuring cartoon characters, was extended from TV to print, cinemas and online, including social media sites. The new rules are not big new onerous regulations, but simply a matter of ensuring that our existing level of regulation keeps up with the changing nature of children's entertainment.

I would like many other adaptations to the way in which we educate our young people, and advertise and market to them. For example, as a young person enters a supermarket, they are flooded with sugary deals at the doorway. They have the difficult choice between a chocolate bar or a costlier fruit pot at the snack counter, and they are encouraged to integrate a sugary treat into daily lunches through meal deals. There are endless promotions in the confectionary aisle, but few similar incentives

within fruit and vegetable sections. Our retailers are some of the best marketers in the country and hold some responsibility to act on this national crisis.

I strongly believe that the classroom must provide food education as many children do not have access to that in the home. It is not a tick-box exercise. Lifelong skills with nutrition and cooking nutritious food will in turn support the education of young people so that they consume sugar and other unhealthy foods in moderation, feeding their bodies with the fuel they need, not the fuel they want. For example, home economics is a crucial subject in secondary schools. Initiatives that primary schools partake in, such as school allotments and farm visits, are undoubtedly having the correct impact. Children with sporting aspirations quickly learn what their bodies require to perform, and the encouragement of school sports and hobbies will also play a part in education and the ability to resist junk food advertisements. As a nation we grow a wide variety of nutritional produce, and having been brought up on a farm, I fully appreciate how important it is that we support our British farming industry.

In summary, as the years go on we must remain extremely vigilant to ensure that regulations continue to keep pace with the changing habits of our young people and the environments they are exposed to daily. The problem will not disappear and could escalate at an alarming rate. Advertising affects obesity, so it is crucial for the health of our future generations and our health service that we continue to reduce children's exposure to advertisements for unhealthy food—whether that is on TV, online, or in person just prior to making a purchase—as well as educating people from a young age about the array of wonderful healthy produce grown on their doorstep.

10.15 am

Kerry McCarthy (Bristol East) (Lab): I congratulate colleagues on their excellent speeches so far. As has been said, we have a childhood obesity epidemic in this country. One in three children is overweight or obese by the time they leave primary school. That makes them five times more likely to become obese adults, putting them at risk of the biggest preventable cause of cancer after smoking. This debate was triggered by calls from the Obesity Health Alliance in relation to the campaign linking obesity with cancer, but as we know, type 2 diabetes, heart disease and many other conditions are related to being overweight.

Some interesting research was done a while ago—I did not have time to dig it out—on what happened when young offenders in young offenders institutions were switched from junk food and fast food diets to healthy eating. The change that had for their mental health and behavioural conditions such as attention deficit hyperactivity disorder and aggression certainly needs to be part of the Government's considerations. A comprehensive 10-year study of children from 100 different countries looked at the links between fast food, asthma and allergies in childhood. I asked the Government whether the public health responsibility deal partners could be part of a discussion on that study, but I was told that the focus at that time was on salt. They were dealing with the low-hanging fruit; it is quite easy to address salty food, but addressing people's addiction to fast food is far more difficult.

Marketing has a critical influence on children's behaviour. As Public Health England has said, it constantly influences preference and food choice. Food companies promoting crisps, confectionary and sugary drinks spent £143 million on advertising in 2016. By comparison, the Government spent just over £5 million on their anti-obesity Change4Life social marketing campaign. Those figures show what we are up against and the power of the junk food advertising industry.

It is a decade since Ofcom's broadcast restrictions on junk food advertising to children came into effect, and they do not go far enough. As has been said, children's viewing habits have changed dramatically. They do not just watch children's TV; they also watch family shows, particularly such things as "The Voice" or "Strictly", or reality shows, where they are regularly exposed to junk food advertising. Research commissioned by the Obesity Health Alliance found that children see as many as 12 adverts for junk food an hour while watching family television shows. I support the calls for a ban on junk food advertising until after the 9 pm watershed. That is supported by 76% of the public and 71% of MPs according to the Obesity Health Alliance. The issue does not need legislation—the Health Secretary could instruct Ofcom to act now, and I am interested to hear what the Minister has to say on that.

As the hon. Member for South West Bedfordshire (Andrew Selous) flagged up in his excellent speech, it is not just advertising that creates an obesogenic environment for children. Walking past outlets selling high-fat, high-salt, high-sugar foods every day can set back efforts to encourage healthy eating. There is no point having all these programmes in schools to encourage children to be more active and to teach them what a healthy diet looks like if they are walking past a McDonald's on their way to and from school and probably during lunchtime as well, if they are able to pop out.

Andrew Selous: The hon. Lady is making an excellent speech with some very good points. She has given credit to McDonald's for the healthy food it produces. There is no reason why fast food cannot be fast, healthy, delicious and nutritious, is there?

Kerry McCarthy: I do not think that I did pay tribute to McDonald's; I was highlighting McDonald's as a cause for concern. I am sure that its representatives will be in touch after the debate to tell me that it offers salads, but I am not sure how many secondary school children pop into McDonald's after school for a salad. I think there was an experiment in Hulme in Manchester where they thought that teaching people about cooking, buying local food and sourcing it in their local community was too large a first step. In a bid to encourage people to eat more healthily, they therefore set up a fast food outlet that was devoted to healthy food. I do not know how that has gone—I think it was a year or two ago—but it shows that it can be done.

Data provided to *The Guardian* by the Centre for Diet and Activity Research at the University of Cambridge showed that more than 400 schools across England have 20 or more fast food takeaways within a 400-metre radius, while a further 1,400 have between 10 and 19 outlets within the same distance. In my constituency—I apologise; I am going to have a bit of a go at McDonald's

[Kerry McCarthy]

again—we had an application for a new 24-hour drive-through McDonald’s within 800 metres of three schools, and only just over 400 metres from another. As a council, we tried to reject that planning application, partly because of the traffic, litter and noise concerns associated with a 24-hour drive-through. The application also went against advice issued by Public Health England in its March 2014 briefing, titled “Obesity and the environment: regulating the growth of fast food outlets”, which stated that an important function of local authorities is

“to modify the environment so that it does not promote sedentary behaviour or provide easy access to energy-dense food.”

Despite that, the Government’s Planning Inspectorate overruled the council and granted permission for the drive-through to go ahead.

About 20 English councils, including Bristol, have rules banning new fast food outlets from opening within 400 metres or 800 metres of schools—in Bristol it is 400 metres. The Mayor of London recently announced a total ban on new fast food outlets within 400 metres of schools across the capital. However, I agree with the likes of Brighton and Hove City Council that 800 metres, which I think is only a 10-minute walk or so, would be better. It is not in the childhood obesity plan, and the Government need to do more to encourage that.

The sugar tax has been discussed. Children in the UK consume up to three times the maximum amount of sugar that they should, and fizzy drinks are their No. 1 source. We know that there was a real battle to get the levy to where it is now, and it took a long time to get it introduced. It is good that it is forcing manufacturers to reformulate their drinks to come in below the sugar tax threshold, but I am concerned about what will happen to the £10 million that was pledged from the levy to fund school breakfast clubs. It is good that companies are responding, but it is really important that we support our breakfast clubs as well, and I would like to hear from the Minister on that.

I want to say a little about school food standards. For many children from low-income families, school meals provide their main source of nutrition for the day. I would not be surprised if the Labour spokesperson, my hon. Friend the Member for Washington and Sunderland West (Mrs Hodgson), has something to say about that. She has recently run an excellent campaign about changes to universal credit that would have an impact on the number of children receiving free school meals—their main source of healthy food. Legislation introduced by the last Labour Government required all schools to comply with specific food-based and nutrient-based standards, which resulted in significant improvements in the nutritional quality of school food, as shown by research from the Children’s Food Trust.

The July 2013 school food plan sets out 17 actions to transform what children eat in schools and how they learn about food. That has helped, and the new school food standards were widely welcomed when they came into force in January 2015. I was concerned that those standards do not apply to academies and free schools that opened between September 2010 and June 2014, but I received a response to a written parliamentary question yesterday, which said that more than 1,400 academies founded during that period are

voluntarily following the standards. I am not sure how many are therefore not following those standards, which I think should apply across all schools.

I would like to ask the Minister about something that I have been doing on an ongoing basis. The Government have the “eatwell plate”, which is meant to set out guidance for what a healthy diet looks like, with certain proportions according to dietary needs. Rather than just being a paper exercise which can be found on the Government’s website, that ought to be used as the norm for how we publicly provide food, in not just schools, but hospitals, prisons and other facilities. Now is neither the time nor the place to go into other issues about cancer-causing foods, but given the proven link between processed meat and cancers such as bowel cancer, for example, the fact that at the moment schools are told to provide red meat three times a week and processed meat once a week needs to be looked at.

In conclusion, it is all very well talking about trying to change people’s behaviour and responses to the stimuli around them, but the Government could do more to remove temptation from their path. The Government should extend existing regulations to ban junk food advertising until the 9 pm watershed. They should support local authorities, and ideally have a standard approach across the country to tackling the proliferation of fast food outlets near schools—ideally the enforcement of an 800-metre limit. They should also do more to encourage schools to provide healthy food to students.

10.25 am

Stuart C. McDonald (Cumbernauld, Kilsyth and Kirkintilloch East) (SNP): I, too, thank and pay tribute to the hon. Member for Erewash (Maggie Throup) for introducing this important debate. I thank all hon. Members for their thoughtful and knowledgeable contributions.

Today’s debate has drawn attention to the serious problem of childhood obesity, the link with junk food advertising, and the fact that a variety of steps are open to us that importantly would reduce the impact of that advertising. One step that many hon. Members have focused on, to which I can give my wholehearted support, is a more general ban on junk food TV advertising prior to the 9 pm watershed. To me, it seems to be an open-and-shut case. We already have some restrictions in place, so broadening their application is really just unfinished business, or seeing them through to their logical conclusion.

Hon. Members have highlighted some of the stark facts, including the link between obesity and 13 types of cancer, type 2 diabetes, mental health problems and heart disease. We have also heard of the extent of the challenge we face. It is as difficult a challenge and, in some respects, even more difficult in Scotland compared with other parts of the UK. The Scottish health survey identified in 2016 that 65% of adults and, as the hon. Member for Angus (Kirstene Hair) highlighted, 29% of children were overweight or obese. Public awareness remains low, with only a quarter of Scottish adults knowing that being overweight can cause cancer. Every year, excess weight is estimated to cost NHS Scotland up to £600 million. At least one other hon. Member alluded to the £5.1 billion figure, which is the equivalent figure for the whole of the UK.

The hon. Members for South West Bedfordshire (Andrew Selous) and for Erewash highlighted the impact on health inequalities. Again, the pattern is similar in Scotland, with 22% of children from the least deprived quintile overweight or obese. That compares to 27% from the most deprived, and a staggering 41% from the second-most deprived quintile. The hon. Member for Erewash rightly pointed out that even that trend can be linked with different TV viewing patterns.

In short, I cannot see how we can possibly avoid concluding that there is a significant link between junk food TV advertising and childhood obesity, and it is good that no hon. Member has sought to do that today. In a sense, the advertising's very existence proves it. Who would repeatedly invest huge sums of money in advertising if it did not lead to increased consumption? There is a wealth of evidence worldwide to prove the fact, from the American Psychological Association, to studies from Deakin University in Australia. The most recent contribution, by Cancer Research UK, further confirms that children who are exposed to junk food advertising on television eat more unhealthily than those who are not.

TV advertising works, and that is exactly why so much money is spent on it. It is also why Ofcom's broadcast restrictions on junk food advertising came into effect 10 years ago following, as I understand it, a report commissioned by the Government Office for Science, which identified that same link. Further action by the Government is now necessary, and the restrictions need to be extended to content that is considered family viewing, such as soaps, game shows and those programmes broadcast before the watershed—the generic TV that fills a lot of time between coming home from school and bedtime. The hon. Members for Erewash and for Bristol East (Kerry McCarthy) set out in great detail why that loophole must be closed, especially given the different patterns of TV viewing that are now prevalent.

Good work on tackling childhood obesity is going on across the UK. The UK Government action plan on childhood obesity published last January was a welcome step in the right direction, and we have also welcomed the sugar tax. In Scotland, we have seen new restrictions on the promotion of unhealthy food as part of the Scottish Government's new diet and obesity strategy.

As hon. Members have said, there is no one measure that is going to fix the problem. We have heard a huge range of very good ideas today, including action on school meals, the daily mile, labelling, sponsorship, TV programming, education and even lessons we can learn from countries as far and wide as the Netherlands and Thailand. They are all good ideas, but as a minimum start, let us support all the good work that is going on with further restrictions on the advertising of junk food on TV. At the end of the day, our children will thank us one day if we do, but too many of them will pay a drastic price if we do not.

10.30 am

Mrs Sharon Hodgson (Washington and Sunderland West) (Lab): It is a pleasure to serve under your chairmanship, Ms Dorries. I thank the hon. Member for Erewash (Maggie Throup) for securing this important debate, and for sharing her knowledge in her passionate speech. I also thank the other hon. Members who have

spoken this morning for their eloquent speeches: my hon. Friend the Member for Reading East (Matt Rodda), the hon. Members for South West Bedfordshire (Andrew Selous), for Strangford (Jim Shannon) and for Angus (Kirstene Hair), my hon. Friend the Member for Bristol East (Kerry McCarthy) and the hon. Member for Cumbernauld, Kilsyth and Kirkintilloch East (Stuart C. McDonald), who spoke for the Scottish National party.

The UK has one of the worst obesity rates in Europe, with almost two in every three people either overweight or obese. I am, as hon. Members can see, one of those two. I am back on a strict diet post-new year, with no sugar or alcohol for the foreseeable future—if any hon. Members see me with either or both in my hand, please take them off me—and I hope that by August there will be a lot less of me.

I commend the honesty of the hon. Member for Strangford. I have been on a similar journey to him healthwise, and I hope to share his success weightwise. It is hard though—if it were easy, nobody would be overweight. We have not all got metabolisms as good as a horse, as the hon. Member for South West Bedfordshire attests to. However, I started life as a skinny kid and was a slim teenager. I am proud to say that I was a size 10 when I got married, but I still ended up overweight as time went by. Therefore, I worry greatly when I see the stats, as I know we all do, for this country's children.

As we have heard this morning, a pattern now emerges at a very early age. In 2016-17, almost a quarter of reception children aged between three and four were overweight or obese. In the same year, for pupils in year 6, it was more than a third. An obese child is five times more likely to grow up into an obese adult. I did not start as an obese child, and hon. Members can see where I got to, so it is important that the Government do all they can to ensure that child obesity rates are reduced as a matter of urgency.

As we know, obesity is linked with several health issues: lung and liver disease, heart attacks, strokes, seven or more types of cancer, and type 2 diabetes, all of which could be prevented with healthy eating and a healthy lifestyle. According to Cancer Research UK, continued eating and drinking patterns—alcohol is also a major factor in cancer—could lead to being overweight and obese and could cause an additional 670,000 cases of cancer in the UK over the next 20 years. Diabetes UK also warns that there are now 12.3 million people at an increased risk of developing type 2 diabetes. If overweight and obesity levels were to be reduced, three in five cases of type 2 diabetes could be prevented or delayed.

Obesity comes at a high financial cost too. Obesity and its related health problems cost the NHS in England an estimated £5.1 billion a year, projected to reach £9.7 billion by 2050, if the Government and the people themselves fail to take any action—as we have heard in the debate, people need to take action for themselves. That is why this debate is so important. If we do not do anything about obesity today, the children of tomorrow are the ones who will suffer.

There are many ways to address obesity. No one intervention is a silver bullet, but it is the Opposition's belief that action on advertising and marketing can make serious inroads.

[Mrs Sharon Hodgson]

Ten years ago, Ofcom's restrictions on junk food advertising came into effect, but over that decade, our viewing habits have changed, as we have discussed. At that time, the Ofcom report said:

"Advertisements of high fat, salt and sugar products should not be shown in or around programmes specifically made for children...For the avoidance of doubt this measure will remove all HFSS advertising from dedicated children's channels".

Ten years on, as we all know, that is incredibly outdated and out of touch with the way children watch TV. Children are likely to watch TV with their family or watch programmes that are not on specific children's channels, such as "The X Factor", "Britain's Got Talent", "Hollyoaks" and other programmes.

A report by the University of Liverpool found that 59% of food and drink adverts shown during family viewing time were for high fat, salt and sugar products and would have been banned from children's TV. The same report also found that, in the worst case, children were bombarded with nine junk food adverts in just a 30-minute period and that adverts for fruit and vegetables made up only 1% of food and drink adverts shown during that family viewing time. Ofcom's restrictions on junk food advertising are therefore totally obsolete and in need of a serious update to protect children from the bombardment of junk food advertising from multinational companies.

Many of the charities and organisations that provided me with briefings for this debate called for junk food advertising to be restricted until the 9 pm watershed on all channels, which was something I was pleased to commit to in the 2017 Labour party manifesto and am proud to remain committed to. I hope that the Minister will hear the calls today from hon. Members across the House and will see why an update of the restrictions is necessary.

Children must of course also be protected from other forms of advertising, such as billboard and bus shelter adverts, as well as subtle advertising in films and in made-for-purpose games, which are so prevalent there is a name for them—advergames. "Newsnight" last night noted that there are major concerns with the regulations around confectionary firms and their marketing to children. There seems to be a loophole in the law with regard to advergames, which needs to be closed.

There are also genuine games that are very popular with children although they are not aimed at them, such as Candy Crush—I have to admit to having tried that one myself—which embed advertising in the game and have been shown to drive children's food choices. Sponsorship has also been shown to have a huge impact on brand awareness and purchasing decisions among children. Products high in fat, salt and sugar are often found to sponsor sporting events or teams of which children are a key part of the audience. For example, Cadbury is the official snack partner of the premier league.

The current restrictions do not encapsulate those areas, and in our digital world it is important that our restrictions advance to protect children. Will the Minister commit to holding a cross-Departmental meeting with colleagues in the Department for Digital, Culture, Media and Sport to discuss the urgency of addressing junk food marketing to children across those forums?

Not only do we watch TV and use the internet differently, but we also shop differently. Our sedentary lifestyles mean that we now rush into supermarkets trying to buy the quickest or cheapest products. As soon as we walk through the door, we are tempted with promotions, such as buy one get one free or three-for-two offers. Such discounts make up for more than half of all food sold in the UK, a higher proportion than in any other country in western Europe. We all love a bargain, but research has shown that 76% of purchases were unplanned and decided on in store, which shows the power of such promotions.

That trend is increasingly prevalent among families from poorer backgrounds who are not able to afford more expensive, nutritious and healthier food, or lack the skill to cook it. It is therefore no wonder that children aged five from poorer backgrounds are twice as likely to be obese, and that those aged 11 are three times as likely to be obese. Following what the hon. Member for South West Bedfordshire said, we also need affordable, healthy and nutritious products available on promotion to change habits.

I am sure the Minister will uphold the Government's pledge to tackle childhood obesity, but their efforts are dwarfed by multinational corporations' spending on junk food advertising. In 2016, the 18 highest-spending crisps, confectionary and sugary drinks brands together spent more than £143 million advertising their products. I recently met an advertising executive who has turned gamekeeper since having a damascene conversion—he now campaigns against added sugar and obesity. He told me how much effort multinational corps put into marketing specifically to children. It is not accidental, but a deliberate, well-thought-through and lucrative strategy.

Eighteen months ago, the Government launched their much-depleted childhood obesity plan, which left much to be desired. Will the Minister update us on the current situation of the childhood obesity plan? Will he commit to looking beyond it and going further by introducing the initiatives that have been suggested today, such as a 9 pm watershed on junk food marketing, which were sadly dropped from the original plan?

All of the arguments we have heard this morning point to the fact that essential Government action is needed to ensure that our children grow up in a healthy environment so they can be fighting fit for the future. I hope the Minister will take these suggestions back to his Department and think about how they can be implemented into a serious drive to reduce childhood obesity over the next 10 years. Childhood obesity must be addressed. We cannot have a soft-touch approach. We must do this for future generations of children, and make a promise to them that they can be some of the healthiest children in the world.

10.42 am

The Parliamentary Under-Secretary of State for Health (Steve Brine): Child obesity remains one of the top public health challenges on my desk and for the Government. I congratulate my hon. Friend the Member for Erewash (Maggie Throup) on securing this debate through the offices of the Backbench Business Committee. I also thank the Health Committee for its ongoing inquiry into child obesity. Its Chair is not able to be here

today, but she has a great personal interest in this subject. Ministers always say that debates are wide-ranging, useful and interesting, but this one certainly has been—it has been much wider than the title of the debate. We have learned a number of things, not least the shadow Minister's new year activities. She has learned about the work of the pop band the Editors and advergaming in the last week alone, and it sounds like one of her new year's resolutions is to look into Candy Crush—the things you learn here!

As colleagues who are still here will be aware, the latest figures continue to show that our childhood obesity rates remain too high. About a third of children leaving school are overweight or obese. I and the Government will not accept that. In addition, evidence shows that the deprivation gap in obesity prevalence between children in the most and least deprived areas continues to widen. Again, I definitely will not accept that. My hon. Friend the Member for South West Bedfordshire (Andrew Selous) made that point well. When she first came to office, the Prime Minister spoke on the steps of Downing Street about the burning injustices she sees in this country. This is undoubtedly one of the pillars of burning injustice in Britain today.

The gap continues into adulthood: obese children are much more likely to become obese adults, which increases their risk of developing serious diseases, as we have heard, such as type 2 diabetes, heart disease and, of particular interest to me as the cancer Minister, more than 13 types of cancer—I suspect that is underplaying it—including bowel and breast cancer. The shadow Minister and I share a great interest in that subject, having chaired the all-party group on breast cancer for many years together. Obesity is also a major risk factor for non-alcoholic fatty liver disease, as a number of hon. Members said. I see this as a huge challenge to individuals' health and wellbeing, and a huge cost to the NHS and the country. Obesity-related ill health is estimated to cost the NHS some £5 billion a year—again, I suspect that that underplays it.

There is no denying that obesity is a complex, far-reaching problem. It will sadly not be solved by one action alone, as pretty much all hon. Members said—my hon. Friend the Member for Erewash said that in opening the debate. Neither will it be solved overnight. It is a tanker to be turned around. We launched our childhood obesity plan in August 2016, informed by the latest evidence and research in the area. It challenges us all—the national Government, local government, businesses, the NHS, schools and families—to play our role in reducing childhood obesity levels. There are many parts of the jigsaw, and many players we need to tackle, including the healthiness of the food we are eating, how much we are eating—portion size—how active we are and the environment we live in. Of course, marketing plays an important part.

As part of the plan, we introduced two key measures to challenge the food and drink industry to improve the healthiness of the food children eat every day, and those policies are already showing positive signs. The soft drinks industry levy, which is set to become law in April, has already seen almost half of the soft drink market reformulate its sugary soft drinks to include less sugar. Companies such as the maker of Lucozade and Ribena—I will be visiting it later this week to see more detail—and Tesco have led the way by removing millions of tonnes of sugar. That is a crucial step forward in

improving our children's health, as the data shows us that sugary soft drinks are the main contributor of sugar in our children's diets.

Kerry McCarthy: This is slightly off-topic, but Lucozade has been named public villain No. 2 after Pringles, in terms of its plastic packaging. The plastic sleeves around the outsides of the bottles mean that they are impossible to recycle. Lucozade and Ribena are particularly bad. Will the Minister mention that too when he is having a go at the company about sugar?

Ms Nadine Dorries (in the Chair): Order. I will allow that, Ms McCarthy, but that is the only off-issue topic.

Steve Brine: It is on my list.

We also challenged the food and drink industry, with Public Health England's sugar reduction programme, to reduce the amount of sugar in the foods our children eat most by 20% by 2020. Some of the biggest players in the industry, including Waitrose, Nestlé and Kellogg's, which a number of hon. Members mentioned, have already made positive moves towards that target. Data will be available in March this year to give us a better picture of how the whole market has responded—we will be naming names—and to show whether we have met our year one target of a 5% reduction. We remain positive, but we have been clear from the beginning that if sufficient progress has not been achieved, we will consider further action. We rule nothing out.

We further built on the foundations of the childhood obesity plan in August 2017 by announcing the extension of the reformulation programme to include calories. The Government will publish more detail of the evidence for action on calorie reduction, and our ambition and timelines for that, in early 2018.

Our plan also includes school-based interventions, which a couple of hon. Members mentioned, including the expansion of healthy breakfast clubs for schools in more deprived areas, with £10 million per year of funding coming from the soft drinks industry levy. That is on top of the doubling of the school sport premium, which is flowing into schools as we speak, and represents a £320 million annual investment in the health of our children. The hon. Member for Bristol East (Kerry McCarthy) asked whether that cash will continue to flow as companies take action. I will come back to that point, but the Treasury has guaranteed a level of funding over the next three years, regardless of what comes in from the levy. If she wants me to write to her to put that in more detail, I am happy to do so—I have found the note I meant to read out, but we have covered it anyway. Such actions will ensure that we are tackling the healthiness of the food offer available to all families. The evidence shows that that is absolutely the right thing to do.

On marketing restrictions, another part of the jigsaw is how these foods are marketed, in particular to children, which is of course the central tenet of today's debate. I thank the Centre for Social Justice and Cancer Research UK—I met both last week—and the Obesity Health Alliance for their recent reports highlighting the marketing of products high in fat, sugar and salt, or HFSS, to children. All are welcome updates that add to the debate.

This month marks 10 years since the first round of regulations to limit children's exposure to marketing of products high in fat, salt and sugar, when we banned advertising of HFSS products in children's television

[*Steve Brine*]

programming. We monitor that closely, including in my own home. At the weekend I tried to explain the premise of this debate to my children and, last night, when I phoned home, they told me that while watching a well-known commercial television channel they saw a slush drink mixed with sweets. Such products are being monitored closely in the Minister's household as well as by my officials. When I get home, I will ask my children to show me that.

Recently, we welcomed the Committee of Advertising Practice strengthening the non-broadcast regulations to ban marketing of HFSS products in children's media, including in print, cinema, online and on social media. That point was made strongly by my hon. Friend the Member for Angus (Kirstene Hair) in her excellent speech.

The restrictions that the UK has in place, therefore, are among the toughest in the world, but I want to ensure that in the fast-paced world of marketing—many people spoke about how quickly that world is moving—it stays that way. We heard lots of “go further” calls, including by the hon. Member for Bristol East, and that is why we have invested £5 million to establish a policy research unit on obesity that will consider all the latest evidence on marketing and obesity, including in the advertising space. That is also why we are updating something called the nutrient profile model, which does not sound exciting but is important. It is the tool that helps advertisers determine which food and drink products are HFSS and, as a result, cannot be advertised to children. The purpose is to ensure that the model reflects the latest dietary advice. Public Health England expects to consult on that in early 2018.

Dr Poulter: In that context, what measures are in place or is the Minister considering putting in place regarding online advertising to children?

Steve Brine: I will come on to that—if I do not, I will write to my hon. Friend—so I ask him to bear with me.

My hon. Friend the Member for Erewash, who opened the debate, said that the Department should have the lead on advertising. I am not sure that my friends in the Department for Digital, Culture, Media and Sport will agree, but I understand her point. I have noted that the Department for Digital, Culture, Media and Sport, the Ministry of Housing, Communities and Local Government, the Department of Health and Social Care, the Department for Education and the Department for Environment, Food and Rural Affairs have all been touched on in the debate. I reassure the House that tackling the challenge is a cross-Government concern. The childhood obesity plan that was published is a cross-Government plan, and all Departments have a rightful role to play, which continues to be the case as that plan is delivered.

The hon. Member for Westminster Hall, otherwise known as the hon. Member for Strangford (Jim Shannon), spoke well as always. I know he had to leave—he let the Chair and me know that. He spoke about food management and touched specifically on diabetes. He actually said, “If only I had known the damage being done”—I have heard that so many times. On Friday, I visited a brilliant organisation called LifeLab at Southampton General Hospital, which is partly funded by Southampton

University. LifeLab empowers children through scientific inquiry to understand the impact on their bodies of their behaviour, the food that they eat and the drinks that they drink. A new spin-off called Early LifeLab goes into primary schools, while secondary schoolchildren from Southampton, across the south of England and further afield come into LifeLab to understand. So in answer to, “If only I had known,” that is what LifeLab does. I am very interested in looking at evaluations of LifeLab as it goes forward and in how that work might be built into a wider public policy roll-out.

My hon. Friend the Member for South West Bedfordshire made an excellent speech, as he always does. He rightly said that the poor are the most negatively affected, and we have touched on that point. I thank him for his Thailand, Popeye and spinach example. He also mentioned local authorities and planning. Local authorities have a range of powers to create healthier environments in their area through local plans and individual planning decisions. The national planning policy framework makes it clear that health objectives should be taken into account. The DHCLG is in the process of updating the framework to see if other aspects can be strengthened.

I thank my hon. Friend for making that point, and for the offer of a weekend together among the spring tulips in Amsterdam, which is very appealing on a cold January morning in Westminster. He also mentioned the Centre for Social Justice which, as I said, I met last week. I am very interested in its work. He touched on Making Every Contact Count and GPs. He is absolutely right about that and we could do much better. It is a subject that I am sure will come up over dinner later this week when I go to the annual dinner at the Royal College of General Practitioners.

My hon. Friend was intervened on by our colleague, my hon. Friend the Member for St Ives (Derek Thomas), on the daily mile. At every single school that I go into, whether as a local MP or as a Minister, I ask if the daily mile is being done. That has been a brilliant import from north of the border and it is excellent. I hope that every Member who goes into a school talks about the importance of the daily mile and encourages them to do it.

Many other points were made. My hon. Friend the Member for South West Bedfordshire talked about colour coding and the traffic-light system. Our colour-coded, front-of-pack labelling scheme is voluntary at the moment. It covers about two thirds of the market. We will consider other available labelling options as part of our withdrawal from the European Union—he has my guarantee on that.

The hon. Member for Reading East (Matt Rodda) spoke about the imbalance of information. His point was well made, I thought, about manufacturers and industry providing more information than the NHS does in his constituency. I would say that the Government have a strong voice in this debate, and rightly so, which is why we are seeing good progress on delivery of the plan, but we are also investing in the highly successful Change4Life programme, which I am responsible for through Public Health England. It informs families about healthier eating. Can we do more? We can, without doubt, in the public health and prevention space.

The hon. Member for Bristol East mentioned the “eatwell plate” in reference to the public sector. To respond, we have in place robust standards for public

sector procurement, the Government buying standards for food and catering services. DEFRA is the lead Department and comes into the story here. It continues to drive compliance across other Departments and among NHS hospitals, which are required to meet the standards through the NHS standard contract. The hon. Lady makes a good point. She also raised the issue of academies, and I understand that the Department for Education will shortly begin a campaign to get them all signed up. I thank her for making that point.

In conclusion, from day one we have been consistently clear that the childhood obesity plan marked the start of the conversation—it has never been the final word. We continue to learn from the latest evidence. We are confident that the measures we are taking will lead to a reduction in childhood obesity over 10 years, but we take nothing for granted and will keep everything under review. I thank all Members for their contributions and look forward to further ones.

10.57 am

Maggie Throup: I thank you, Ms Dorries, and all hon. Members who have contributed to the debate, including the Minister for his response.

We have had some informative, passionate and wide-ranging speeches, for which I thank everyone. The House is truly at its best when it speaks with one voice. I know that the Minister will take note of the strength of feeling on this important issue and act accordingly. Childhood obesity is a ticking time bomb of public health. The Minister has acknowledged that it is a challenge and a cost both to the individual and to the NHS.

My hon. Friend the Member for South West Bedfordshire (Andrew Selous) highlighted some working examples of where bold and brave action has taken place. The Amsterdam example is something that we should all be looking at, bringing together not only national Government but local government, industry and local people. That is so important and the issue is definitely not going to go away.

The health of our nation must be put at the top of our agenda. I believe that by taking a simple but tough stance on junk food advertising now, we will start to make real progress on the issue that will pay dividends in the years to come. As chair of the all-party group on obesity and a member of the Health Committee, I will continue to push for every measure possible to tackle the obesity epidemic well into the future.

Question put and agreed to.

Resolved,

That this House has considered the effect of junk food advertising on obesity in children.

Local Government Funding: Isle of Wight

11 am

Mr Bob Seely (Isle of Wight) (Con): I beg to move,

That this House has considered local government funding on the Isle of Wight.

It is a pleasure to serve under your chairmanship, Ms Dorries. I am most grateful to the Minister for attending, and I extend to him an invitation to visit my wonderful constituency. I want to raise the issue of the Isle of Wight's local government funding, to explain why that system is prejudiced against the Island—why it is not fair—and why recognising that disadvantage and rectifying it would in no way set a precedent. Indeed, I hope that the Minister will see it as the right thing to do.

In this debate, I will focus on local government finance for the Island and I hope to call debates in future to examine the Island factor for health, housing and other policies. Overall, I want to work towards an Island deal that includes a settlement over local government funding but, more broadly, a partnership with central Government across Departments that recognises the unique and valuable role that the Isle of Wight plays in our national life. It is not only about money—although that comes in slightly—but about helping us to make the Island even more of a success.

We are an island. I know that is a statement of the obvious, but I say that because I feel that sometimes Whitehall assumes that we are not really an island in the true sense of the word—surrounded by water. We are an island; we are surrounded by water and we are dependent on the ferries to get us to and from the mainland, which is the bit that the Minister lives on, otherwise known as north island. We have a unique place in the nation's artistic, cultural, scientific and political heritage. Our geology is unique, too: we have some 70 miles of coastline, parts of which contain the richest dinosaur finds in Europe. Half the Isle of Wight is an area of outstanding natural beauty and, arguably, we should be England's next national park. We are the largest constituency in Britain, with some 140,000 souls. Ours is a little island, but one that has inspired great things and achievements. I would not wish to be anywhere else.

From a Government perspective, we aim to be national leaders in recycling, in the integrated public services model and in combining health and social care, to name but three areas. However, there is a problem with local government funding. Put simply, the Island's status as an island is not taken into account. In the 1990s, the John Major Government promised the Isle of Wight a study of the extra cost of being an island. Nothing ever came of that proposal, yet the costs remain. Will the Minister consider honouring that pledge? In the meantime, or instead, I am presenting another option to the Minister.

In a 2015 study by the University of Portsmouth, the extra cost of providing local government services on the Isle of Wight—the island factor—was estimated at £6.4 million per annum based on 2015-16 data, which is an additional 3% on the public service provision. That information is on page 2 of phase 2 of the report, "Impact on Physical Separation from the UK Mainland on Isle of Wight Public Service Delivery". I have circulated copies to the Minister and to his excellent team of civil servants, whom I also thank for being here. That report has been peer reviewed and is undergoing further review.

[Mr Bob Seely]

The University of Portsmouth broke down those extra costs into three. The first is forced self-sufficiency—the lack of spillover of public goods provision to and from neighbouring authorities. We have an obligation to provide a service on the Island, but sometimes we cannot share costs with the mainland. The fire service is an example of that. The second extra cost is the island premium, which refers to the additional cost of conducting business on and with the Isle of Wight. For the provision of public services, that may refer to the relatively higher prices that may be charged by contractors or reflected in the price of goods and services. We try to be as competitive as possible but, clearly, within a confined space there are limits. The third extra cost is what the university has described as “dislocation”—the costs associated with physical and perceived separation from the mainland. Sometimes referred to as “isolation”, it is a common characteristic of all islands, and it is seen in terms of small area, small population and small market.

Other reports have said much the same. They include the report by Coopers & Lybrand in 1996, the Joint Strategic Needs Assessment in 2000, the report by PricewaterhouseCoopers in 2004, the report entitled “The effects of being an island” by the Isle of Wight Council in 2005, the report by the European Spatial Planning Observation Network in 2013 and the University of Portsmouth report in 2015.

Does the Minister agree that we are potentially dealing with decades of historical underfunding? Does he agree that the review by the University of Portsmouth is academically rigid and backed by a wealth of primary and secondary material?

Moving back a little further, I believe that the Island is a victim of the funding system. I will outline briefly the reasons why. First, we are victims of prejudice in public project funding. The Green Book assessments—the way the Government rate public sector investment—does not work for the Island because we are physically separate. That separation results in a lower cost-benefit ratio. We do not have spillover: I cannot prove that a project that would do great things for Sandown, Newport or Freshwater has an effect in Fareham, Southampton or Portsmouth, because we are an island. We cannot make the same arguments as everywhere else in Britain that is connected physically to the mainland or is part of the mainland. We simply do not have that connection. What does the Minister suggest that we and the Government can do about that?

Secondly, we are isolated, but because we are isolated by water we fail to qualify for the rural services delivery grant, because that grant’s funding basis does not recognise the isolation of being an island and does not take into account physical separation in its definition of isolation. Can the Minister suggest a reason why that may be the case, and what does he think Government could do about that?

Thirdly, the ferries were privatised with no public service obligation. That is a significant and pretty unique error. There appears to be no desire to rectify that situation, yet elsewhere, public money tends to get thrown at locations with isolation issues. On the Isle of Wight, we spend more than £100 million a year on the ferries. What does the Minister think of this situation? Does he think that it is acceptable?

Fourthly, health model funding calculations for over 80-year-olds arguably are seen as inadequate, because of the complex health and adult social care needs of people when they hit 80 and get into their ninth and 10th decades. The Island has more 80-plus residents than the national average, and that has a significant impact on our adult social care costs.

Fifthly, recent NHS reports have simply ignored the island factor, as if the Solent somehow did not exist. Those are just some factors that I bring to the Minister’s attention. Please, do not get me wrong, Ms Dorries: we love being an island, having that wonderful identity and a different festival every weekend, and being a fantastic place that people come to, with our wonderful quality of life. This is not some special pleading, but when Government write the rules they do not seem to take the Island into account.

I am presuming that Government funding formulas are based on the idea of broad fairness. If the Minister says that, actually, they are based on the idea of broad unfairness, I will go away, but I assume he will say that the Government try to be fair. If that is the case, can he please not be permanently prejudiced against my Island, and will he recognise that the Island has issues in public service provision by dint of being an island? As we know, Scottish islands receive extra money from the Scottish islands needs allowance based on a number of factors. Welsh islands seem to have bridges galore. We have none of that. We have only the world’s most expensive unregulated ferries. I asked one of the ferry owners whether there was a more expensive ferry anywhere in the world. He said, “Try the chain link between Cowes and East Cowes.” I thought, “That’s not a great answer.” The Government recognise that islands play a special role in Britain. We would like the same recognition for the Isle of Wight—England’s island.

The fair funding formula is due to be implemented in 2021. A previous Secretary of State said that

“the costs associated with being an Island separated from the mainland will be given due consideration...as part of the fair funding review.”

The word “island” appears in the fair funding review technical consultation, along with the question, “Should island status be taken into account?” When I read that, I thought, “Hallelujah.” Clearly, we believe that the answer should be a resounding yes. Will the Minister indicate whether he thinks there is a case for island status being taken into account in the fair funding formula?

We generally have been given two answers at this point: first, “Devolution is the answer to all your problems,” and secondly, “You’re setting a precedent, so we’re not interested.” Devolution is not the answer, for the following reasons. First, there was extraordinarily little information on the Solent devolution package. Secondly, it was clear that that was simply a device to force more housing on the Island. Housing is a problem on the Island. The Government’s housing targets are completely unacceptable, and the current system on the Island serves no one. By building on greenfield sites, we provide housing neither for our youngsters nor for the people on the housing list who need it, and we damage our economy, which is in part dependent on tourism. That is not a conversation for now, but I would like to return to it in due course. Thirdly, the Solent devolution deal that was offered was a Treasury construct. The Treasury is full of wise and

sensible people who have difficult jobs—I respect that—but what looks good in London may not work on the Island. Fourthly, to put it bluntly, there was nothing in the deal for the Isle of Wight.

The key power we want to be devolved is the power to impose a public service obligation on the ferries. The ferries would pay for that—its cost would be covered by their inflated profits—and there would be no reduction in services elsewhere. For the Minister's information, because he may not be aware of their history, those are the ferries that were privatised badly in the 1980s without a public service obligation and are among the most expensive in the world. Their profits are multiples of the public infrastructure industry standard, and hundreds of millions of pounds of debt have been racked up, which Islanders pay for. Will he support giving us such PSO powers, which may mean having to cap the ferries' profits and debts? I am genuinely interested in his opinion.

The second answer is that the Government cannot possibly give us an island factor because it would set a precedent. I do not understand that. Are the Government implying that Cornwall is going to dig a ditch a mile wide, fill it with water and declare itself an island? Is Northamptonshire somehow going to up sticks and move? Is Lindisfarne going to go on some three-dimensional steroid programme? I think not. Recognition that there is an island factor for the Isle of Wight would not set a precedent, unless that precedent was the Government accepting that we are a little bit different—a little bit special and unique—and working with us so that the Island became the jewel of southern England, as it was and we hope it will be. Listening to us and working with us on a new deal—an island deal—would set a wonderful precedent.

I thank the Minister for being here. I remind him that the amount of money we seek—£6.4 million—is small. It is a tiny part of Government expenditure. It is a margin of error in the Government accounting system. Whitehall probably spends more on paperclips every month. I also remind him that a previous Government made promises about Isle of Wight funding that were not kept, so will he support a study to honour those promises? In the meantime, does he agree that there are additional costs to being an island, which the University of Portsmouth has quantified and which I have quoted, and that those costs are unique to islands? Will he respect, accept and act on, this year and in the future, the costs outlined in the University of Portsmouth report?

Does the Minister also agree that devolution is not in itself an answer, and that no conceivable precedent would be set by honouring a fair funding formula that recognised the Island as just that—an island? Will he assure us that our submission for extra funding will be looked at seriously this year? If there is any doubt about that, may we have the promised meeting, which has not yet materialised, before the settlement for this year is finalised? Will he commit to including an island factor in the fair funding review, and to accepting and implementing that funding formula in full?

I thank the Minister once again for his time, and again extend an invitation from the people of the Isle of Wight to come and visit us. Like our 2 million annual visitors, he will have a wonderful time.

11.16 am

The Parliamentary Under-Secretary of State for Housing, Communities and Local Government (Rishi Sunak): It is a pleasure to serve under your chairmanship, Ms Dorries, in my first Westminster Hall debate in my new role. I congratulate my hon. Friend the Member for Isle of Wight (Mr Seely) on securing this vital debate. In the short time that he has been in Parliament, he has already made an impression as a passionate and committed advocate for the Isle of Wight, and his speech demonstrated exactly why he has that reputation.

I welcome the chance to respond to my hon. Friend and thank him for sharing his knowledge of the Isle of Wight, an island of which I am particularly fond, having grown up just across the water in Southampton—or, as he described it, on the “north island”. His reflections on the Island, which is, as he says, the jewel of southern England, prompted me to recall the summers I spent enjoying all it has to offer to visitors. Just this weekend, while I watched Gary Oldman bring to life Winston Churchill in “Darkest Hour”, I recalled the Island's Churchill trail. I remembered that, as a child, the former Prime Minister stayed at the home of his friend Jack Seely, and I wondered whether he had any connection to my hon. Friend's family. Perhaps he will touch on that when he winds up the debate. Regardless, whether it is the Isle of Wight festival or Carisbrooke castle, Blackgang Chine or the Needles, I know just how much there is on the Island to enjoy, to educate and to entertain.

Members may know that today is the last day for responses to the consultation on the provisional local government finance settlement. I will say a few words about that before I come to the specific points my hon. Friend made. Last month, the Secretary of State confirmed the local government settlement, which provides two years of real-terms increases in the resources available to local government. The extra council tax flexibility that we have announced means that total core spending power, which is £44.3 billion this financial year, will rise to £45.6 billion by 2019-20. For the Isle of Wight, that means £132 million in 2019-20, up from £127 million in 2015-16. That represents a 4% cash increase overall, which is double the national average.

Councils know their communities best. They know their priorities, challenges and opportunities. I am aware that my hon. Friend is already looking at ways to raise the Island's profile, generate jobs and support the tourism industry, and my Department applauds and supports those efforts. Indeed, councils across England are showing that they are capable of finding efficiencies while continuing to provide for their communities. They are playing their part in tackling the deficit, to which this Government remain committed. I am keen in my new role to build on the good work that is already under way. An important aspect of that will be giving local authorities the levers and incentives to grow their local economies. I was delighted to hear that the Solent authorities have been selected as one of the 100% business rate retention pilots for the forthcoming year.

The pilots have proved incredibly popular, with more than 200 authorities having put themselves forward for consideration. I therefore know that the Isle of Wight authority will be excited to have this special opportunity and am keen to see what we can learn from it. It is worth noting that the ability to retain 100% of business rates is

[*Rishi Sunak*]

estimated to benefit the Solent authorities by up to £3.3 million this year—extra resources that will be welcome and are a due benefit from driving local economic growth.

I turn to the specific points made by my hon. Friend, first and most importantly in relation to the geographical position of the Island. I am grateful to him for comprehensively setting out a number of the key issues affecting his constituency. I have noted carefully his concerns about how we currently distribute the funding available across local government. Clearly, the Isle of Wight's geography makes the council's position distinct and creates both opportunities and challenges. My hon. Friend made that point passionately, and it was acknowledged by the former Secretary of State for Communities and Local Government, my right hon. Friend the Member for Tunbridge Wells (Greg Clark), on a visit to the Island in 2016.

It is right that we recognise the specific situation of the Isle of Wight and our other islands in many areas of policy, and not just fiscal policy. What do we intend to do? First, I have asked my officials to continue exploring the various mechanisms in place in Scotland in relation to islands, which my hon. Friend mentioned, with a view to building our knowledge and evidence base. The Department will continue to take steps to inform our understanding of the various factors affecting the cost of delivering services on islands. For that reason, I was delighted to receive copies of the important research undertaken by the University of Portsmouth regarding the Island's particular situation and potential consequences. Although I am not in a position to comment academically on the report as my hon. Friend asked me to do, it is welcome to have such thoughtful and detailed analysis to help inform the Department's work. I note that he highlighted several other reports in addition.

I can tell my hon. Friend that this will not be analysis for analysis' sake. He highlights this issue at a once-in-a-generation time when there is a possibility to do something about it. That is because my Department is embarking on a fair funding review. I reiterate the Secretary of State's commitment to undertake a thorough, evidence-based review that uses the most up-to-date information available to assess both current and future resources and needs of local authorities. Members may be aware that we issued a 12-week technical consultation seeking views on exactly that at the end of last year. The idiosyncratic island factors we heard about today that drive specific costs are exactly what we need to hear about and consider in formulating a new funding formula.

I urge the Isle of Wight Council to submit any relevant evidence it has alongside other points it wishes to make in its response to the consultation, which we will consider carefully. Furthermore, I will take the opportunity offered by my hon. Friend to meet him and perhaps colleagues from the University of Portsmouth and his local authority to discuss the findings in more detail, as part of future conversations on the fair funding review. More broadly, I will be encouraging input from all Members and representatives from across local government so that we can work together to create an updated and more responsive local government financial system.

My hon. Friend also raised the rural service delivery grant, noting that the Island is not currently a recipient. That is, as he said, due to the particular sparsity methodology it uses. We recently announced that the grant will be funded through increased business rate retention from 2020-21, when we aim to implement our fair funding review, which will redistribute business rates across the sector. He may well have given us a good example of why we need to revisit the underlying basis for relative needs allocations between local authorities, as many of the formulae have not been updated in more than a decade.

Similarly, my hon. Friend made the point about population growth, particularly in the age categories that drive social care. As I have discovered in the past week, the formulae we currently use are relatively old and do not dynamically take into account changing populations, which his council is experiencing. As I have said, the review is looking afresh at how we take such key factors—rurality, remoteness and population growth—into account. I therefore welcome Members' support in helping us to deliver an outcome that is robust, collaborative and evidence-based. This is the perfect time to shape the discussion, with our consultation currently live.

My hon. Friend mentioned the local government finance settlement. As he knows, we are three years into a four-year deal that provides funding certainty for those councils that published efficiency plans. I am delighted that the Isle of Wight took up that offer. We recognise the pressure faced by all local authorities, particularly in the light of pressures in areas such as social care. That is why, subject to Parliament's approval, the Government will increase the core referendum principle. As a result, the Isle of Wight specifically will have the flexibility to increase its council tax by up to 6% this year, delivering funds of up to £4.9 million.

I understand that the council is awaiting responses to its consultation on the 2018-19 budget and that there is to be a public meeting today with members about how best to allocate funding. It is good to see the Island's community steering the council's vision on issues such as partnership working, adult social care and housing. I look forward to receiving the council's response to the provisional settlement. My officials will look carefully at that and consider all the responses ahead of the imminent final settlement in a few weeks.

On devolution, the Government are committed to empowering local authorities and rebalancing the local economy through local devolution and growth deals. We know that devolution can bring multiple benefits, including more accountable and effective institutions at the right scale, but I note my hon. Friend's points. It is clearly important that we work towards a model that works for each individual area. I understand that the Minister for Local Growth, my hon. Friend the Member for Rossendale and Darwen (Jake Berry), is visiting my hon. Friend's area in March, and I look forward to hearing about those discussions.

Lastly, on infrastructure, skills and business support, I recognise that my hon. Friend has an inspiring vision and strong ambitions for the constituency he represents so proudly. It is right that Government do their best to support those aspirations. I am pleased to note that the Government have supported investment in those areas on the Isle of Wight through the growth deal awarded

to the Solent local enterprise partnership. Through the LEP, £14.7 million of funding has been invested locally, through the centre of excellence for composites, advanced manufacturing and marine at the Isle of Wight College and the Floating bridge at Cowes. The LEP has also invested £750,000 of regional growth funding, which was used to set up the rural business fund. All of that will help contribute to the Island's economic growth, leveraging private investment, creating jobs and assisting the rural sector.

Again, I thank my hon. Friend for calling this important debate and for bringing these issues to my attention so early in my tenure. He is right to be ambitious for his Island and to fight for it to get the consideration it deserves. I look forward to working closely with him in the coming months to address the challenges and opportunities he has highlighted.

11.29 am

Mr Seely: I thank my hon. Friend for his words. Just a point of fact: Jack was a great-great uncle and was elected as a Conservative despite the fact that he was a Liberal. It is a long story.

I thank my hon. Friend for recognising our distinct nature, for his words on the Scottish islands needs allowance and for his comments on the fair funding formula, which is so important to us. We will submit much evidence. Finally, although public services debates can sometimes seem arcane, it is important to remember their purpose—to build a fair and just society—for which we all aim.

Question put and agreed to.

11.30 am

Sitting suspended.

Food Poverty: Merseyside

[SIR DAVID CRAUSBY *in the Chair*]

2.30 pm

Stephen Twigg (Liverpool, West Derby) (Lab/Co-op): I beg to move,

That this House has considered food poverty in Merseyside. It is a pleasure to serve under your chairmanship in Westminster Hall this afternoon, Sir David.

May I start by thanking all the selfless and dedicated food bank volunteers not just in Merseyside but across the country? Over the past two years I have volunteered at a local food bank in my constituency—the North Liverpool food bank network at St John's church in Tuebrook—and I have seen at first hand both the fantastic work it does and the massive need it seeks to address.

May I also welcome my hon. Friends from across Merseyside who have joined us for this debate? Two of my hon. Friends who are unable to be here today have sent their best wishes. My neighbour, my hon. Friend the Member for Liverpool, Wavertree (Luciana Berger), has been a long-standing campaigner on this issue, and my other neighbour, my hon. Friend the Member for Liverpool, Walton (Dan Carden), used his first Prime Minister's question last year to ask about schools providing free meals during the holidays, which is a subject I will return to later in my speech. Both of them have other duties in the House this afternoon.

Frankly, this is a debate that we should not be having. As a first-world country—one of the wealthiest in the world—it is surely shameful that we have seen the exponential increase in food bank use that there has been. According to the highly respected Trussell Trust, 128,697 people were provided with a three-day emergency food package in 2011. Last year, the comparable figure was over 1.1 million, which is an eightfold increase in a six-year period. In the run-up to Christmas, ITV Granada ran a special report on food poverty, focusing on Morecambe in the north-west. That programme was seen by more than 7 million people, and the issues that it raised so powerfully are exactly the same as the issues that we face in Merseyside.

The Department of Health defines food poverty as “the inability to afford, or to have access to, food to make up a healthy diet.”

The United Nations found that between 2014 and 2016, just over 4% of the UK population were deemed to be severely food insecure. That is nearly 3 million people in our country, and it suggests that there are about 2 million people suffering from food poverty who, for whatever reason, have not had access to a food bank.

Across the north-west last year, the Trussell Trust network provided 175,000 emergency food packages. That is the largest number in any region in the country. Of course, that does not take into account the independent food banks that are also providing food aid, including the Hope food banks, the Orchard and the Merseyside Youth Association food bank. Last Friday, for example, the Orchard food bank in the constituency of my hon. Friend the Member for Garston and Halewood (Maria Eagle) opened at 10 in the morning, handed out 49 bags of food in the space of 25 minutes and had to close at 11 because it had run out of food packages, such was the demand.

[Stephen Twigg]

Across Merseyside, the two biggest factors driving people to use food banks are low incomes and changes and delays in the benefits system. In the six months between April and September last year, 27% of people in Liverpool said that the main reason they were being referred to the food bank was a low income. These are people in work who are having to use food banks. In recent years, we have seen an increase in food prices. Last year, for example, there was the highest rate of food price inflation for four years. When that is combined with wage stagnation and increasing job insecurity, it means that many of the most vulnerable families in work are taking home less money. Real wages have barely increased in this country for over a decade, and last year they fell by 0.4%. This brings together what might be described as a “perfect storm”, where the price of food is increasing much quicker than most people’s wages. I urge the Government to focus more on measures to tackle the scourge of low pay in this country.

Nationally, the main reason people are referred to food banks is low incomes for families in work. In Liverpool, although that is the case for a significant number, the primary reason is changes and delays in the benefits system. Some 51% of those who used a food bank in Liverpool last year did so because of changes or delays with their benefits. Since 2010, we have seen more than 20 major changes to working-age benefits in this country, and that has affected more than 50,000 households in just the city of Liverpool. Liverpool City Council undertook a cumulative impact assessment of those changes two years ago, and I urge the Minister to work with Liverpool City Council and other local authorities to undertake a current cumulative impact assessment of the impact of benefit changes in communities in not only Merseyside but other parts of the country.

Alison McGovern (Wirral South) (Lab): Just before Christmas I walked into my constituency office and saw Jay Glover, my assistant, on the phone to the Department for Work and Pensions for an extraordinary amount of time, trying to resolve somebody’s benefits problem. That was just before Christmas, and that person had to go to a food bank. Does my hon. Friend agree that such incidents are becoming ever more frequent in all our constituency offices, and so we know that this DWP delay is real?

Stephen Twigg: My hon. Friend is absolutely right. My experience from my advice surgeries and the constituency caseworkers in my local office is exactly the same, as I am sure is that of colleagues. The survey evidence that I referred to demonstrates that in Liverpool, half of those who have to use food banks say that it is because of delays and changes with benefits.

Ms Angela Eagle (Wallasey) (Lab): I congratulate my hon. Friend on raising this really important subject. In Wallasey we have a very similar result. Well over half the people who have to use the food bank—and it is large numbers now—report to the Trussell Trust that they are doing so because of either benefit sanctions or delays to their benefits. Does he agree that this is a Government-made problem?

Stephen Twigg: My hon. Friend makes a powerful point, and I will now focus my remarks on the set of challenges arising from that combination she described so accurately of the impact of benefit changes, benefit cuts and benefit delays, and sanctions.

A report by Sheffield Hallam University pointed out how the risks and costs had, in many ways, been passed from central Government to local authorities. From the point of view of Merseyside authorities, this has coincided with a drastic and dramatic cut in central Government funding for those local authorities.

As it has been implemented, universal credit has had an impact on debt and therefore on food poverty. In an article published this weekend, my hon. Friend the Member for Stretford and Urmston (Kate Green) suggested a number of changes the Government could make to universal credit that would have a real impact on communities such as those across Merseyside. Two of her suggestions are relevant to today’s debate. One is to urge the Government to follow Labour’s example and commit to passporting every family on universal credit to free school meals in order to avoid cliff edges when household earnings increase. Secondly, she suggested that claimants should be able to choose to receive their universal credit payments fortnightly to minimise the risk of households running up debts while they wait for payments. I urge the Minister to consider those two very positive suggestions from my hon. Friend.

A former Minister at the Department for Work and Pensions wrote in a letter to Liverpool City Council:

“The suggestion that benefit delays are responsible for an increase in foodbank usage is unfounded”.

That is completely at odds with what I hear when I volunteer at my local food bank and with all the information that I have received from a range of local organisations in preparing for today’s debate. I ask the new Minister, whom I welcome to his position, to take a different view from that of his predecessor and instead to support the view of the Trussell Trust that changes to benefits are forcing people to turn to food banks. If he is not prepared to take that position, I would like him to give the House his alternative explanation for the eightfold increase in the number of people using food banks.

Food poverty is a growing public health concern. A lack of access to the nutritious food needed for a balanced diet increases the burden on the national health service. Liverpool has seen a significant rise in the number of fast food outlets coincide with a rise in food poverty. The city of Liverpool has the 34th highest outlet density of 325 local authorities, and the areas with the highest density tend to be in the most deprived parts of the city. One of the strongest measures of a healthy diet is how often people manage to eat five portions of fruit and veg a day. Liverpool has the 29th lowest proportion of the population managing that; Manchester is the only core city with a proportion that is lower still.

Liverpool City Council has tried to address the challenge by teaming up with a brilliant local social enterprise, Can Cook. Using donations, Can Cook has produced food packages containing predominantly fresh food, feeding local people with nutritious food for five days. I take this opportunity to praise the work of Can Cook in its efforts to make healthy food parcels available to people, and to thank the *Liverpool Echo*, which teamed

up with Can Cook for a significant fundraising campaign in 2016. That is just one example of the ways people across Liverpool, including Liverpool City Council, are striving to help the poorest in our city.

The Liverpool Citizens Support Scheme was set up by the city council to help the most vulnerable in Liverpool who are facing short-term crises to meet their needs for food and other essential items. The average award is £91, and Liverpool City Council made over 10,000 awards, of which 8,000 were for families in urgent need. The council is also helping with discretionary housing payments for people who need extra help with their rent. The original budget for that scheme was £2.7 million, but the sheer demand has meant that the council has found another £600,000 for it. That highlights a number of things, including the impact of the bedroom tax on communities across Liverpool.

The Mayor of Liverpool, Joe Anderson, has established the Mayoral Hardship Fund, a special £2 million fund over three years, set up specifically for the council to be able to respond to the exceptional and growing pressures on Liverpool residents who are on a low income. Those schemes have become a life support system for some of the most vulnerable families in the city, who are facing years of austerity, wage stagnation and benefit changes. I ask the Minister to join me in praising the city council for doing that, to tell us what the Government will do to support Liverpool's efforts to protect the most vulnerable and to say whether they will encourage other local authorities in other parts of the country to establish similar schemes.

I will finish by talking about one of the many brilliant community organisations in my constituency, which works with some of the poorest and most vulnerable. The organisation is called Croxteth Gems, and before Christmas I was pleased to team up with it to help with its "12 Days of Christmas" campaign. Jean Hannah, who runs the organisation, tells the story of a family she visited in Croxteth a couple of years ago, who were on hard times. Jean arrived at their home and was shocked to see that, rather than an actual Christmas tree, the family simply had a picture of a Christmas tree. They could not afford a tree or Christmas decorations. The "12 Days of Christmas" campaign sought to ensure that some of the poorest families in Croxteth were nevertheless able to enjoy their Christmas. Originally, the aim was to help 100 families, but the strength of the local community response was such that Jean and her team were able to deliver food, clothes, Christmas trees, decorations and presents to 136 families, benefiting over 350 children.

Croxteth Gems does work like that all year round. It was originally set up to provide play and youth services, but because of the reality of food poverty, it has increasingly had to serve food to hungry children. One thing it does during school holidays is to provide play to children in the local area, and provide meals as part of that. It is now helping to support a local school to provide a breakfast club for over 70 children throughout the school year. The additional work it does, beyond its core mission, has only been made possible by generous donations from the local community.

I know that my right hon. Friend the Member for Birkenhead (Frank Field) has led some excellent cross-party work urging that there should be free school meals for children during the school holidays. That measure would

make a difference to some of the poorest and most vulnerable families in Merseyside and, indeed, in other parts of the country. I know there is a private Member's Bill on the subject on Friday's Order Paper; I urge the Minister and the Government to give serious consideration to supporting that proposal to help some of the poorest and most vulnerable children be fed throughout the school holidays.

There are organisations up and down the country like the ones I have referred to—Croxteth Gems and the North Liverpool food bank—stepping in where the state has failed. I also particularly thank Fans Supporting Foodbanks, which has brought together Everton Supporters Trust and Spirit of Shankly—Liverpool's supporters—to mobilise football fans in Liverpool in support of our local food banks.

I want to see an end to food poverty not just in Merseyside, but across the whole of the United Kingdom. For that to happen, it will require a fundamental change in Government policy on benefits, wages and the funding of local authorities. I am pleased to have had the opportunity today to highlight the scale of the challenge we face and to pay tribute to the amazing response of local communities across Liverpool. Local people have risen to the challenge of addressing food poverty. I urge the Minister and the Government to change course so that together we can finally defeat food poverty once and for all.

2.47 pm

Maria Eagle (Garston and Halewood) (Lab): I will begin by congratulating my hon. Friend the Member for Liverpool, West Derby (Stephen Twigg) on securing the debate. It is tremendously important that this issue, which is of long standing and is worsening, is highlighted as regularly as possible. When I was shadow Secretary of State for Environment, Food and Rural Affairs, we repeatedly held Opposition day debates in the main Chamber on this matter. I remember those debates going back to 2012-13, yet the Government, as far as I am aware—the Minister will correct me if I am wrong—are still not collecting statistics on the amount of food bank use and the reasons behind it.

I find it amazing and disgraceful that the Government of one of the richest countries in the world—although we are slipping down the league—do not care enough that many of their citizens have to feed their families by going and collecting food given to them to make them research why it is happening and what can be done about it. I must say that that does not seem to stop Ministers writing to those of us who raise these issues with them, asserting that the Government are not at fault, and that benefit delays and changes are not at fault; my hon. Friend the Member for Liverpool, West Derby read out an example. How Ministers can say that, when they do no research into what the reasons are, is utterly beyond me. I have been calling for the Government to research this for years, but so far as I am aware they have still not undertaken to do so.

I welcome the new Minister to his place; I predicted that he would respond to the debate, because it is always the newest Minister in the Department who draws the shortest straw and has to deal with these debates. I sympathise with him. In my experience, these debates are always a hot potato for the Government; they cannot decide which Department should answer, because nobody in government is responsible for food poverty.

[*Maria Eagle*]

The Department for Environment, Food and Rural Affairs does not want to do it, the Department for Work and Pensions does not want to do it and the Cabinet Office does not want to do it. The short straw used to be drawn by the Minister with responsibility for volunteering, but that post appears to have disappeared from Government. However, we have not yet had the updated list of ministerial responsibilities—a week after the reshuffle—so we do not know for certain that that is the case. It looks like, at least for the present, the new Minister has drawn the short straw and caught the hot potato and will have to deal with the matter.

He will have to deal with it, because those of us who represent constituents who have to go to food banks regularly in order to feed their families will never stop raising the issue with the Government until something is done to alleviate the problem. It is not good enough for the Minister to say—I hope he will not do so today—that it is just one of those things, that it is nothing to do with the Government and that they have reduced the number of benefit delays. The fact is that the biggest reasons by far for people resorting to food banks, certainly on Merseyside, are still changes in their benefits, sanctions on their benefits and so on.

The other big reasons why people go to food banks, which my hon. Friend the Member for Liverpool, West Derby referenced, are that, even though they are in work, their income is not regular enough, they do not have guaranteed hours or they are on zero-hours contracts. They do not know when the next pay cheque is coming and they have fixed costs, such as rent and other bills, which means that there are times when they simply cannot afford to feed their family.

If the Minister has anything in his speech about the best way out of poverty being work, I suggest to him right now that he crosses it out. I see him getting his pen out now; that phrase will be in his speech a lot. It is not the case in Liverpool that the best way out of poverty is work, because many people who work hard still cannot afford to feed their family. If that is the Government's only response, they are simply complacent. In fact, if the Minister commissioned research about why people use food banks, he might actually have some real evidence that that is the case, instead of the anecdotal evidence that we get at our constituency surgeries.

The South Liverpool food bank in my constituency has seen ongoing increases in people asking for help over the years. Not only was there a 10% increase between 2015 and 2016 but last year it went up again. In 2015-16, 3,890 people in the Liverpool end of my constituency accessed a food bank. The figure last year went up to 4,076, more than 1,700 of whom—almost half—were children. In 2005-06, 2,894 accessed a food bank across the entire country, but there are now more than 4,000 just in my constituency, so when I say it is a disgrace that the Government do not collect statistics and research why this is happening, I mean it. It is a problem that they appear not to care about, because they do not seem to be finding out why it is happening and coming up with a policy for dealing with it. When we talk about our constituents going hungry or children not being able to concentrate at school and losing weight over the summer because there are no school meals, it is simply not good enough that that is our Government's attitude.

Ms Angela Eagle: Does my hon. Friend recognise that, even though the Government do not do any research, the Trussell Trust and those people who actually provide food and collect food for food banks do. Their research proves conclusively that benefit delays, changes to benefits and low pay are the main reasons why people resort to food banks. Will she acknowledge that, as universal credit comes to my constituency and is introduced into the Wirral, my local food bank has said it will have to collect an extra 15 tonnes of food to deal with the 30% increase in food bank use that its research suggests accompanies the introduction of full universal credit in any area?

Maria Eagle: I agree with my hon. Friend on the impact of the roll-out of universal credit. One reason why I say that this crisis, which is already worsening and has been over the past few years, is actually set to get even worse is that we have not yet had the full service roll-out of universal credit in Garston and Halewood and across much of Liverpool. It will be rolled out at some time during this year, although it has been delayed again.

The Trussell Trust says that it has noticed a 17% increase in food bank usage across all its food banks where universal credit is rolled out, against an average—where the roll-out is not a factor—of 6.5%. That is a significantly increased extra risk where we have universal credit roll-out, and that is about to happen in Liverpool and across Merseyside this year. We expect, as local Members of Parliament, a big increase in this kind of problem coming to us and our advice surgeries.

The *Liverpool Echo's* Share Your Lunch campaign has, over the last 18 months, raised more than £73,000 and fed more than 36,000 people across the city region with fresh and nutritious meals. It has done a tremendous job within the very fine tradition of self-help that we have in Liverpool and on Merseyside. However, that initiative is now over. My hon. Friend the Member for Liverpool, West Derby referenced Can Cook, which is also based in my constituency, although it works across the city region.

Although Can Cook is moving on to try to do more good work, the fact that, over the last year or so, its initiative has fed many local children who do not get their free school meals during Christmas and the school holidays shows definitively the importance of the initiative my hon. Friend referred to, of passporting free school meals and making free school meals available in school holidays. For many children in my constituency, it is the only good meal they are guaranteed in a day. During the summer vacation, many young people in adventure playgrounds, such as the Garston “venny” in my constituency, were kept fed with fresh and nutritious food from Can Cook and Share Your Lunch.

My hon. Friend also referred to Fans Supporting Foodbanks, an organic campaign that has grown up among football supporters, of which there are many in Liverpool. Home matches are used as an opportunity to collect food for food banks, such as the North Liverpool food bank, which is of course based around the two football grounds in Liverpool. Again, they are in the finest Liverpool tradition of self-help and of making a difference to the lives of neighbours. Unfortunately, it reminds me too much of what was happening in the early part of the 20th century in Liverpool—of the

Clarion soup vans, of the initiatives organised by the early labour and socialist movement and of Bessie Braddock and her mother, Mary Bamber, who used to go around cooking food for unemployed people, who were in a desperate state at that time. We should not be going back to that.

The Minister has to make sure that his Government try to stop this happening and do not simply ignore the problem, refuse to collect statistics on it, blame the victims for what is going on and insinuate that because food is free, of course people go and access it. We have a large and growing crisis of food poverty in our city and in this country. It is my contention that the Government are doing nothing to tackle it. They will not collect statistics on why it is happening, and things are set to get worse this year, with the roll-out of universal credit.

It is not enough for our Prime Minister to stand on the steps of Downing Street and assert that she is going to do something for people who are struggling or just about managing, and then do absolutely nothing to help people who cannot feed themselves or their families, not through any fault of their own but because this Government have removed support for them via the local authority and the benefits system. The Government are not trying to make sure that work pays and that if one works for a living, there is enough in the wage packet to feed a family. That is where this Government are falling down. It is a disgrace, and I wait to hear from the Minister that he at least is going to do something to tackle it.

3.1 pm

Mrs Louise Ellman (Liverpool, Riverside) (Lab/Co-op): It is a pleasure to serve under your chairmanship, Sir David. I congratulate my hon. Friend the Member for Liverpool, West Derby (Stephen Twigg) on securing this debate on such an important issue.

We should be clear that it is an absolute disgrace that there are so many people suffering from hunger and poor nutrition in this prosperous country in 2018. Food poverty is, of course, part of more general poverty. People in poverty juggle between providing for essential needs such as eating, keeping warm and keeping housed, and too many people face the impossible choice: heat or eat? How can it be just that so many people, including children, are going hungry?

Let us look at what is happening in Liverpool, where the city council has already lost 58% of its disposable income. That figure will reach a massive 68% by 2020. The Liverpool mayoral action group's important and groundbreaking report shows the cumulative impact of 20 cuts made to benefits, including benefits for people in work, since 2010. My hon. Friend the Member for Liverpool, West Derby referred to that. Those cuts resulted in a loss of £157 million for Liverpool people by 2016. That means that 55,000 people have been affected by a reduction in their income, which was already too low to meet basic needs. The principal groups of people who have lost out are those who are long-term sick, disabled, in insecure jobs or in jobs with insecure and changing incomes and many families with children. Those problems will be exacerbated by the full roll-out of universal credit across Liverpool this year.

Inadequate income to meet basic needs leads inevitably to food deprivation. People are constantly juggling between having enough to eat, keeping warm and keeping a

home. That is intolerable. My hon. Friends have referred to the work of food banks and the disgraceful situation of so many people needing to rely on emergency food supplies to survive. Between October 2016 and September 2017, 8,732 emergency food vouchers had been redeemed at one of the three Trussell Trust food banks in Liverpool, feeding 18,456 people. That is divided between 11,500 adults and 6,900 children. What a terrible situation in 2018. The main reason for this abominable situation is benefit cuts and people on low incomes, in unstable jobs and getting an irregular income.

The fact is that people are suffering. The situation is increasingly disturbing. The Liverpool public health report for 2016-17 makes alarming reading. It records that 27% of children in reception classes in Liverpool are obese, as are 38% of children in year 6. Obesity is closely linked with food deprivation and poor nutrition. That report records a disgraceful and horrendous figure—a significant rise in hospital admissions for malnutrition in women of childbearing age and young people. It is hardly believable that such a thing is happening in our day and age. The report also shows that, in 2016, provisional data demonstrate that there were 39 infant deaths in the city—the highest recorded figure since 2005. What a horrendous situation that, in 2018, in a prosperous country, more people are being admitted to hospital for malnutrition and there are more infant deaths. Those are things that nobody would believe unless they saw those figures in Liverpool's public health annual report.

What is being done to address this woeful situation? Liverpool City Council must be commended for its efforts. My hon. Friends have referred to a number of steps that the council is taking. The city Mayor's action group on fairness and tackling poverty has identified food poverty, together with deprivation in fuel, clothing and housing, as a key concern requiring investigation and action. It has implemented a series of practical measures, including issuing crisis financial awards for food and mitigating the impact of Government cuts on the income of vulnerable people by using discretionary funds—funds that are increasingly under pressure.

Many of the people receiving those funds because they are in an emergency and a desperate situation are in work. Let us do away once and for all with the myth that people who are suffering in poverty are in some way feckless or do not want to work. That is an outrageous untruth or, if I am allowed to use the word in Parliament, a lie. That is what that charge is.

Liverpool City Council has also instigated healthy living public health initiatives, which are very important. The basic cause of the problem is a lack of income. It is right that people are given the fullest possible information about how to make best use of an inadequate income and basic information about nutrition and how to access nutritious food. That work is important.

Maria Eagle: Does my hon. Friend accept that, no matter how much good work the Trussell Trust food banks do, the food that they hand out is tinned, dried, fatty and full of sugar and salt? That is not the best way to build a healthy diet. Those dependent on food bank usage are automatically getting poor-quality food, through no fault of the people who are helping to hand out that emergency support.

Mrs Ellman: My hon. Friend makes an extremely important point. The work of food banks is excellent and very much appreciated, but of course they depend on the food that is given to them, and she has pointed out some of the consequences.

Liverpool City Council has done a great deal, and I have referred to some of that work, but it cannot solve the problem that the Government have created. Although the invaluable work of the Churches and the voluntary sector is a crucial lifeline for many, that alone cannot remove poverty, hunger and poor nutrition. The Government have a responsibility to resolve the problems that they have created. I look forward to hearing the Minister's proposals on how he will change this deplorable situation.

3.10 pm

Ms Marie Rimmer (St Helens South and Whiston) (Lab): It is a pleasure to speak under your chairmanship, Sir David. I congratulate my hon. Friend the Member for Liverpool, West Derby (Stephen Twigg) on securing the debate.

Food poverty is at epidemic levels across Great Britain. As my hon. Friend said, it was defined by the Department of Health as

“the inability to afford, or to have access to, food to make up a healthy diet”.

We question “a healthy diet”. Under the current Government, we have seen a 122% increase in the number of people admitted to hospital with malnutrition. For the most part, that is because a good diet is simply out of reach financially. In 2016-17, there were 806 admissions to hospital of people suffering from primary malnutrition in England. Food price increases, welfare reforms, wider Government cuts and insecure, low-paid employment are at the root of this crisis. An increasing number of our citizens are living in genuine deprivation.

I have seen the problem of malnutrition in my own constituency, where 74 people were admitted to my local NHS trust—St Helens and Knowsley—with diagnoses of primary or secondary malnutrition in 2015-16. Unfortunately, the data is not divided into primary and secondary at local level, and we know that secondary malnutrition can be related to other illnesses.

Why is this happening in the sixth wealthiest country in the world? Put simply, we have become so profoundly unequal that last year's *Sunday Times* rich list stated that it was “Boom time for billionaires” in Britain. Well, the Government have certainly addressed that situation. The £20 billion-worth of tax cuts under this Government have largely benefited the wealthy, and there have been increases in indirect taxation, which disproportionately affects the less affluent in our society—the very people we are talking about—and more than cancels out the effects of any direct tax cuts from which they might have benefited. Research published last year indicates that we are now the most unequal society in Europe, both socially and economically.

Let me tell hon. Members about the experience of many of my constituents. They are often plagued by low-income, insecure employment and never have any opportunity to save for a rainy day. They are often people who are unemployed through no fault of their own, who are in between jobs or, in some cases, longer-term unemployed, and, of course, those who are affected by

benefit delays and changes. People affected by benefit delays and changes make up 43% of food bank referrals nationally and 42% of referrals in my constituency.

Other crises bring people to food banks: being without benefits altogether, which can happen for a variety of reasons, including waiting for claims to be processed, debt, delayed wages, domestic violence, not having recourse to public funds, and homelessness and sickness. All the people affected have been let down by a Government who are bent on cutting the social safety net from under them even though they can make £20 billion of tax cuts.

Food aid organisations are doing a sterling job of plugging an ever widening gap, and I pay tribute to the volunteers at food banks up and down the country. I have witnessed in my constituency how hard the volunteers work in St Helens and Knowsley to ensure that families have access to the supplies that they need. In the six months from April to September 2017, the Trussell Trust recorded that, in Merseyside, three-day emergency food supplies were handed out to 16,761 adults and, appallingly, 10,145 children. That is without the likely spike in use in the months leading up to Christmas and over Christmas.

The St Helens and Knowsley food banks have provided me with ward-level data relating to food bank use in my constituency. It is shocking. In 2017, 2,134 of my constituents were recipients of supplies from the food bank in St Helens, where my constituency has seven wards, and 40% of the recipients were children. I am told that the full data for December has yet to be collated, which means that the true figure is even higher. I was deeply shocked to see that nearly one quarter of the recipients were concentrated in just one ward of my constituency. Knowsley food bank, from April 2017 until the present day, has fed 648 of my constituents, 44% of whom were children. Knowsley accounts for just two wards in my constituency.

It should be noted that the data is provided by the Trussell Trust itself. As many colleagues have said, the Government do not collect any data whatever, on either the levels of food bank use or the number of food banks. The Government say that that is to avoid placing an undue burden on food bank volunteers, but I argue that it is to try to minimise the focus on the fact that, under this Government, people are going hungry at astonishing and unforgivable rates.

FareShare Merseyside has told me that it was busier than ever in redistributing surplus food from the food industry to charities and community centres in 2016-17. It is not just food banks that are helping. They do a significant job, but there is lots going on. In that year, FareShare Merseyside contributed towards in excess of 1,142,000 meals across the city region, feeding more than 19,000 vulnerable people every week. In St Helens alone, it has 14 member organisations to which it provides food.

The Government do not collect any data on children arriving at school hungry. Why are our schools providing breakfast to hundreds of thousands of children? Teachers noticed children could not concentrate to learn and were sleepy, simply because they were hungry. “You can always tell if a child has eaten breakfast—they concentrate more in class and behave better, too.” That is what teachers say.

Forty-three per cent. of teachers recently polled in a survey believe that their breakfast club may have to close in the next few years. Nationally, that equates to 6,700 clubs, which feed 200,000 children. Eighty-six per cent. of those polled said that the closures would be down to lack of school funding. Schools, local government and everybody who helps are affected by cuts. Most worrying of all, more than one third of teachers in schools with breakfast clubs that have already closed down said that they had noticed a decline in exam results, and then the Government tell us that Merseyside is not doing too well on education. A lack of decent, nutritious food must not hold our children back for life. The Government should be ashamed. They should stop lecturing us about children not learning and start feeding the children. What is happening will serve only to entrench the social divide in the UK for generations and it must be stopped.

Almost 30% of my constituents are paid below the Living Wage Foundation's living wage of £8.25 an hour. That is simply not enough to get by on, let alone to save to provide a cushion to fall on. In my constituency, 27% of the children—more than one quarter—live in poverty. In addition, a higher proportion of my constituents than average suffer from long-term sickness—38% of the working age population.

The Government's policies actively contribute to the situation, causing starvation. Their own Secretary of State resigned after the 2016 Budget because of the planned £3 billion of cuts to universal credit, among other policies, which cumulatively saw the poorest families—2.5 million of them—up to £2,100 a year worse off, when the Government were cutting £20 billion off tax for those at the top.

The recent reduction from six weeks to five weeks for receipt of universal credit payments is not enough. Delays will remain a contributing factor in food poverty. The Government are tinkering at the edges of a crisis. In areas where universal credit has been rolled out, food bank use has increased by 30% in the following six months. It is immoral to expect families to survive for five weeks with nothing. I fear for my vulnerable constituents in low-paid, insecure employment, who have never—and nor have their extended families—been able to afford to save. The Government are also granting applications for an advance of universal credit. I believe that that must immediately be changed to an up-front advance as part of all applications for universal credit, with an opportunity to opt out of the advance, rather than having to ask for a loan or advance.

On 11 January the DWP's consultation on free school meal eligibility criteria—and an earnings threshold of £7,400 as a requirement for a child to receive a free school meal—closed. The same Government who implemented £20 billion of tax cuts are consulting on reducing the eligibility criteria. Despite Ministers' insistence that 50,000 more children would qualify, the Children's Society is adamant that the measure would mean more than 1 million children losing their school meal—which, nearly always, will be the only meal they have. In the region of Merseyside, just under 24,000 would no longer have free school meals, and in the two local authorities that cover my constituency, St Helens and Knowsley, 4,300 children would no longer be eligible for a free school meal. The consultation is over. There must not

be any reduction in the eligibility criteria for free school meals, or some children could lose the best source of nutrition they get in a day.

I am pleased to be opening Company Shop and Community Shop in my constituency next week—I am pleased because it will bring help, but not pleased that it is needed. I applaud the initiative, which works with big-name retailers and manufacturers across the country, taking surplus food and products from them. That enables food prices to be significantly reduced, and leaves families with a sense of pride in purchasing their own goods. Many families do not go to the food bank because their pride does not allow them, so many more than we know about are hungry. I am delighted to hear that new jobs will be created as a result of the shops opening. Poverty is not inevitable. It is a result of Government inertia and incompetence, and their immoral behaviour towards people. The Government owe vulnerable people their dignity and must work to build a more just society.

3.22 pm

Margaret Greenwood (Wirral West) (Lab): It is a pleasure to serve under your chairmanship, Mr Crausby. I congratulate my hon. Friend the Member for Liverpool, West Derby (Stephen Twigg) on securing this important debate and making such a compelling speech. I join him, as I am sure all Merseyside MPs do, in paying tribute to the food bank volunteers who work so hard to address the needs of those who need help to feed themselves and their families.

We have had some fantastic, passionate contributions, in which the points were made incredibly well. My hon. Friend the Member for Garston and Halewood (Maria Eagle) spoke with passion about the Government's years of failure to collect the statistics needed to understand the situation. My hon. Friend the Member for Liverpool, Riverside (Mrs Ellman) spoke about the disgrace of food poverty in this country, and the impact of hunger on public health, with particular reference to the increases in the number of people admitted to hospital with malnutrition and in the number of infant deaths. My hon. Friend the Member for St Helens South and Whiston (Ms Rimmer) spoke passionately about the huge inequalities of wealth in society. Her claim that poverty is not inevitable rings true. There were also good interventions from my hon. Friends the Members for Wirral South (Alison McGovern) and for Wallasey (Ms Eagle). I welcome the new Employment Minister to his post.

I believe that the debate is timely. This morning the Institute for Fiscal Studies published a study showing that one in four of Britain's poorest households are falling behind with debt payments or spending more than a quarter of their monthly income on repayments. Earlier today the Office for National Statistics also published the latest data on food prices. Despite a slight fall in the rate of inflation compared with November, the price of food was still more than 4% higher in December, compared with December 2016.

The full service of universal credit is being rolled out on Merseyside and, despite the changes announced by the Government at the end of last year, leading voluntary organisations make it clear that universal credit has not yet been fixed. It was introduced in Bootle in October

[Margaret Greenwood]

and in Wirral in November, and over the year it will spread to the rest of Merseyside, finishing with Everton and West Derby in December, at least if the Government stick to the current timetable. I want to underline the point that food poverty is just one aspect of the pressures that people on very low incomes face. They can face appalling choices such as whether to heat their home or go hungry. Parents may skip a meal so that their children can eat. Those are choices that no one should have to make. The British Medical Association and the Royal College of Paediatrics and Child Health highlighted the link between poverty and poor diet in reports last year, and went on to point out the impact on health not just in childhood, important though that is, but over a much longer period.

The Government do not collect or publish statistics on the number of people seeking help from food banks, despite years of pressure to do so from the Opposition and voluntary organisations. The Trussell Trust, the largest organisation of food banks in the UK, does not seem to find it a problem, and nor have any of the organisations that I have contacted for help on Merseyside, so I ask the Minister once again whether the Government will produce statistics on the number of people receiving help from food banks. We need to know not just how many people seek help but for how long. The Trussell Trust statistics show that in 2016-17, 37,000 adults and 24,000 children were helped by their Merseyside food banks.

The situation varies across Merseyside. Areas such as Birkenhead, Liverpool and Knowsley have the highest rates of poverty, but it is also striking that in my constituency the demand for help has grown even in some relatively affluent areas. In 2017, Wirral food bank distributed 109 tonnes of food. In the north-west as a whole, between April and September 2017, Trussell Trust food banks gave more than 87,000 three-day food supplies to people in crisis, compared with nearly 78,000 during the same period in 2016. That is a 12% increase. The Government commissioned a report from the University of Warwick, which was published in 2014, and one of the points that it made was that people seek help from food banks as a last resort. The fact that so many people are in that situation should be a major concern.

Many of my colleagues have spoken clearly about the reasons why people turn to food banks. The Trussell Trust found that of the people accessing its support 43% did so as a result of benefit delays and changes and 27% did so due to low income. Those are things that the Government can take action on, as my hon. Friend the Member for St Helens South and Whiston pointed out. The length of time for which people wait for an initial universal credit payment has been a major reason for social security delays, if by no means the only one. That also increases the likelihood that people have to turn to a food bank more than once.

Last April the Trussell Trust warned that food banks in areas where the full service of universal credit had been introduced in the previous six months had a 30% average increase in requests for help compared with a year before. From this month, people will be able to ask for a 100% advance on the first payment, and from February the initial five-day waiting period will be

removed. Will the Government make a commitment to publish regular statistics on whether they are meeting the new target of five weeks for initial payments, as well as figures for the number and percentage of claimants asking for advances, so that we can have an idea of how far removing the five-day waiting period is affecting the need for advances?

If people are sanctioned, they can be referred to a food bank by the Department for Work and Pensions. The latest statistics for sanctions published by DWP show that the sanctions rate for universal credit increased by more than 3% in the last quarter. Will the Minister look seriously at introducing a yellow card system and non-financial sanctions, as suggested by the Work and Pensions Committee, to help to reduce the number of people who need help from a food bank? Ten per cent. of the people who sought help from Wirral food bank last year were in employment. That is one reason why it is so important for the Government to reverse the cuts to work allowances for universal credit. Will the Minister urge his new colleagues to do that?

A study published by the University of Oxford for the Trussell Trust, in June 2017, found that people using food banks were likely to belong to groups that are most affected by recent reforms to social security: disabled people, lone parents and large family households. Those groups are particularly affected by universal credit and the changes introduced last April. In the study, more than 50% of households that had received help from a food bank included a disabled person. Mental health conditions affected people in a third of the households. The basic disabled child element in universal credit is half that of the disability element in child tax credit. There is no severe disability premium in universal credit, which means that disabled people who would have been entitled to it will be £65 a week worse off than tax credit recipients.

Maria Eagle: Does my hon. Friend accept that many disabled people have special diets and a requirement to eat or not eat certain things? Neither food banks nor the emergency support that they normally access take that into account.

Margaret Greenwood: My hon. Friend makes an important point, and for many disabled people, the need to heat their home is also a bigger element in their weekly bills.

Will the Government reverse the cuts to support for disabled people in universal credit? Those cuts will have an increasing impact as universal credit is rolled out to a wider range of claimants. Lone parents and their children constitute the largest number of people receiving help from food banks overall. A study for the Equality and Human Rights Commission found that lone parents were set to lose around 15% of their net income on average—around £1 in every £6—and that households with three or more children could lose as much as £5,400 per year. Will the Government look again at reversing the two-child policy, and heed the warning from the Resolution Foundation that cuts to the work allowance could act as a disincentive for some lone parents to work additional hours, once they have entered employment doing a smaller number of hours at the start?

The Government recently announced that children would be eligible for free school meals if their family's income was £7,400 per year or less, excluding social security. That creates a cliff edge in universal credit, which could create a disincentive for people to work additional hours—that has always been the Government's argument against tax credits in general. Free school meals are worth £2.30 per child per day, which over a 38-week school year works out at £437 per child. The Resolution Foundation has calculated that crossing the threshold by earning more than £7,400 a year would effectively mean losing £11 a week in income, and it would take £30 of earnings to claw that back, given the universal credit taper rate. Eligibility for free school meals is another area where families lose more the larger they are. People in insecure work whose income may fluctuate from week to week could face a difficult choice. Will the Government act to avoid families being put in that situation by removing the cliff edge and ensuring that all children in families who receive universal credit are eligible for free school meals?

To conclude, let me underline the seriousness of the situation. New figures this morning show that food prices are still increasing by more than 4%. There is a freeze in key working age benefits until 2020, and wages are stagnating for those in work, particularly those on low incomes. Universal credit is far from fixed, and aspects such as the low level of support for disabled people and the cliff edge for eligibility for free school meals have received much less attention. The Government should act to fix those problems with universal credit at an early stage before people are driven into extreme poverty, and they should return to the original principles of universal credit to ensure that work always pays. They need to tackle poverty, not push families into it.

Just as people are experiencing multiple forms of destitution, there may be more than one reason why someone is forced to turn to a food bank for help. If those groups most likely to use a food bank—disabled people, lone parents, and larger families—are also those who have been hit the hardest by cuts to social security support since 2012, and by cuts to local authority spending and a reduction of services in their areas, then the social security net is clearly not doing the job it is designed to do. It should be protecting people in their time of need.

3.33 pm

The Minister for Employment (Alok Sharma): It is a pleasure to serve under your chairmanship, Sir David, in this important debate—my first as Minister for Employment—and I congratulate the hon. Member for Liverpool, West Derby (Stephen Twigg) on securing it.

The Prime Minister is absolutely clear: the Government are committed to building a country that works for everyone, where no one and no community is left behind. I would like to think that all Members of the House share that ambition. I completely agree that we need to provide appropriate support for the least well-off and most disadvantaged people in our society, and we must do all we can to improve their lives and the lives of their children. Part of that is making sure that people get help with the cost of living.

Several hon. Members *rose*—

Alok Sharma: Perhaps I may make a little progress—there will be plenty of time to intervene.

The introduction of the national living wage has given the UK's lowest earners their fastest pay rise in 20 years. With the increase in personal allowances, the Government have cut income tax for more than 30 million people and taken 4 million low earners out of income tax altogether.

Ms Angela Eagle: The Minister speaks about the income tax threshold, but does he realise that most of the people we are talking about are on zero-hours contracts and really low pay, and they do not pay income tax? None of those tax giveaways have any effect on their weekly income.

Alok Sharma: Four million of the lowest earners have been taken out of income tax altogether, which I hope the hon. Lady will welcome. A typical basic rate taxpayer will now pay over £1,000 less in income tax than they would have done seven years ago.

Maria Eagle: If what the Minister describes is supposedly helping the situation, how does he explain the fact that year on year in Liverpool, the number of people who have to go to food banks to get help with feeding themselves and their families is increasing?

Alok Sharma: Perhaps I may make a little progress, and hopefully I will provide some of the answers that the hon. Lady is looking for.

We plan to further increase the tax-free personal allowance to £12,500 by the end of this Parliament. Working parents are now entitled to up to 30 hours of free childcare, saving them around £5,000 a year. I hope that, whatever our political differences, all Members of the House will welcome those measures. We have also frozen fuel duty, saving the average car driver £850 over the last eight years, compared with the pre-2010 fuel duty escalator.

Mrs Ellman: The information the Minister provides is, of course, welcome, and we are familiar with those announcements. Does he agree that the people in Liverpool, and Merseyside generally, who are going hungry—the people to whom Labour Members are referring today—are those who are, in the words of the Prime Minister, “left out”? What is he going to do about it?

Alok Sharma: Let me come on to that—there is plenty of time left in the debate.

The basic state pension is now at one of its highest rates relative to earnings for over two decades, reversing the trend of decline that we saw between 1997 and 2010. Ultimately, however, work is the best route out of poverty.

Maria Eagle *rose*—

Alok Sharma: I thought that the hon. Lady would react as she did, but she should not take my word for it. Let me quote from a recent report by the Joseph Rowntree Foundation:

“People who live in workless households have much higher rates of poverty than those who live in households where at least one person is in work... Rising employment, skills and pay contributed greatly to reductions in poverty over the last 20 years.”

Maria Eagle: The biggest reason now for food bank use in Liverpool—apart from benefit delays and the things that the Minister's Department does to people—is low income. It is people who are in work, so his point is simply not accurate.

Alok Sharma: I am not sure that I completely understood the hon. Lady, but I was quoting from a report by the Joseph Rowntree Foundation. If she feels that it is inaccurate, she should talk to someone there.

Maria Eagle: Perhaps the Minister will allow me to try again. One of the main reasons that people go to food banks in Liverpool is low income. The income they get comes from work—they are working-age people who are working but do not have enough money to feed their families. The Joseph Rowntree Foundation report is about a countrywide situation. I am talking about what is happening in Liverpool and to my constituents. A lot of people are in work but cannot afford to feed their families on the income they receive. It is simply not good enough for the Minister to say that that is not a problem.

Alok Sharma: I did not say that it is not a problem, and of course I want to ensure that everyone, both in Liverpool and across the country, gets the help they need.

Adults in workless families are four times more likely to be in poverty than those in working families, and children who live in workless households are five times more likely to be in poverty than those in a house where all adults work. We want to see more people in work, and we want to support more people into work. In recent years, the Government have undertaken the most ambitious reform to the welfare system in decades to ensure that work always pays. This reform is already delivering real and lasting change to the lives of many of the most disadvantaged people in our society. Nationally, there are almost 1 million fewer workless households than in 2010. Indeed, workless households are now at an all-time low. In the north-west, the region that many Opposition Members represent, there are around 87,000 fewer workless households than there were seven years ago.

Stephen Twigg: I am grateful to the Minister for giving way. In a sense, he is answering the earlier question, because if the numbers of workless households are going down, yet food bank usage is going up, surely we have a real challenge about families where people are in work still having to access food banks, because of low pay and insecure work.

Alok Sharma: I know that this a very emotive subject and I understand that hon. Members are keen to get answers. I will seek to provide some of those if I may make progress. The latest data shows that the employment rate in the Liverpool city region has seen a 4.1 percentage point increase since 2010 and the comparable national figure shows an increase of 4.2 percentage points.

We have had a discussion about food poverty and more generally about poverty rates. The case is, whichever way you look at poverty rates—relative or absolute; before or after housing costs—none are higher than in 2010. The proportion of people in absolute poverty is at a record low. Across the country, there are 600,000 fewer people in absolute poverty compared with 2010,

and in the north-west there are 100,000 fewer people in absolute poverty compared with the three years up to 2010.

Of course, we want to do everything that we can to make sure that those numbers go down further. Let me explain what we are doing in welfare reform to make that happen.

Maria Eagle: The Minister is being very generous with interventions. Given the statistics he has read out, which are trying to show that things are getting better in terms of poverty reduction and more people being in work, can he please explain why the number of people on Merseyside who are having to access food banks in order to eat and to feed their families is still going up?

Alok Sharma: I will come on to that point, but there are complex reasons why people use food banks. I want to go back to the point about work being the best route out of poverty. It is the case that across the country around 75% of children from workless families moved out of poverty when their parents entered full-time work.

Let me come on to universal credit.

Ms Rimmer: Will the Minister give way?

Alok Sharma: I will make some progress. I have taken a lot of interventions. Perhaps the hon. Lady will let me continue for a moment.

When it comes to reform, universal credit lies at the heart of transforming the welfare system. Universal credit supports those who can work and cares for those who cannot, while being fair to the taxpayer. *[Interruption.]* I would just say to the hon. Member for Garston and Halewood (Maria Eagle) that before this role I was the Housing Minister and I had the opportunity to do an engagement tour around the country, meeting social housing tenants with the aim of producing a Green Paper, and I met around 1,200 social housing tenants across the country. There was a discussion around universal credit and I have to tell hon. Members that the vast majority of people I talked to felt that, in principle, universal credit was absolutely right: it is simple, it makes sense and it helps to deliver the benefits that people need on a timely basis. I will come on to talk about the changes that were introduced in the Budget, because we always want to ensure that things can be done better.

Maria Eagle: Will the Minister give way?

Alok Sharma: No. If I may, I will continue for the moment.

There is always a comparison of universal credit with what came before. It is the case that, because of withdrawal rates, tax credits encouraged lone parents to work for 16 hours and couples to work only 24 hours a week between them. Universal credit provides the opportunity for the first time to support people who are in work to progress, so that they can increase their earnings and become financially independent. We have reduced the universal credit taper to 63%, so that people who progress into work can keep more of what they earn. Under universal credit, work always pays.

Maria Eagle: It doesn't.

Alok Sharma: I have to disagree with the hon. Lady's comment from a sedentary position. It does, because for every extra hour people work, they get to keep more of the money they earn.

Universal credit claimants are able to find work faster and stay in work for longer than those under the system it replaces. Indeed, 86% of people under universal credit are actively looking to increase the hours that they work, compared with only 38% on jobseeker's allowance.

We have to ensure that help is provided as people seek to find employment. The Government are providing a wide range of support targeted to each individual's personal circumstances. Under universal credit, people have access to more tools than ever before to underpin their work search and help with budgeting, digital skills, preparing CVs and getting ready for job interviews.

Stephen Twigg: The Minister is obviously ranging somewhat more widely on universal credit. Will he respond to the very specific question that the shadow Minister and I raised about the cliff edge in the rules in universal credit that relate to free school meals? Will he and the Government look again at a very significant negative side of the reform?

Alok Sharma: The hon. Gentleman knows that free school meals are universal for all children from reception to year 2, and currently all children who are the offspring of universal credit claimants are entitled to free school meals. There has been a consultation, which has closed, and the Department for Education will respond.

I am undertaking a programme of visits to jobcentres across the country. It is important for me as the Employment Minister to talk not only to the people who work in those jobcentres, but to those people who are there as customers. Last week, I visited the jobcentre in my local area, Reading, twice, first to talk to the people who run it; and secondly to talk to individual claimants. I sat in on one of the interviews and asked one of these ladies what she made of universal credit. She said:

"Universal credit is amazingly simple."

Those are not my words, but the words of an individual who went—*[Interruption.]*

Sir David Crausby (in the Chair): Order. The Minister is not giving way.

Alok Sharma: That is the word of an individual who actually has made use of the system.

Ensuring that people get the benefits they are entitled to is important. Whether in work or not, jobcentre staff help their customers to ensure they access their full entitlement to benefits and any other support, such as free school meals and free prescriptions. They also have tailored support for those people who face the most complex employment barriers. That can include temporarily lifting requirements where claimants are homeless, in treatment for drug or alcohol dependency, or victims of domestic abuse.

The hon. Member for Liverpool, West Derby raised a point about people having delays in getting money paid to them. The statistic on universal credit is that 92% of all claimants get all the money they are due paid on

time. Of course, no one wants to wait for money if they need it—advances can be claimed on the same day in an emergency.

Margaret Greenwood: The Minister is being generous with his time. He is talking about support for the most vulnerable, so would his Government reverse the cuts to support for disabled people under universal credit?

Alok Sharma: Hopefully I will have enough time to respond to that point—I believe the hon. Lady is talking about the higher rate of disability premium.

A number of other points were raised about food banks. Jobcentre staff also work in partnership with a variety of local agencies and signpost claimants to local services, including food banks, to help them access the full range of support available. The hon. Member for Liverpool, West Derby quoted from a report from 2016 by Taylor and Loopstra based on UN data. There are a number of reports, including one on income and living conditions produced by Eurostat, which found that the UK has a lower percentage of food insecurity than the EU average and a lower percentage than Germany, France and Italy. Ultimately, we need to ensure that we get help to people who need it, and that we help them into work so that they can support themselves.

Maria Eagle: Will the Minister give way on that point?

Alok Sharma: I have given way quite a lot in this debate. If I may, I will continue. If I have time at the end, I will of course take further interventions.

Food inflation has been discussed. Food prices have fallen in three of the past four years, which has a positive impact. Let me address up front the question about the use of food banks. The Government do not propose to record the number of food banks in the UK, or indeed the potential number of people using them or other types of food aid. There is a range of available food aid—from small local provision to regional and national schemes—and the all-party parliamentary group on hunger, which set up an inquiry to thoroughly investigate the use of food banks, said that there were numerous complex reasons why people use food banks.

Jobcentres engage regularly with the Trussell Trust, and are encouraged to foster good relationships with local food banks. In Merseyside, all jobcentres have a food bank single point of contact, and jobcentre staff have been working actively with food banks to ensure that staff are up to speed with the changes resulting from universal credit.

The hon. Member for St Helens South and Whiston (Ms Rimmer) mentioned international comparisons. I refer her to statistics produced by the OECD showing that, since the mid-2000s, the UK has been one of only two major advanced economies with increasing redistribution. It found that, since 2010, growth and income from work for the lowest-income households in the UK is higher than in any other major advanced economy.

The Government have always been clear that universal credit would be introduced in a way that allows us to continue making improvements. That is why, at the autumn Budget, we announced a comprehensive and wide-ranging package of measures worth £1.5 billion to

[Alok Sharma]

address concerns about the first assessment period and the budgeting issues faced by some claimants at the start of their claim. Since the start of this year, claimants have been able to get 100% of their estimated universal credit payment up front as an advance that they can pay back interest-free over 12 months.

I will address a couple of other points, as I have a few minutes. On the point about disability payments, as the hon. Member for Wirral West (Margaret Greenwood) knows, income-related employment and support allowance and the link to disability premiums, including the severe disability premium, are being replaced by universal credit as part of simplifying the benefit process and to address overlaps. Universal credit has two disability elements for adults, mirroring the design of ESA. The higher rate is set substantially higher than the ESA support component equivalent.

Margaret Greenwood: That being the case, why will some disabled people receive £65 a week less than they would have before universal credit?

Alok Sharma: I am happy to have a dialogue with the hon. Lady, particularly in my new role, but I point out, as I have said, that the rate is set substantially higher than the ESA support component equivalent. However, I am happy to enter into a dialogue with her outside this debate.

Maria Eagle: The Minister has spent most of his time replying to this debate talking about universal credit, but the debate is about food poverty. Is he suggesting that, over the next year, as universal credit is rolled out on Merseyside, the number of people having to visit food banks will go down?

Alok Sharma: I cannot predict the future. The reason why I have talked about universal credit is that it is a matter raised by Opposition Members, and because I think that it is important, if we talk about welfare reform, to talk about the current reforms that the Government are putting in place.

In conclusion, the Government's track record on helping people into work is clear. Unemployment is at a 42-year low at 4.3%, with nearly 1 million fewer workless households than in 2010. Incomes have been rising. Data published last week by the Office for National Statistics showed that in the year 2016-17, real average incomes of the poorest fifth of households had risen by £1,800 since 2007-08.

However one looks at it, poverty rates in the country—relative or absolute, before or after housing—are no higher than in 2010, and within the working-age population,

all headline poverty rates are lower than in 2010. Yes, there is absolutely more to do—we certainly cannot be complacent, and I have no wish to do so—but the Government's reforms have demonstrated real progress in tackling poverty and disadvantage.

3.55 pm

Stephen Twigg: The Minister just said that he does not wish to be complacent, but with all respect to him, I must say that that was a very complacent response to the debate. In particular, he did not address the fundamental question at the heart of the debate, which I posed at the beginning of my speech and other colleagues raised, about the eightfold increase in the number of people using food banks in 2017 compared with 2011.

The Minister said that the all-party group on hunger has said that the causes of increased use of food banks are complex. Of course they are complex, but several of us cited the research, which he did not dispute, suggesting that the major two reasons are low pay and insecure work on one hand, and benefit changes and delays in the benefit system on the other. I hope the Government will reflect on the points raised by Members from across Merseyside. There is anger and passion on the Opposition side of the House. We are reflecting the anger and passion in our own constituencies about the sense of injustice and inequality, and the poverty that people face.

The Minister addressed some of the specific points raised by several Opposition Members. I note in particular what he said about free school meals. I and others will pursue that with the Department for Education, because the threat of that cliff edge will be damaging to communities. Clearly, as a number of my hon. Friends have said during this debate, this is a major issue that is not going to change.

There is a fear that, as universal credit is fully extended across Merseyside, our communities will face greater levels of debt and greater usage of food banks. The bedroom tax, an issue to which I referred briefly but which featured less in this debate than it often does, has undoubtedly contributed to insecurity and debt for many of the communities that we seek to represent.

I am pleased to have had the opportunity to air these important issues. I hope the Minister and the Government will go away and reflect on what we have said, but I return to the fundamental point: the evidence shows us that the eightfold increase in the use of food banks has to do with low pay, job insecurity and poor-quality work, but also benefit delays and changes. The Government need to look again at those issues.

Question put and agreed to.

Resolved,

That this House has considered food poverty in Merseyside.

Mobile Phone Contracts

3.58 pm

Sir David Crausby (in the Chair): We will start the debate, although it may well be interrupted very quickly by a Division.

Patricia Gibson (North Ayrshire and Arran) (SNP): I beg to move,

That this House has considered mobile phone contracts.

A mobile phone has pretty much become a necessity for all of us. Even though we might often wish that we did not have one, we all rely on them to a certain extent. It is just the modern way that we live our lives. I am sure that, like me, the Minister is deeply concerned to hear of the report from Citizens Advice that too many loyal mobile phone customers are being ripped off—I use the term advisedly—by their providers. The research by Citizens Advice showed that people buying a phone through their contract pay an average of £22 a month towards their mobile phone handset. Many people take out a mobile phone contract that includes the cost of a new handset in the overall price of a fixed-term deal, the majority of which are for two years. At the end of that deal, consumers have the option to stay with their network on the same contract, to take out a new contract, or to move to another provider.

However, 36% of mobile handset customers stay on their previous contract after the fixed 24-month period. On average, they stay for an extra seven months. If they are customers with one of the bigger mobile phone providers that dominate the market, however, the chances are that the price they are charged each month will not change. That means that consumers continue to be charged for their handsets, even though they have already paid for them during their two-year contract.

Most providers do not tell the customer how much of their monthly bill goes towards their handset, and how much pays for data and calls.

4 pm

Sitting suspended for Divisions in the House.

4.45 pm

On resuming—

[MR PHILIP HOLLOBONE *in the Chair*]

Mr Philip Hollobone (in the Chair): Order. The sitting is resumed, and the debate may continue until 5.15 pm.

Patricia Gibson: Thank you, Mr Hollobone. As I was saying before the Division bell sounded, the fact is that most providers do not tell the customer how much of their monthly bill goes towards the mobile handset and how much is paying for their calls and data. Citizens Advice has discovered that three of the four largest mobile providers continue to charge customers for a handset after the cost of the handset has already been paid during the term of the fixed deal. That means that loyal customers who choose to stay on the same phone plan after their fixed deal ends see no reduction in their bills. They continue to pay, unwittingly, for a handset for which they have already paid.

Who is most likely to be caught up in this so-called loyalty trap? Those aged over 65 are most likely to be stung, with 23% of over 65s with a handset-inclusive mobile phone contract staying in their contract for more than 12 months past the end of their fixed deal period, compared with only 13% of people aged under 65. Worse still, if someone does not switch they cannot tell how much their handset is costing them, and whether they are getting a good deal or not. Indeed, the total cost of a handset as part of a bundled contract can vary considerably, even among plans offered by the same provider. In some cases, the price difference can be as much as £400. Of the 706 bundled contracts analysed by Citizens Advice, 74% were more expensive than buying the same handset up front and using it with a SIM-only contract, which is quite astonishing.

Three, one of the largest mobile phone providers, has been in touch with me. That company recognises that the way the market is currently organised means that mobile bills lack transparency and are difficult for consumers to comprehend, which in turn leads to them paying more than they should—that is, more than they need to—for their mobile phones.

Jim Shannon (Strangford) (DUP): I congratulate the hon. Lady on securing the debate on an issue that affects my constituency and all others. Does she agree that the thirst for the latest phones means that many people buy themselves out of a contract at a massive financial cost, and that we—or perhaps the Minister—should look at whether the way in which the industry works out the buy-out clause for contracts can be made fairer, and not to the advantage of the mobile companies?

Patricia Gibson: There is, indeed, a range of issues with mobile phone contracts. The real concern is when a consumer is paying for something for which they have already paid, but the hon. Gentleman is absolutely right that mobile contracts need to be seriously looked at.

For consumers, the way to get transparency is to separate out costs so that they can see clearly what they are paying for. In any other industry, that would not be controversial. Some people have pointed out that regulations are an obstacle in the way of separating out those costs because they would require the mobile phone companies to become regulated creditors under the Financial Conduct Authority. Some argue that that would be bureaucratic, burdensome and complex for the mobile phone companies, as they would have to comply with the Consumer Credit Act 1974. However, that need not be the case, since there is a well-established precedent, of which I am sure the Minister is aware; exemptions from full regulation under the Consumer Credit Act are given to appropriate sectors, especially for loans with an annual percentage rate of zero.

The Financial Services and Markets Act 2000 created an exemption from the Consumer Credit Act regulations for providers of 0% APR loans of up to four months. That was raised to 12 months—the current limit in 2015—through a statutory instrument, to allow insurance companies to offer monthly payments for annual plans. Perhaps the Minister will consider raising that limit further to 24 months, to allow mobile phone operators to offer separate mobile handset financing. That would make bills more transparent for consumers, since handset and service contracts would then be separated. Given that it would be prohibitively expensive to ask consumers

[Patricia Gibson]

to pay off their handsets in 12 months, raising the current 12-month limit to a 24-month exemption in the Consumer Credit Act would offer a way forward. It has been done successfully in countries such as Germany and Australia, as well as other countries, so there is no reason why it could not be done here.

O2 has told me that it is the only operator to separate the cost of mobile phones from the airtime on consumer bills and that when a consumer has paid off his or her mobile phone, all charges for it are stopped. That leads me to wonder why one such company can manage such transparency in its billing but others do not seem able to. I am sure the Minister is wondering that as well.

We must make it as easy as possible for those companies who engage in this blatant, unfair and unjust overcharging of customers to stop doing so and remove all the so-called obstacles and hiding places. In no other industry would such blatant ripping-off of the customer be tolerated; it should not be tolerated in the mobile phone industry either. Indeed, it undermines consumer confidence and trust in the entire industry, which is unfair to those players in the industry who play fair by the consumer.

Too many consumers in too many sectors endure a “loyalty penalty” and mobile phone charges are symptomatic of a wider problem. Indeed, in the wider telecoms market, people experience a persistent and ingrained level of detriment. We should be grateful for the sterling work of Citizens Advice, who I pay tribute to today, as its research has uncovered the fact that people experience 27 million problems with their mobile, broadband or TV services per year and those problems cost people £4.2 billion a year in wasted time and money. It is simply not good enough.

As the Minister will be aware, we currently have very powerful voices in the telecoms industry, with no independent voice speaking up for consumers. The telecoms industry has vast resources to expend on lobbying the regulator. It is time for the consumer’s voice to be heard.

The Minister will also be very aware that in their 2017 manifesto, the UK Government made a commitment to make telecoms billing fairer and easier to understand for consumers, including clarifying when the cost of a mobile handset has been paid off by the customer. That is not difficult to do. It can be done by statutory instrument, as I have said.

In a letter of 17 November to me on this issue, the former Minister of State for Digital told me that he hopes “that providers will now take the initiative by clearly separating the cost of handset and tariff in mobile contracts”.

In Ofcom’s response to me of 8 November, it said that it wanted to help people to

“shop around and secure the right deals”.

But unless costs are separated out and mobile operators are forced down that path, consumers cannot and will not know what deals are the best value for money. We cannot rely on the goodwill of the mobile phone operators, because that has not worked. Action is needed and I have offered a way forward, which I urge the Minister to adopt.

The responses from the former Minister for Digital and Ofcom, although well-meaning, do not go far enough. In fact, the responses give me cause for concern—I am a bit alarmed—because they both, in their different ways,

suggest that the mobile phone companies can decide if and when they take action on this matter. I would argue that the Government and the regulator must act urgently to protect consumers from being ripped off. When someone unwittingly pays for the same product twice, make no mistake: that person is being ripped off.

With inflation running high, as it has done for a number of years, and with a continuing squeeze on living standards, it is only right and proper that consumers are treated fairly and are able to see more easily what they are paying for, so that they can properly compare prices. I urge the Minister to set out a clear timetable to implement what she and her Government have publicly said they believe. That can be done very soon, very cleanly and very quickly, by statutory instrument. It is needed so that there can be no excuse or hiding place for mobile companies that continue to charge mobile phone customers for something that they have already paid for. It is time to redress the imbalance between the powerful voice of industry and the weak and too-often ignored voice of the consumer. It really is time to act.

4.54 pm

The Minister of State, Department for Digital, Culture, Media and Sport (Margot James): It is a pleasure to serve under your chairmanship, Mr Hollobone. I congratulate the hon. Member for North Ayrshire and Arran (Patricia Gibson) on securing the debate to highlight this important issue and on her passionate speech, which I listened to with great interest.

I am delighted to have responsibility for championing the interests of digital consumers as part of my new role at the Department for Digital, Culture, Media and Sport as the Minister for digital and creative industries. In my previous role, I had responsibility for small business and consumers, which included retail energy markets and competition law, so I have some experience of the type of issues consumers in this market face, as well as of some of the potential solutions.

The hon. Lady mentioned the Citizens Advice research in her speech, and I pay tribute to Citizens Advice, with whom I worked a great deal in my former job. It does a marvellous job and has been pursuing this issue with the Government, Ofcom and the mobile phone operators over the last 12 months. I have reviewed its research with interest.

Ofcom estimates that about 1 million people continue to pay the full monthly charge after the end of their contract rather than switching to a cheaper deal and that those people could collectively be overpaying by £130 million per year. That is far too great a scale of consumer detriment for us to live with. It represents too many people paying more than they need to, by continuing to pay for the cost of a mobile handset when they should no longer be doing so—essentially after they have paid for it. Many of those people are more vulnerable consumers, including older people—the hon. Lady referred to the difference between the percentage of older people who were continuing to pay for their handset after it had been paid off—and those in lower income segments. Some people may just be very busy. The Government recognise that action is needed.

Ofcom estimates that the issue affects a minority of customers with a mobile phone contract, approximately 6%. In percentage terms, it is a small minority, but it

amounts to about 1 million people, which is no small number. On the plus side, we have a highly competitive market in telecoms, which is good for consumers, and we should recognise that fact, as well as working tirelessly to address those areas that work less well.

Carol Monaghan (Glasgow North West) (SNP): There is a highly competitive market, but for many of the vulnerable consumers we are talking about—many of whom are elderly or possibly without access to the internet—the landscape is extremely confusing. The onus should be on the phone companies to help those customers get the best deal.

Margot James: I recognise what the hon. Lady says and I quite agree. I found the same thing in respect of the energy market; I am well attuned to that fact. For the sake of completeness, I wanted to mention some of the positive things that are happening, which I accept may be less accessible to some older consumers.

The Digital Economy Act 2017 included several measures that are helping Ofcom to empower and protect consumers. Of particular relevance is that the legislation included help for Ofcom to set switching rules for communications services. As a result, Ofcom has recently announced the implementation of a new text-to-switch process for all mobile customers. Consumers will be able to send a free text to their current provider to request a switching code that they give to their new provider for a timely and seamless switch. The change will make switching much quicker and easier for consumers and will go some way towards addressing the issue that the hon. Member for Glasgow North West (Carol Monaghan) raised. The measure must come into effect no later than July next year.

We recognise that we may well need to go further. As the hon. Member for North Ayrshire and Arran said, in our manifesto we set out our commitment to make billing for telecoms customers fairer and easier to understand. In my opinion, that means it must be more transparent. That includes making it clearer when a customer has paid off the price of their handset and is in a position to switch to a cheaper deal, saving them money. She emphasised how important it is for the Government to work with Ofcom, mobile providers and other stakeholders, such as Citizens Advice, to resolve the issue in a way that helps people save money. I assure her that my Department has already been working with all of those parties, and I am committed to continuing that engagement.

I have not come to any firm conclusions about the best solution to this issue. I will listen to the views of all stakeholders—in particular, to those expressed by the hon. Lady in this debate—and we will work in partnership with Ofcom and the mobile providers to get a fairer system with lower prices. I am clear that any solution we develop with Ofcom and the mobile providers must stop people languishing on their mobile phone contracts after their contract period has ended. We want the savings that are their due to be returned to them. Importantly, any solution needs to address the needs of all consumers—particularly those who are older and most vulnerable.

Patricia Gibson: Does the Minister agree that leaving this in the hands of the mobile providers has not worked so far? Action has to be taken to force or compel the mobile phone providers, or otherwise get them to change their behaviour.

Margot James: Although I have not come to a settled view on the matter yet, I agree with the hon. Lady that what has gone on so far—there has been an over-reliance on the mobile phone providers putting their house in order—has not worked to my satisfaction, given that 1 million people are still overpaying.

I am aware that some stakeholders would like to see the end of bundled mobile phone contracts, and want all contracts to be split, with the cost of the handset split out from the cost of services. The pricing of split contracts can be more transparent for consumers than bundled contracts, although split contracts are not without consumer issues. At the moment, providers can make a commercial decision to offer split or bundled contracts, or a choice. A number of mobile phone providers now offer only split contracts and others, such as Tesco Mobile, continue to offer both split and bundled contracts. Other groups, such as EE, Vodafone and Three, offer only bundled contracts. As I said earlier, it is a highly competitive market, in which consumers have a wide degree of choice, including in relation to whether to opt for a bundled or a split contract. However, I accept that when people who are not knowledgeable about the complexities of the market are dealing with a household name that offers only a bundled contract, that is not a great deal of help.

Consumers may choose bundled contracts because they continue to offer good value for money for many consumers. Ofcom research from last March found that such contracts are particularly good value for mobile users with medium to high usage, but such deals can obscure overcharging, as the hon. Lady so ably highlighted. We are therefore prepared to intervene if we deem that to be the only way to resolve this issue. I am committed to preventing people from paying too much by remaining on the same bundled contract after the end of the contract period. No one should continue to pay for a product that they have already paid off. Ofcom, our independent regulator, is continuing to monitor this issue closely. I expect to see movement to address this issue from the mobile operators.

I remind hon. Members that this year the Government will publish a consumer Green Paper, which will explore further ways we can help to protect, support and empower consumers, including those in the mobile communications market. I very much agree with the hon. Lady's remark before we suspended for all the votes that mobile telephony has become a crucial utility that most people simply cannot do without.

I reiterate my thanks to the hon. Lady for securing this debate, and I thank all hon. Members who contributed to it. I will leave her a few minutes, if she requires them, to make a few closing remarks. Before that, I reaffirm my commitment to work with Ofcom, the mobile providers and organisations such as Citizens Advice to address this issue and broader issues in the telecoms market that consumers face.

Mr Philip Hollobone (in the Chair): Order. I am afraid it is not in the Minister's gift to offer the sponsor of the debate a second go during a half-hour debate.

Margot James: I apologise for that, Mr Hollobone.

Mr Philip Hollobone (in the Chair): Apology accepted. *Question put and agreed to.*

King's College Hospital

5.5 pm

Mr Philip Hollobone (in the Chair): The good news for our next speaker is that she has an extra 10 minutes for her debate, because we can move straight on.

Helen Hayes (Dulwich and West Norwood) (Lab): I beg to move,

That this House has considered King's College Hospital finances.

It is a pleasure to serve under your chairmanship, Mr Hollobone. I am pleased to have secured this debate on the finances at the King's College Hospital NHS Foundation Trust, which I have been seeking for some months. It has been clear to me that the trust has been heading towards a crisis, which came to a head shortly before Christmas, when NHS Improvement took the trust into financial special measures. The debate is therefore timely.

To date, the Government have responded to the crisis at King's as if the problem has arisen suddenly in the short term. I want to use this debate today to set out clearly the causes of the problems at King's, which can be traced back to 2010 and 2013. I also want to ask the Minister to take seriously the complexity of the current situation at King's and to take action now to allow it to stabilise and rebuild. There is ample evidence of a crisis across the whole of our NHS this winter, and I want to emphasise that the situation at King's is a warning sign for the NHS that the Government must heed.

My relationship with King's goes back 20 years. I have been a surgical patient and an out-patient at the hospital. I gave birth to my children there. Both were delivered by the same amazing midwife, whose name we chose as a middle name for our second daughter. My mum worked at King's for 10 years until she retired. The situation at King's is as personal and as important to me and my family as it is to tens of thousands of my constituents.

King's is an extraordinary hospital. As a major teaching and research hospital, it undertakes world-leading work across more specialisms than any other hospital, including liver transplants, maxillofacial surgery, foetal medicine, neurosurgery, neonatal intensive care, cardiology and sexual health. As a major trauma centre, the emergency department saves the lives of critically ill and injured patients every single day. The work of its trauma surgeons is pioneering. Together with the specialist nurses, anaesthetists and other clinical staff, they were at the frontline of treating critically injured victims of the Westminster and London Bridge terror attacks and the Grenfell Tower fire.

In south London, we are enormously proud of King's specialisms and its major trauma centre, but it is also our district and general hospital, where people have antenatal scans, give birth, have their appendix removed, have hips and knees replaced, have broken limbs fixed, have cataracts removed, recover from strokes, and receive help to manage diabetes, sickle cell disease and many other health conditions. King's has a very special place in our community. I pay tribute to the extraordinary skill, commitment, dedication and care of the 15,000 staff at King's. I have spoken to many staff in recent weeks. All of them, including the consultant with 32 years of experience I met yesterday, say that things have never been tougher. I want to put on the record my gratitude for everything they continue to do.

My constituents are desperately concerned about the plight the hospital currently faces. King's has been on a journey over the past 20 years. Back in 1998, when I was an in-patient, it was a struggling, failing hospital, where patients were treated in overcrowded conditions and waited on trolleys in accident and emergency. Years of Labour investment transformed it, so that by 2010 it was meeting all of its main clinical targets, had recruited many more staff, and was consistently achieving a small financial surplus each year.

I am concerned that, despite the incredibly hard work of the brilliant staff at King's College Hospital, that journey has come full circle—the days that we thought had been left behind at King's have now returned. The hospital is regularly more than 100% full, with meeting rooms and storage space being used for beds; it has been consistently failing to meet the four-hour waiting time target in A&E, or the 18-week referral-to-treatment target; and it is not meeting its key cancer targets.

I want to be absolutely clear with the Minister that the causes of the problems at King's have roots that go back to events in 2010 and 2013, which could have been predicted by the Government and Monitor, and which absolutely should have been prevented. I draw the Minister's attention to four key issues. First, the rate of funding increase for the NHS was significantly cut from 2010, from 3% to 4% under the previous Labour Governments to 1% under the Tory-Lib Dem coalition Government. There was therefore no way that the funding was ever going to keep pace with inflation, let alone increases in drug and treatment costs and increasing demand. The fact that we are all living longer is a positive thing, but since older people use health services far more than younger groups in the population, it creates an entirely foreseeable increase in the need for health services. That can be managed and minimised when good-quality social care is available to everyone who needs it, but over the same period £6 billion has been taken out of social care. At the Princess Royal University Hospital, which is part of the King's trust, 20% of older patients are clinically fit for discharge but have nowhere to go—a direct example of the extra burdens that the Government's inadequate approach to social care is having on the NHS. The false economy cuts are simply adding to the pressures in our NHS, as people who should be able to maintain their health at home with good support end up requiring acute care.

The second key issue affecting King's is a result of the 2013 decision for it to take on two hospitals—the Princess Royal University Hospital and Orpington Hospital—from the failing South London Healthcare Trust. Following that decision, the Government and Monitor should have insisted on a review period to ensure that the new expanded trust had the right level of support and resources to run the hospitals, but they did not do so. From that moment on, the finances of the new trust deteriorated rapidly. The situation at the Princess Royal was far more complex than anticipated, but there was no review of funding in the light of new and more detailed information about the level of investment required. That 2013 decision fundamentally destabilised the finances of the trust.

The third issue is the challenge of the competing responsibilities of emergency care, including the trauma centre and elective surgery. The King's trauma centre generates its own demand, which increases year on year,

but the funding for emergency medicine is by way of a block grant. There is no increase in funding that is in any way responsive to that demand. It cannot be right that, when King's staff step up to the plate in response to terror attacks or the Grenfell Tower fire, there is no additional funding to cover the costs of the additional work. Elective surgery is paid for by procedure, so when the demands of emergency admissions, whether because of an increase in flu cases, or a major incident, force elective operations to be cancelled, there is loss of income in addition to an increase in costs. That creates knock-on financial consequences for the trust as a whole.

Fourthly, the limited capital funding since 2010 has meant that staff at King's have not been able to plan strategically for the facilities the hospital needs to cope with increasing demand. The King's College Hospital site at Denmark Hill is very constrained for a major hospital, and it has been developed piecemeal over many years. Large parts of the hospital estate are no longer fit for purpose, and additional ward space is urgently needed. King's will open a new state-of-the-art critical care unit later this year, the largest in the country, but the trust has not been able to expand its general ward capacity, which will potentially result in additional pressures as patients leaving critical care compete with emergency admissions and elective surgery patients for insufficient beds.

The four challenges I have described have been evident for some time, but the Government's approach, rather than to undertake a review of the finances and agree a sustainable funding settlement, has been to set more and more unrealistic targets for financial savings; to refuse King's the sustainability and transformation funding that other hospitals have been awarded; and to fine King's for being in a challenging financial situation.

Since 2015, at the behest of Monitor and later NHS Improvement, vast sums of money that could have been spent on patient care have been spent on management consultants. At one stage the trust was paying a single firm of management consultants more than £1 million pounds a month. The trust has been asked to make punishing savings when it has no control over the demand for its services or some of its costs, but the management consultants have not been judged on their ability to deliver sustainable, lasting improvements—their has been a one-way street of throwing good money after bad.

It is absolutely the case that the Government have known about the financial situation at King's for some considerable time, yet on top of an already unmanageable financial situation, the Government proposed completely unrealistic control totals, in essence setting the hospital an unachievable target for making savings, then punishing it with financial penalties for failing to do so. Since last year, King's has been under enhanced regulatory oversight by NHS Improvement, technically a similar situation to being in financial special measures, with NHSI staff permanently in the hospital and a high level of scrutiny.

Over the past three years King's has made savings of more than £200 million, more than twice the average level of savings of trusts across the country over that same period. King's has done that while maintaining standards of care that are on the whole very good. The Government have known about the financial situation at King's for three years, the Government have been directly involved with the situation at King's, and the

Government are culpable, yet instead of taking responsibility for the situation and acting to ensure that King's has the resources it needs, the Government have required King's to do the impossible and punished the trust when it has been unable to deliver.

The Government must now take responsibility for the situation and ensure that the King's College Hospital NHS Foundation Trust is not allowed to fail any further. I therefore ask the Minister to do the following: to undertake a full review of the finances at King's, starting with an analysis of what is required to deliver safe and effective care across all areas of treatment and responsibility; to make a commitment that financial special measures will not mean just forcing through the proposed control totals, which simply cannot be met without jeopardising patient care; to guarantee that there will be no threat to any of the services provided at King's on which my constituents and residents in the wider south London and the south-east area rely; to agree a capital funding settlement to enable King's master plan for Denmark Hill to be implemented, so as to deliver the space and facilities the hospital needs now and for the future; to guarantee that financial special measures will not mean an increase in the interest rate that King's is charged on its deficit; and to revise the funding formula so that King's is not hit financially when it steps up to respond to major incidents and London-wide emergencies.

I will end with this: King's is a special trust and some attributes of it are unique, but the pressures and challenges it faces can be found in NHS hospitals up and down the country. Until the Government recognise that and choose to make a long-term commitment to fund the NHS to provide the services our ageing population needs and to stop the outflow of NHS funds into private profits, our NHS is not safe in their hands.

Several hon. Members *rose*—

Mr Philip Hollobone (in the Chair): Order. The debate may last until 6.15 pm. The hon. Lady has three minutes at the end of the debate to sum up the contributions. We have oodles of time, so we do not need to worry.

5.18 pm

Dr Dan Poulter (Central Suffolk and North Ipswich) (Con): It is a pleasure to serve under your chairmanship, Mr Hollobone. I draw your attention and that of Members to my declaration in the Register of Members' Financial Interests. It is probably worth pointing out, too, that I had the pleasure of being a medical student at King's many years ago.

I pay tribute to the hon. Member for Dulwich and West Norwood (Helen Hayes) for securing this important debate. King's certainly crystallises a number of the challenges faced by the NHS more generally in terms of financial pressures and those pressures manifested by difficult finances in the ability of hospitals to care appropriately for patients.

I want to pick up on a couple of the points that the hon. Lady made. I was the Minister who took through the Care Act 2014, together with the right hon. Member for North Norfolk (Norman Lamb). Through the Act, we considered and learned lessons from some of the problems in the reconfiguration of the South London Healthcare NHS Trust that failed in 2013. I am sure

[Dr Dan Poulter]

that the hon. Lady is absolutely right that we could learn lessons about how not to do hospital reconfiguration from how that reconfiguration was done.

I again reference the Register of Members' Financial Interests. At the time, there was a natural synergy, in medical school terms and in other terms, developing between King's, Guy's and St Thomas', and the King's Health Partners. There is a shared local health economy between those hospitals and a shared interest in patient care. Each of those hospitals are centres of international excellence and tertiary centres of care, and are important local general hospitals for their communities. That synergy would have been a much more natural alignment of healthcare interests in that area but, unfortunately, that did not happen. Lessons have been learned from what occurred.

One of the major issues was the inheritance by King's of the huge private finance initiative debt of the Princess Royal University Hospital, which in 2017-18 I believe amounts to about £37 million a year—about half the King's deficit. It would be wrong to blame those running King's for that deficit. It was very unfortunate for Lord Kerslake—I will come to him later—as chair of that trust, to inherit a de facto deficit due to that huge PFI cost.

The hon. Lady was right to talk about the rate of funding increases for the NHS being at a record low for many years. We had a very difficult economic situation in 2010, but I do not think that anybody expected austerity to last for the best part of a decade. Certainly, many of our public services are now feeling the squeeze as a result of the funding pressures that they face.

The funding pressure on the social care system has an impact on the NHS. Local government finances are in a challenging situation in many areas. Pressures on the social care system reduce the ability of the NHS to work in an integrated, joined-up way with social care and reduce the ability of hospitals such as King's to discharge patients effectively into the community, because the resources are not there to look after them. There are also additional pressures on admissions, because there is not the preventive care in the community that a well-funded, properly integrated health and social care system would be able to provide.

There is welcome talk from the Secretary of State of a Green Paper on better integrating health and social care—I am sure the Minister will be involved, too, and I welcome him to his place and to his role. Having a sustainably funded, fully integrated system must be part of that and must be part of dealing with the challenges faced by King's, by the local health economy and nationally.

I had not intended to speak for very long, but as I said, the example of King's College Hospital crystallises and pulls together the overwhelming challenges faced by NHS trusts. The overwhelming majority of NHS trusts and foundation trusts are in debt. That was not the case five years ago. As in the case of King's, many of those trusts have worked very hard to bring those annual deficits under control and to manage the additional challenges of increasing patient demand and pressure from more and more patients with multiple medical comorbidities. In 2018, there are around 3 million patients with three or more long-term conditions in England. It is a very big human challenge to look after those patients, but it is also a very big financial challenge.

The percentage of GDP in this country spent on health and social care falls well below that which is spent in many comparable western economies on healthcare. I know that the Government will look at that as part of their plans for the sustainability of the health and social care system in the Green Paper. I do not expect the Minister to talk about that in detail today, but it is well overdue and I know he will pay keen attention to that.

I had the pleasure of working with Lord Kerslake when I was in Government. He and the board did a lot to reduce what the hospital paid out in temporary staffing costs; some good work was done to reduce unnecessary expenditure on agency and other costs. It is a great shame when a very distinguished and long-standing public servant feels that, despite all their experience and their best efforts to grapple with some of the challenges of King's finances, they need to stand down from their role because there is no other option. I am sure that Members from all parts of the House will echo that sentiment.

Some good efforts were made in 2015-16 to begin to tackle some of the hospital's deficit and debt, but in this financial year the finances have worsened and as a result, as the hon. Lady outlined, the hospital has been put on special measures. It seems extraordinary that the hospital and the board have been put in that position when, as I mentioned earlier, one of the reasons for the hospital's deficit is the PFI, which effectively they had no choice but to accept when they merged with the PRUH. As I mentioned, in 2017-18 that amounts to an estimated £36.9 million, which is a substantial amount of money. Without that PFI debt, the hospital would not be in robust finances but it would be in a better state to meet some of the challenges.

The problem faced by King's and other hospitals is that when their finances become pressurised, they have to meet annual targets and the financial situation becomes paramount, patient care begins to suffer. That is not because the staff want it to suffer—staff always do their best to look after patients—but because they are not necessarily given the resources to deal with day-to-day care. There are winter pressures, but for many hospitals in debt such as King's, there are year-round pressures.

We do not want to see more distinguished public servants who bring a vast wealth of experience to hospital boards, such as Lord Kerslake, being put in a position where they feel that their only option is to resign. We need a better way of supporting hospitals that are in financial difficulty. In this case, part of that has to be to help King's with some of those PFI debts. PFIs lock hospitals in for a long period of time to sometimes eye-watering and escalating repayment regimes. Sometimes the maintenance costs for the buildings are driven up even further when problems arise.

I hope that the debate provides the opportunity to look at King's and other hospitals that have large PFI debts that are causing ongoing financial problems. I hope that that issue is looked at to help this hospital and other hospitals around the country that are in a similar position. I hope that the Minister, who I know will take to his post with great vigour, will want to make sure that some of the longer-term challenges that the NHS faces are looked at in the Green Paper for a sustainable, integrated health and care system that is properly funded. I hope that he will take that message away from the debate.

5.29 pm

Ms Harriet Harman (Camberwell and Peckham) (Lab): It is a pleasure to follow the hon. Member for Central Suffolk and North Ipswich (Dr Poulter), who made a thoughtful contribution to which I look forward to hearing the Minister's response.

I thank my hon. Friend the Member for Dulwich and West Norwood (Helen Hayes) for introducing this debate. She has proved herself a real champion for her constituents. She fully recognises and champions King's College Hospital, which many of her constituents need to use and where many others work. She is my constituency neighbour, and my constituents find themselves in the same situation. King's is enormously important. It is an organisation of international excellence but also of local necessity. It sits at the heart of GP, primary care and social care services, and of mental health care services, both at the Maudsley Hospital and in the community. It is a pivotal part of the local community.

I will confine my remarks to two key points. The first is about the tenor of the debate. I hope Members do not treat King's like a recalcitrant teenager who has overspent their allowance, or argue that its managers, chair or board are somehow profiting or salting away public money into offshore tax havens. King's is doing its very best, in good faith, and all its people want to provide the very best service they can. That must always be at the heart of our debates. A tone of blaming King's sometimes creeps in, but we should be grateful to it and thank it. On the deficit, it may be inconvenient for the Government to see figures with "King's" written next to them going in a particular direction, but they should understand what is going on there, not tell King's off as if it is at fault. It is doing one thing, and one thing only: trying to provide the very best care to people who use its national specialties, to regional referrals and to local people who need it. Let us always start on the footing that it is doing its best and that we are grateful to it for that.

My second point is that we need always to concentrate—I do not mean this in a cheesy way—on actual people. I baulked when I heard the Prime Minister talk about cancelled operations being "part of the plan". Please, let there never be a plan with cancelled operations as part of it. Let us think of the situation for people. For anyone who has an operation booked, there are all sorts of things around that operation. Quite apart from the fact that it screws up their confidence and courage, they have to get time off work and, if they have a young family, their mother-in-law might have to book time off work, too, so that she can come and stay when they go in to have their operation.

An operation looks like one little entry in the Department of Health computer, but for the individual concerned, quite apart from the psychological effect of gearing themselves up for an operation and then finding it cancelled, everything is organised around it. We must not mess people's lives around by assuming that cancelling an operation, of all things, is normal and can be used as a management tool. I hope that the Minister says that that is not at all what the Prime Minister meant, and that we will not manage our hospitals by booking operations and then cancelling them.

We must remember the human impact of longer waiting lists and cancelled operations. Someone's hip replacement operation being postponed might be the

thing that ultimately causes their job to be given to someone else. They might take sick leave and then take more, and their manager might finally say, "We've tried our best, but we just can't carry on like this. We're going to have to get somebody else in." People lose their jobs while they are waiting for hospital treatment. Prompt treatment allows people to get on with their lives. An elderly person who is waiting for a cataract operation, for example, will not go out much, because they cannot see. They will not have the confidence to go out and meet their friends. If the operation is heavily delayed, by the time they have it they may have lost their social circle, lost what they do and become de facto housebound. For every single person who has to wait or whose operation is cancelled, there is a human cost. It is important to focus on that.

There is also the question of accident and emergency. I have watched the TV programmes and have visited King's A&E on numerous occasions. The odd person is there just because they want to spend four hours sitting somewhere, but most people are there because they have had an accident or they have an emergency. They might have tried to find somewhere else to be seen, but they are there, and they are worried. They are often in pain, and they often have worried relatives with them. We must not drift back to the situation we had before 1997 under a Tory Government. I remember that well. People routinely spent all night on trolleys in King's accident and emergency. I know what that situation was like, and we must not drift back to it. That would be really unfair on people. In this day and age, when much of the hospital has been rebuilt, we should not go back to that situation.

I hope the Government recognise people's concerns. I hope that they are generous not just with their money but with their commitment to King's; that they help it to go forward; and that they do not talk euphemistically about savings. Everyone knows what cuts are—cuts are when more people are coming through the door and there is less money per person. I thank Bob Kerslake for his work as chair, and I am disappointed that, because of the circumstances, he felt he could not stay on. I will meet the new interim chair shortly, but I hope that everyone at King's—the staff, the management and the chair—feels that the Government are on their side and want to help them sort out the situation rather than blame them, make an example of them and talk about King's as if it is anything other than the wonderful hospital we believe it is.

5.37 pm

Justin Madders (Ellesmere Port and Neston) (Lab): It is a pleasure to serve under your chairmanship, Mr Hollobone.

I pay tribute to my hon. Friend the Member for Dulwich and West Norwood (Helen Hayes) for securing the debate. During her time in this place, she has developed a reputation as a real champion for her constituents on a range of issues. This is not the first time that she has raised concerns about the funding crisis affecting our NHS and her constituents. Back in June 2015, she used her first contribution following her maiden speech to raise concerns about the worrying financial situation at King's College Hospital. That makes a mockery of attempts to pin blame for the current situation on the most recent chair, who started only that month. My hon. Friend showed great foresight and prescience when she warned:

[Justin Madders]

“The deficit is kept from being significantly higher only by a series of creative accounting steps taken in a vain attempt to reduce the number of negative press reports about such disastrous performance.”—[*Official Report*, 23 May 2016; Vol. 611, c. 355.]

My hon. Friend described her constituents' experience as a warning sign with respect to the wider issues across the NHS about which we have heard so much in recent weeks. She highlighted that King's College Hospital provides a wide range of specialties as well as being a trauma centre and a district general hospital for her constituents. She reported that a clinician with 32 years' experience had said that things have never been tougher. We have heard many NHS professionals make that comment in the past couple of weeks. It was disturbing to hear that the hospital has recently been at more than 100% capacity on a regular basis. Before we entered the winter crisis this month, we knew that bed capacity across a number of trusts was beyond recommended levels. Using meeting rooms for patient care, as we heard, is not a road we should be going down.

My hon. Friend said that four key issues were affecting the current situation at King's College. The first was the funding allocation since 2010. As we know, an ageing population increases demands on expenses in terms of medication, which means that the NHS really needs a 4% settlement on average, but in the past eight years we have had about 1% a year. She is right that the increases in demand on the NHS have been entirely predictable, and that the challenges set out as a result of austerity have been exacerbated by the cuts to social care we have seen since 2010.

My hon. Friend's second point, on which I will expand later, was that the trust took on two failing hospitals in 2013. Thirdly, there are competing responsibilities in the trust between emergency treatment funding and elective surgery. She gave the examples of tragedies such as Grenfell and the Westminster terrorist attacks in the past 12 months, which placed additional pressures on the trust but were not recognised by central Government in terms of funding or support. Fourthly—this point applies to the wider NHS—the capital funding allocations have not been there to allow the trust to plan strategically for the future.

We also heard from the hon. Member for Central Suffolk and North Ipswich (Dr Poulter), who has considerable experience—he has several hats to put on. He did not blame the individuals running King's for the current situation. He also highlighted well the multiple issues that arise from an underfunded social care system, and was right that patient care can suffer when trusts are under financial pressure. That is not to say that anyone who works in the NHS is using that as an excuse—that is not where anyone wants to be.

The hon. Gentleman mentioned PFI debt. In a debate on another trust issue, the Minister's predecessor but two said that the Department was looking at PFI debts in various individual trusts and whether anything could be done to ease the burden on them. I do not know whether that work has been completed. Can the Minister update us on whether the many trusts saddled with PFI debt will get any relief?

We also heard from my right hon. and learned Friend the Member for Camberwell and Peckham (Ms Harman), who made two central points. First, she did not want

the situation to turn into a characterisation of a recalcitrant teenager who is overspending. I know a great deal about that from my own family—not because I am a teenager. She also does not want the situation to turn into a blame game. I will return to that later in my remarks.

My right hon. and learned Friend's second point, which was pertinent, was that we must think about the people who are affected by the situation a little more. She said that when the Prime Minister described the cancelling of operations throughout January as planned, that underplayed the human consequences of such a decision and showed a lack of empathy and compassion for their implications. Cancelled operations can have a psychological impact and, as we heard, they can have financial impacts. People could lose their jobs as a result of delayed operations. She also gave the example of older people losing their social circle while they are awaiting cataract operations.

My right hon. and learned Friend was right to say that we do not want to drift back to a situation where patients spending all night on trolleys in corridors is part of people's routine NHS experience. We do not want to see any more of that.

My hon. Friend the Member for Dulwich and West Norwood gave some interesting statistics about the amount of money spent on management consultants advising the trust and said that, at some points, £1 million a month was being spent on such advice. I would be interested to hear if the Minister feels that that has delivered value for money for the trust. Has any analysis been done about the savings derived from that advice? That gives us food for thought about whether the money has been best spent—perhaps it could have been better directed to the frontline.

My hon. Friend also said that the trust has recently been subject to enhanced regulatory oversight. Does the Minister believe that that regime has delivered particular benefits? She rightly requested assurances from the Minister in terms of funding, patient safety, treatments and capital allocations. We will hopefully hear from the Minister on that.

I join my hon. Friend in paying tribute to all the staff working across the trust who, as the public face of our service through the series “24 Hours in A&E”, make the nation proud of what the NHS can deliver. They are outstanding and committed individuals who go above and beyond the call of duty each day to deliver the best possible care for their patients. Indeed, their dedication is replicated by staff all over the country, and their good will is all that stands between a crisis and a complete collapse.

As we know, an urgent question was asked before the Christmas break, and I would like to pick up on a couple of comments made by the then Minister, the hon. Member for Ludlow (Mr Dunne). In his initial response, he said:

“There has been a consistent pattern of financial projections by the trust that have not been met during Lord Kerslake's tenure as chairman.”—[*Official Report*, 12 December 2017; Vol. 633, c. 177.]

He also said:

“I am happy to look at the circumstances surrounding what happened in 2013, but they are not as relevant to today's situation as the way the trust's financial management has deteriorated in recent months.”—[*Official Report*, 12 December 2017; Vol. 633, c. 181.]

I put on record my appreciation for the constructive and respectful way the former Minister conducted our business. Although we disagreed on many things, we did not do so in a disagreeable manner. However, I must pick up on those comments, because it is a matter of fact that the trust's financial issues predated Lord Kerslake's involvement.

The root of the problems facing the trust can be traced back to the collapse of South London Healthcare NHS Trust back in 2013, as my hon. Friend said. I welcome the new Minister to his place, and I hope our exchanges will be equally as courteous. However, I hope that in responding he will correct the record, because there is the disturbing trend that has been referred to of blame being personalised, which encourages a "hire and fire" culture in the health service. At the bottom of it is financial and quality issues at the Princess Royal University Hospital, which were significantly worse than identified during the due diligence process undertaken at the time of transfer, and which led to a much poorer deficit position than forecast in 2014-15. Of course, that was a year before Lord Kerslake took up the role of chair. As a former Minister set out in a Westminster Hall debate in March 2015:

"At the time, South London Healthcare NHS Trust was the most financially challenged in the country...Repeated local attempts to resolve the financial crisis at the trust had failed."—[*Official Report*, 25 March 2015; Vol. 594, c. 549WH.]

The trust's 2015-16 annual report set out that £56.5 million in efficiencies were delivered during the financial year—a considerable amount—but despite that work a £65.4 million deficit remained. The report states clearly that the final figure was arrived at after taking actions, many of which were one-off in nature.

In 2016-17, the trust delivered savings of £92 million and was forecast to deliver a deficit position of £1.6 million. However, that was dependent on £30 million of funding through the sustainability and transformation fund and an additional £9 million of cover for external funding pressures being provided. Unfortunately, that Government funding did not materialise. The final out-turn was a deficit of about £48 million. The trust's financial report for that year said again that many of the savings made during that year were of a one-off nature.

I point out at this juncture, as others have done, that despite starting each financial year with an extremely significant underlying deficit, the trust was still expected to deliver annual savings through the tariff, as with all hospitals, at a level that Chris Hopson, the chief executive of NHS Providers, has described as "impossible." He also said that the amount of savings required

"risks the quality of patient care and places an intolerable burden on staff."

The Nuffield Trust has pointed out that the savings that have been asked of trusts are

"the equivalent of spending...£750 in real terms on a patient that you would have spent £1000 on in 2010".

Against that backdrop, is it any wonder that we are where we are now?

It is true to say that the forecast position at King's has again deteriorated this year, but it is completely false to portray that as a story about one trust or a particular chairman. It should also be pointed out that King's had cut costs by 8% to 2016-17 and was aiming for a 5.8% reduction in the current financial year. As we have

heard, there are issues relating specifically to King's, dating back to 2013, that have never been fully addressed, not least because the underlying deficit has been consistently understated. The trust, like so many others, is facing pressures from the top to massage the figures with one-off savings and accountancy wheezes. I believe that that short-term, illusory approach is endemic across the NHS. As the head of the National Audit Office, Sir Amyas Morse, told us:

"The NHS in England remains under significant financial pressure which is demonstrated in its accounts. It has again used a range of short term measures to manage its budgetary position but this is not a sustainable answer to the financial problems which it faces."

He went on to say:

"The Department and its partners need to create and implement a robust, credible and comprehensive plan to move the NHS to a more sustainable financial footing."

The Health Committee, the Nuffield Trust, the Health Foundation, the King's Fund and many others have all reported on the one-off measures, including vast transfers of capital funding, that are being used to understate the true level of deficit. Will the Minister rule out using such measures again this year and commit to providing an honest picture of the state of NHS finances?

As the hon. Member for Central Suffolk and North Ipswich said, the trust deficits we are hearing about in this debate are replicated across many parts of the country. By September 2017, 83% of acute trusts were in debt, to the tune of £1.5 billion. Can the Minister tell us how many will be in deficit at the end of this year? How many will, like King's, fail to meet the deficit level agreed with NHS Improvement, and what will the consequences be for them?

Before the November Budget, NHS leaders exercised their duty of candour to argue publicly for an extra £4 billion in revenue each year for the NHS. That was the minimum they said would be needed to maintain standards. It has been made clear that many of the NHS's constitutional targets will not be met within the current funding envelope. Can the Minister explain whether, by failing to give the NHS the money it has asked for, the Government have accepted that the rights of patients set out in the NHS constitution have effectively been abandoned?

In conclusion, with King's as with the rest of the NHS, the Government seek to abdicate responsibility and to blame the systematic failings over which they are presiding on individual parts of the NHS rather than on their own funding decisions. They are desperately seeking to characterise King's as an outlier rather than what the Nuffield Trust has termed

"the canary down the coal mine".

The truth is that, like every trust, it is struggling with the longest and most sustained financial squeeze we have ever seen in the history of the NHS, yet the Government are not facing up to their own culpability for the situation. The Secretary of State is behaving like the worst kind of football chairman—the kind who takes no responsibility for their own actions but instead calls for the manager's head after a spell of poor results, when the underlying problems were there long before that manager started, because there had not been the required investment for many years. That kind of short-term, personalised approach has failed King's, it is failing our NHS and it has to change.

Mr Philip Hollobone (in the Chair): Order. If the Minister could finish his remarks no later than 12 minutes past six, it would give Helen Hayes three minutes to sum up the debate.

5.33 pm

The Minister of State, Department of Health and Social Care (Stephen Barclay): It is a pleasure to serve under your chairmanship once again, Mr Hollobone, albeit in a different role. I begin by paying tribute to the hon. Member for Dulwich and West Norwood (Helen Hayes) for securing the debate and for the powerful case she set out on behalf of her constituents. I recognise the importance of King's not just to her family but to the community she serves, to other hon. Members present, and more widely.

In her remarks, the hon. Lady drew out three specific points, suggesting that the Government have responded to this situation as if it had arisen suddenly, that it is reflective of other hospitals and that the roots go back to the Princess Royal decision in 2013. I will seek to address each of those in the course of my remarks, but at the heart of this matter is the concern that the board and King's have lost or eroded the confidence of the regulator by the manner in which the deficit target has significantly deteriorated, and the concern that the cost improvements are an outlier when pitched against comparable trusts. That is really the crux of the issue.

My hon. Friend the Member for Central Suffolk and North Ipswich (Dr Poulter) brought the value of experience both as a clinician and as a former Health Minister. I was very taken by his remarks. Specifically, on the point he raised about the PFI debt, it is helpful to remind colleagues that support was agreed by the Department at the time, in 2013-14, for the additional costs of that PFI financing. That was taken into consideration by the board, which agreed to it at that point. It is not the case that the PFI has been a material contributor to the current deficit.

Dr Poulter: My hon. Friend makes a fair point, although it is difficult for a board that has effectively had a merger foisted on it to appreciate fully how a hospital will run across two sites—or even three sites, with Orpington as well. I am sure the Minister will go away and think about that in the context of the PFI and whether something more could be done to help with the PFI debt.

Stephen Barclay: Indeed, I am happy to give consideration to the point my hon. Friend makes, although if one looks at the deficit for this year, which I will come on to in my remarks, one will see that the bulk of the deficit is not from the Princess Royal but from the other sites, so it does not pertain to the 2013 decision. I will come on to that more fully as I develop the case.

I will also say to the right hon. and learned Member for Camberwell and Peckham (Ms Harman), who recognised that the staff at King's want to deliver, that I agree with her on that point. It is not about apportioning blame to those members of staff. Indeed, the financial special measures are about giving additional assistance to King's to address those points, rather than seeking to blame them. I think there is a shared desire from both sides of the House to get the right outcome for King's. I am very happy to agree with her on that.

It is a fact that King's is a challenged organisation. We are putting a lot of effort into supporting it. King's is receiving substantial financial support from the Department. The trust has received more than £100 million of support to maintain frontline services, the second-highest level of support to any individual trust across England. Placing King's in special measures for financial reasons is a regulatory action to bring about swift improvement and address the trust's financial challenges. NHSI is working with the trust to undertake a rapid review and agree a financial recovery plan.

Under the financial special measures programme, the trust will receive extra help and oversight, with the appointment of a financial improvement director. The organisation will also be required to draw up and deliver a plan to improve its finances, which NHSI will closely monitor. That will include support from peer providers where appropriate. On top of those special measures, NHS Improvement has also appointed Ian Smith as a new and experienced interim chair for King's, to take control of the organisation's position. He was appointed, as I am sure the hon. Member for Dulwich and West Norwood is aware, on 21 December and took up that role with immediate effect.

It is a fact that some profound financial issues at the trust need to be addressed. The trust agreed a budget deficit of £38.8 million in May 2017, yet just five months after the board had agreed that deficit it submitted a re-forecast deficit of £70.6 million, and a further two months later, in December 2017, the trust informed NHS Improvement that its current mid-case projection had worsened again to around £92 million. So, an agreed board position of a deficit of £38.8 million had within seven months gone up to a deficit of £92 million. That is really at the heart of this. When measured, that level of deterioration is an outlier, which is why the chief financial officer and chief operating officer both resigned in November 2017, and the chair resigned, as hon. Members have pointed out, in December 2017.

When announcing the financial special measures, Ian Dalton, the chief executive of NHSI, noted of other hospitals that

“none has shown the sheer scale and pace of the deterioration at King's. It is not acceptable for individual organisations to run up such significant deficits when the majority of the sector is working extremely hard to hit their financial plans, and in many cases have made real progress.”

Helen Hayes: The extent of the financial challenge facing King's is well documented, and I recognise the figures that the Minister quotes. However, he has not yet recognised the extent of financial savings that King's was already making. It is not an organisation that had been resisting the need to make savings; it has been making, on average, double the level of savings of any other trust in the country. That points to a situation in which the level of resource afforded to the trust is simply not enough to deliver the day-to-day responsibilities of keeping patients safe. Will the Minister recognise the extent of the effort that has gone into saving significant amounts of money out of the trust's finances?

Stephen Barclay: I am happy to recognise the hon. Lady's point that significant savings have been made. However, the regulators found that there had been an over-reliance on non-recurring savings, rather than on delivering the cost improvement programme. For example,

King's has the highest cleaning costs per square metre, at £71, compared with the median of £41 per square metre. Indeed, in her remarks the hon. Lady talked about the cost of bringing in consultants such as McKinsey, which the King's board itself brought in. The concern is the slow pace at which those cost savings and efficiencies have been delivered on the back of those reports.

The trust has also been in breach of its licence for financial governance since April 2015. That followed an investigation by Monitor in March 2015 after the trust was unable to resolve long-standing problems at the Princess Royal University Hospital, which it took over, as Members have pointed out, in October 2013. As part of Monitor's enforcement action, the trust was required to produce and implement an effective short-term recovery plan and a longer-term plan to ensure that patient services were improved and that they were provided in a sustainable way for the future.

The trust does not routinely report its financial performance by site, but analysis shows that the trust confirms that the losses by service are across many services and across both main sites. As I remarked in my opening, while the deficits at the Princess Royal are proportionally, as a percentage, higher than at Denmark Hill, in absolute terms the majority of the deficit is at Denmark Hill. That speaks to the point raised by my hon. Friend the Member for Central Suffolk and North Ipswich, who is not in his place, about the legacy from the Princess Royal.

The trust also faces a number of other challenges. King's has not met the referral to treatment standard—RTT—since January 2015, at which point the board took a decision to suspend its performance data reporting. The trust resumed reporting of the RTT performance data again in March 2016. Following the deterioration in performance throughout 2016-17, NHSI undertook an investigation into the RTT governance and the drivers of the deterioration, which was completed in July 2017. An action plan based on recommendations from that investigation was subsequently developed by the trust and agreed by NHSI. Again, while the hon. Member for Dulwich and West Norwood says that this is a sudden, late intervention by the Government, a chronology of action and support can be shown.

Taken together, these challenges are the reason why NHSI has invested a lot of time and effort in supporting the organisation. It has provided a member of staff on secondment to the trust for two days per week to support the delivery of the action plan and to strengthen governance around RTT performance and reporting. Delivery against the action plan is monitored by NHSI through its formal monthly provider oversight meetings with the trust, and it is working closely with the trust to agree an appropriate timeframe for the sustainable return to compliance.

King's has received more than £350 million-worth of working capital since 2015-16, and was also successful in securing a £47 million capital loan in April 2017 relating to Windsor Walk. Along with other trusts, King's has also benefited from £21 million of public dividend capital funding since 2013, covering many central programmes including cyber security and digital care. In the last three years, King's has invested in new capital assets in excess of the level needed just to maintain their asset base and above the average across all foundation trusts and NHS trusts.

The Department of Health commissioned Deloitte to review the trust special administrator's analysis of the split of South London's deficit, pertaining to when the Princess Royal came within the trust, and to provide an updated view of the split of the forecast out-turn deficit for 2013-14. Its assessment of the Princess Royal University Hospital's share of the deficit for the full year was approximately £22 million. The trust reported deficits in the three subsequent years, despite significant other integration cost and bridging support revenues. It brought in PwC in the autumn of 2014, and appointed a turnaround director to initiate a financial recovery plan process. The trust then had McKinsey in during 2016-17 to drive a transformation programme, which has been very slow to yield the significant benefits that were promised.

The trust has been subject to enhanced financial oversight since March 2017, which includes the following support from NHSI: a senior financial adviser embedded at the trust; monthly financial oversight meetings with NHSI; participation in the financial improvement wave 2 programme; and, since April 2017, the trust has also received dedicated support from NHSI's transformation and turnaround team as part of its enhanced financial oversight. More recently, in 2017-18, the trust has had external support from PwC, Ward 20/20, and Bailey & Moore. We need to be clear about what has caused the recent problems at King's, including its recent rapid deterioration, and what has not, but it is not a lack of support and consultancy.

The argument that the cause of King's problems can be found in the merger with Princess Royal, which several Members raised as a contributory factor behind the subject of the debate, does not stand up to scrutiny. In October 2013, King's College Hospital Foundation Trust completed a transaction to acquire Princess Royal University Hospital and Orpington Hospital on the back of the trust special administrator's recommendations regarding South London Healthcare Trust. The trust also took over responsibility for additional services at Beckenham Beacon, Sevenoaks Hospital and Queen Mary's Hospital, Sidcup.

In the summer of 2013, King's presented a five-year integration plan that showed small net surpluses of £2 million to £4 million in each year from 2013-14 onwards. The plan was assessed to be of medium risk by Monitor's assessment team, but was none the less plausible thanks to generous support funding agreed by the Department of Health and NHS England at the time. The trust's current financial problems reflect, as I said earlier, a continued overreliance on non-recurring savings, instead of delivering recurring benefits through cost improvement programmes and especially a failure to improve medical productivity at both the Denmark Hill and Princess Royal sites.

Model Hospital data, which is available to the trust, suggests that the trust has significant opportunities for efficiencies in areas such as orthopaedics. NHSI is supporting the trust to develop its cost improvement plan programme for 2018-19, which includes developing schemes based on validating those potential opportunities.

While there is never a single cause in such cases, and while we have acknowledged the pressures being felt across the system, the clear conclusion to draw from the evidence is that King's was an outlier in financial terms and had lost its grip of its finances in recent months.

[Stephen Barclay]

I spoke with the trust's chief executive yesterday and he acknowledged that there had been a serious problem with the trust's financial planning process. Defects in the way the trust's plan was put together eroded the regulator's confidence in the trust, and it is for that reason that the trust has entered into special measures for its finances. The financial special measures regime has a proven track record of success in supporting trusts, as shown with North Bristol NHS Trust, which recently exited the special measures regime.

In losing control of its finances in the way that it has, King's has effectively taxed others in the NHS, which is why it is right that NHSI took action in the way that it did. This organisation got itself into a very bad financial position and now needs a great deal of help and support. As the right hon. and learned Member for Camberwell and Peckham set out, we can agree on both sides of the House that King's needs support. It is for that reason that the regulator has intervened to put it into special measures.

6.9 pm

Helen Hayes: I thank the hon. Member for Central Suffolk and North Ipswich (Dr Poulter), who is not in his place, for bringing his experience to the debate. I am pleased that, having looked at the issue in some considerable detail when he was a Minister, he recognises, as the Minister seems not to, the problems that the merger of King's with the Princess Royal and Orpington Hospital has caused for the trust.

The fact of the matter remains that the trust's finances were stable and it was performing well on every measure until that merger took place. It has never been the same since. The combination of the drop-off in the increase of funding year on year, which has affected the finances at Denmark Hill and the organisation's resilience to carry across costs to the Princess Royal and Orpington, with the irresponsible lack of a review mechanism for the funding settlement post-merger has, in my view, played a major role in destabilising the finances.

I thank my right hon. and learned Friend the Member for Camberwell and Peckham (Ms Harman), who has been a formidable champion for King's for more than 35 years. She knows very well from direct experience

exactly how bad things have been in the past at Denmark Hill, and how close we are to seeing once again those terrible circumstances of patients waiting far too long in A&E to receive the treatment they need so badly.

In summing up, I want to highlight two points on which I disagree with the Minister's analysis. First, notwithstanding the support that the Government are putting in, they maintain a punishing approach to the finances of NHS trusts that are in financial difficulty. A system for funding our NHS that takes a trust that is already under financial strain, fines it and charges it additional interest for failing to meet impossible targets is a system that makes no sense at all. A system for funding our NHS that funds on a block grant basis emergency admissions, the volume of which hospitals have no control over, and then cancels elective operations, which deliver the revenue into our hospitals when pressures come through the front door of accident and emergency, is a system that makes no sense. The Minister has not addressed that conflict and the perversity in the funding system for the NHS.

Finally, I urge the Minister to consider very carefully the need for substantial capital investment in King's at Denmark Hill. I am concerned that when staff at King's hear talk about failures in efficiencies, and when the Minister talks about the failure to improve medical productivity, the inference is that staff are somehow not working hard enough.

Stephen Barclay: To clarify, that is absolutely not the point. The point is about billing and how rotas are managed. It is not about whether staff are working hard or not. We very much recognise that they are.

Helen Hayes: I am grateful for that clarification, but that needs to be communicated very clearly to staff, who are feeling the pressure of this crisis. When we talk about efficiencies at King's, they are in a lack of buildings, ward capacity and fit-for-purpose facilities to deliver when facing the challenges that are coming through its front door every single day. That matter urgently needs to be addressed as part of this turnaround process.

Question put and agreed to.

Resolved,

That this House has considered King's College Hospital finances.

6.13 pm

Sitting adjourned.

Written Statements

Tuesday 16 January 2018

FOREIGN AND COMMONWEALTH OFFICE

Foreign Affairs Council: 11 December 2017

The Minister for Europe and the Americas (Sir Alan Duncan):

I attended the Foreign Affairs Council on 11 December, which was followed by a FAC (Development). The Council was chaired by the High Representative of the European Union for Foreign Affairs and Security Policy (HRVP), Federica Mogherini. The meeting was held in Brussels.

Ministers met the Prime Minister of Israel, Benjamin Netanyahu, in the margins of the Council. The meeting was an opportunity for the European Union to reiterate its united and clear messages on the status of Jerusalem as future capital of two states, the importance of preserving a two-state solution and, on regional issues, the need to continue implementing the JCPOA (Iran nuclear deal).

Foreign Affairs Council

EU Foreign Ministers discussed the middle east, the Democratic Republic of the Congo (DRC), G5 Sahel force and jointly, with Development Ministers, EU-Africa relations. Development Ministers discussed aid for trade.

The HRVP, in her introductory comments, also spoke about permanent structured co-operation (PESCO), Libya, her visit to Burma and Bangladesh and the Eastern Partnership Summit. I spoke about the historic opportunity in Zimbabwe and the need for the right policy mix to respond to developments there.

Middle east

The Council held discussions on the latest developments in the wider middle east. I set out the UK position on Jerusalem, settlements, final status and the two-state solution. Member states agreed to continue to respect the international consensus on Jerusalem including on the location of their diplomatic representations until the final status of Jerusalem is resolved. Ministers considered how the EU could limit escalation and preserve stability in the region, as well as consolidate progress in countries such as Lebanon.

Ministers expressed their concern at the serious deterioration of the situation in Yemen, which was witnessing the onset of a grave humanitarian catastrophe. They agreed to continue working to re-invigorate UN-led efforts towards a political solution to the conflict in Yemen in line with the relevant UN Security Council resolutions.

Ministers recalled the continued EU support for the efforts of UN Special Envoy de Mistura in Syria.

Ministers underlined the importance of continuing and strengthening the EU's engagement on Iraq. The HRVP and the Commission are expected to present a proposal for a new strategy in January 2018.

Sahel

Ministers representing the Sahel countries set out their security and humanitarian needs. EU Ministers agreed that more needed to be done given the shared interests in the region.

EU-Africa relations

In a joint session with Foreign and Development Ministers, Ministers underlined the importance of the EU-Africa summit and the need to continue working with African partners in an inclusive way.

Development—aid for trade

The Council discussed the updated strategy on aid for trade which aims to improve the integration of developing countries into the international trading system and to enable trade and investment to contribute to reducing poverty.

Ministers agreed a number of measures without discussion:

The Council adopted a decision establishing permanent structured co-operation (PESCO);

The Council adopted conclusions on DRC;

The Council adopted conclusions on Thailand;

The Council extended sanctions against the DRC

The Council agreed rules of procedure for the joint committee established by the co-operation agreement on partnership and development between the European Union and Afghanistan;

The Council adopted a decision to support the global reporting mechanism on illicit small arms and light weapons and other illicit conventional weapons and ammunition to reduce the risk of their illicit trade ("iTrace III");

The Council took note of the 19th annual report on EU exports of military technology and equipment;

The Council decided to provide support to the African, Asia-Pacific and Latin America and Caribbean regions to participate in the high-level fissile material—such as highly enriched uranium or plutonium—cut-off treaty expert preparatory group consultative process;

The Council approved a draft EU-China statement on climate change and clean energy;

The Council adopted conclusions on the European Court of Auditors' special report on the Bekou EU trust fund;

The Council adopted conclusions on the 2016 report on the gender action plan II.

[HCWS403]

National Action Plan on Women, Peace and Security

The Secretary of State for Foreign and Commonwealth Affairs (Boris Johnson):

Today marks the publication of the UK's fourth National Action Plan on Women, Peace and Security (2018-2022) by the Foreign and Commonwealth Office, the Department for International Development and the Ministry of Defence, with support from the stabilisation unit.

The National Action Plan (NAP) is the UK Government's five-year strategy that captures how we will meet our women, peace and security (WPS) commitments under UN Security Council Resolution 1325, demonstrating how we will ensure better protection and empowerment of women in conflict situations overseas through our diplomatic, development and defence engagements alongside our bilateral and multilateral partners.

The UK is a global leader on women, peace and security, taking the lead on drafting resolutions on this issue in the UN Security Council. In 2017 the FCO's first ever special envoy for gender equality was appointed as part of wider UK ambition to eliminate all forms of gender inequality. The UK has continued work to increase women's participation in conflict resolution in some of

the most fragile countries in the world, including in Afghanistan, Somalia, and Syria. Along with Bangladesh and Canada, the UK launched the Women, Peace and Security Chief of Defence Network at the UN Peacekeeping Ministerial Conference in Vancouver in November 2017. The promotion of women in mediation in conflict resolution and countering violent extremism will continue at the Commonwealth Summit and beyond.

The UK continues to tackle gender-based violence, particularly violence against women and girls as the most prevalent form of gender-based violence. We continue to champion the preventing sexual violence in conflict initiative to end sexual exploitation and abuse, working closely with our international partners.

This NAP has been developed based on lessons learned from the previous three UK NAPs, extensive consultation and new research and evidence on WPS. Key changes are:

The NAP covers a longer, five-year period, enabling greater opportunity for the UK and implementing partners to demonstrate impact against our long-term objectives and outcomes.

The NAP provides a vision of what the UK wants to achieve on WPS, not a fixed country-level implementation plan. This will enable us to respond flexibly to local realities and changes in the contexts, and to adapt programmes and activities to global and local developments.

We have set out seven strategic outcomes, linked to the four pillars of UNSCR 1325, where the UK can demonstrate a comparative advantage and expect to see real progress over this period.

We have retained inclusion of focus countries, recognising that this helps the UK to raise issues and work in partnership with governments, and to improve domestic and international visibility. We have increased the number from six to nine. They are: Afghanistan, Burma, Democratic Republic of Congo (DRC), Iraq, Libya, Nigeria, Somalia, South Sudan and Syria.

The NAP 2018-22 sets out more clearly how it fits with wider HMG policies and strategies to ensure complementarity with other Government efforts.

We are grateful to the all-party parliamentary group on women, peace and security for their active engagement on this important issue and would, in particular, like to thank Baroness Hodgson for her dedicated work in this area. We would also like to thank the civil society network, Gender Action for Peace and Security (GAPS),

and the LSE Centre for Women, Peace and Security for the contribution they have made to the process of revising the NAP.

We will continue to consult with Parliament and civil society, including through the annual report on progress on the implementation of the NAP. The FCO will convene a new WPS steering group, chaired by Lord Ahmad, to bring together NGOs and academics with senior officials to provide accountability and leadership on this agenda. We will commission an external evaluation for a mid and end of term assessment of how the strategic outcomes have been included through HMG's planning and delivery processes.

A copy of the NAP has been placed in the Libraries of both Houses, and is available on gov.uk.

It can be viewed online at:

<http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-01-16/HCWS404/>.

[HCWS404]

HOME DEPARTMENT

ETIAS Watchlist

The Minister for Policing and the Fire Service (Mr Nick Hurd): The Government have decided not to opt-in to the proposal for a Regulation amending Regulation (EU) 2016/794 for the purpose of establishing a European Travel Information and Authorisation System (ETIAS) watchlist.

As the UK does not participate in ETIAS itself, we do not expect to have direct access to the watchlist through this process. The Government also note that there are a number of issues still to be resolved with regard to how the watchlist will be hosted by Europol and how it will function. As such, it is not clear whether opting in could place any additional obligations on the UK. For these reasons, the Government have decided not to opt in to the amending regulation at this time.

Not opting in will not affect the operability of the Europol regulation for the UK.

[HCWS405]

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