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OFFICIAL REPORT

ORDER OF BUSINESS

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The first time a Member speaks to a new piece of parliamentary business, the following abbreviations are used to show their party affiliation:

Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
LD	Liberal Democrat
LD Ind	Liberal Democrat Independent
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

No party affiliation is given for Members serving the House in a formal capacity, the Lords spiritual, Members on leave of absence or Members who are otherwise disqualified from sitting in the House.

House of Lords

Wednesday 21 February 2018

3 pm

Prayers—read by the Lord Bishop of Winchester.

Gaza

Question

3.07 pm

Asked by ***Baroness Tonge***

To ask Her Majesty's Government what assessment they have made of living conditions in Gaza.

The Minister of State, Department for International Development (Lord Bates) (Con): My Lords, the UK is very concerned about Gaza. We assess that around 1.6 million people are in need of humanitarian assistance. Households are receiving only five to six hours of electricity per day, there is limited access to safe water and power shortages are impeding health provision.

Baroness Tonge (Non-Afl): My Lords, I am glad that the Minister has such an understanding of what is going on in Gaza. Let me add that it is so good to see him in his place.

Noble Lords: Hear, hear!

Baroness Tonge: However, with all these things that we hear are going on in Gaza, does the Minister agree that its people have now for 10 years been suffering cruel and degrading treatment, which amounts to the collective punishment of nearly 2 million people, more than half of whom are children? How long must this go on? How long will it be before our Government take some action?

Lord Bates: We are taking immediate action in the sense that we are providing humanitarian aid. The assistance that we are providing to UNRWA is helping some 1.1 million of the 1.9 million people who are there, but I have to say that the parties to the conflict must be the parties to the solution. There is an opportunity here in Gaza for its people to recognise the state of Israel, to renounce violence and to accept the agreements that are there to allow the situation to normalise and progress, as has happened in the Palestinian Authority areas. It is a desperate situation and we call on all those people to put the children, the women and the people of Gaza at the heart of their concerns.

Lord Collins of Highbury (Lab): My Lords, the Minister mentioned UNRWA. We know that at the end of last year the US threatened its funding of UNRWA, which does such vital work. The EU and United Kingdom are the second and third biggest funders. What discussions have the UK Government had with the US Government to ensure that they do not follow through on the threat of withdrawing such significant funds from UNRWA?

Lord Bates: Our understanding is that of $125 million due to be paid to UNRWA in January, $65 million was withheld. We have made the consequences of doing that very clear to our US friends. We have also made clear our strong support for UNRWA. At the same time, the US rightly points out that it is responsible for a significant proportion of UNRWA's budget. Whereas the UK, France, Germany and Saudi Arabia contribute around $60 million to $70 million, the US contributes some $360 million. The US has said that it wants more countries that are expressing concern about Gaza to reach into their pockets and put money into the situation as well. We continue to hope that the situation will be resolved very quickly, as we believe that the longer it goes on, the more damage it does to the people of Gaza and the Palestinian refugees for whom UNRWA is responsible.

Baroness Warsi (Con): My Lords, is my noble friend familiar with the case of Ahed Tamimi, the teenage Palestinian girl currently in custody and subject to a trial behind closed doors? Have any representations been made by Her Majesty's Government in relation to this detained teenager? Do they have any concerns about reports that she may be subjected to sexual violence while in detention?

Lord Bates: Those are very serious concerns. We are aware of the case. My noble friend will be aware, from her former distinguished role in the Foreign Office, that representations have been made. They have certainly been made at a diplomatic level. I believe they have also been made at a ministerial level but I will correct that if it is not the case. We remain very concerned about the situation and will be seeking its urgent resolution.

Baroness Sheehan (LD): What representations have been made to the Israeli Government about the 54 Palestinian patients who, according to the World Health Organization, died while awaiting permits to exit Gaza for medical treatment in 2017?

Lord Bates: We continue to work through that, most importantly by trying to ease the effect of those restrictions. We are major funders of a body called the UN Access Coordination Unit. We are trying to work through that body to ensure that the majority of people who need medical treatment get access to it in a timely manner. But we remain very concerned about those reports.

Lord Green of Deddington (CB): My Lords—

Lord Davies of Stamford (Lab): My Lords—

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, it is the turn of the Cross Benches.

Lord Green of Deddington: My Lords, as a former chairman of Medical Aid for Palestinians, I entirely endorse the remarks of the noble Baroness, Lady Tonge. Do the Government realise the appalling effect of

[Lord Green of Deddington]
conditions in Gaza on Arab and Muslim opinion throughout the world? Do they give sufficient priority, effort and importance to tackling this abysmal situation? It has gone on for 10 or 20 years and it is appalling.

Lord Bates: I certainly echo the view that it is absolutely appalling. The suffering in Gaza is a shame on humanity. Of course, the question then is: what do you do about it and who can unlock this process? We believe that the parties to the conflict have to come together and, in the interests of humanitarian need, resolve their differences. We believe that there is a possibility. We recognise that Israel has taken some steps down this road recently by easing some of the restrictions on access to construction materials. There has been some movement in Cairo in Egypt—of course, Egypt blocks the border to the south as well—where there have been some efforts at reconciliation between Fatah and Hamas. All the elements are there. It is frustratingly close. To see so much suffering continuing is a tragedy.

Lord Grocott (Lab): My Lords, given that the Government's policy, and that of their predecessor, has for years rightly been to support a two-state solution, is it not something of an anomaly that we recognise only one state in the area? When will the Government give further consideration to the recommendation of this House's International Relations Committee, which was that we should consider recognition of the state of Palestine? That would be a very significant step forward and give long-overdue dignity to the Palestinian people. When will the Government move in that direction?

Lord Bates: It is a very sensitive situation and the noble Lord is right to raise the point. The answer to the very influential report that was prepared is to say that that recognition will come when we believe that it will contribute to helping the peace process. Our belief is that recognition at this stage would not be helpful in the Middle East peace process, continued work on which is our primary concern at this time.

Small Businesses: Retention

Question

3.16 pm

Asked by ***Lord Aberdare***

To ask Her Majesty's Government, in the light of the loss of retention monies by small firms following the insolvency of Carillion, what steps they are taking to provide protection against such losses in the future.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Henley) (Con): My Lords, the Government are committed to improving payment practices. Our consultation on the contractual practice of cash retention, alongside a parallel consultation on the effectiveness of the 2011 changes to the Construction Act 1996, closed on 19 January. We are now considering the responses.

Lord Aberdare (CB): My Lords, retentions as currently practised mean that not only do small construction firms have to wait to be paid for work that they have done, often for several years, but that when a client company becomes insolvent they never get paid at all. Carillion alone held some £700 million of retentions, which its suppliers have now lost. Can the Minister assure us that immediate steps will now be taken to protect small firms from the loss of funds they are owed—for example, by ring-fencing retention funds in secure trust accounts? Will he look at the 10-minute rule Bill recently introduced in the other place by Peter Aldous MP, with widespread cross-party and industry support, as a possible approach to achieving this? When will something happen after all the promises we have had over the years?

Lord Henley: My Lords, I agree with some of the noble Lord's analysis about problems related to retention, a practice that is common within the construction industry but which has negative impacts. That is why we had the consultation, as I think he knows. We obviously want to consider the results of that consultation and in doing so we will look, as he has suggested, at Peter Aldous's Bill and see whether it is appropriate that we can take further steps. But the consultation having been completed, we need to consider it first.

Lord Stevenson of Balmacara (Lab): My Lords, you have to wonder why this Government have it in for SMEs. We have a Small Business Commissioner who seems to have none of the powers necessary to do anything about the late payments scandal that they have to face; and on retention, as we have just heard, very good and well-argued proposals have been played into the long grass and will not see the light of day for some time, as the Minister seemed to suggest. Should this not be put immediately to the task force that the Secretary of State has put together to advise on how to mitigate the Carillion disaster?

Lord Henley: My Lords, as I said, we are considering these matters. The noble Lord quite rightly points out the task force that my right honourable friend has set up; I add that the Small Business Commissioner, Paul Uppal, will sit on that task force. We will consider all the options as a result of that but we will not rush into legislation; we are going to consider what is appropriate. Perhaps we can give some support to Peter Aldous's Bill but these matters need to be considered and we will then deal with the problem.

Lord Naseby (Con): My Lords, if the retention moneys at Carillion have gone walkabout, surely that is the legal responsibility of the board of directors of that company and prosecutions should follow accordingly. But in relation to retention moneys in general, in addition to what my colleague the noble Lord, Lord Aberdare, suggested, could we not consider the simple principle that if you buy a house and pay a deposit, that money rests with the lawyers for the transaction until such time as completion is made?

Lord Henley: My Lords, I am not going to comment on the first part of my noble friend's question as that is obviously a matter for the official receiver and the

legal authorities more generally. On his more general points about retention moneys, we believe they have negative impacts. We want to consider the right way forward, and will then take action.

Baroness Burt of Solihull (LD): Retention has been described by the Federation of Small Businesses as a total scam. Now industry is coming together to abolish retention, to have project bank accounts to manage large procurement projects, and to remove the incentives for late payments and bad cash-flow practices by the Carillions of this world. I understand what the Minister said about considering the consultation, but will the Government join in and implement project bank accounts for large government projects?

Lord Henley: Again, my Lords, I am not going to make promises at this stage about what we will do because, as I made clear, we want to consider the consultation. We have also made clear that we recognise that retention, which is common in the construction industry, can have negative impacts. That is why we set up the Small Business Commissioner to assist on late payments. As the noble Baroness will be aware, we had a debate on that matter only the other day. Things are happening. Things will continue to happen. We will continue to look at that consultation and we will then take action.

Lord Lea of Crondall (Lab): My Lords, will the Minister comment on the ongoing role and remit of the Financial Conduct Authority, not only on the narrow point but on such questions as its relation with the big four auditing companies? Is this within the scope of this separate inquiry?

Lord Henley: I think the noble Lord is going somewhat beyond the Question on the Order Paper and I do not think I ought to comment on that at this stage. We are looking at the practice of retention. I have made clear where we are, and we will act when appropriate.

Lord O'Neill of Clackmannan (Lab): Is the Minister aware that his consultation process started as a result of an undertaking by one of his colleagues to have a review, which started some two years ago? I declare an interest in this as set out in the register. This is far too long a period to say that we are just awaiting a further consultation. How long does this process have to take and how many businesses are going to go bankrupt? It is not just the Carillions of this world. It is small builders, 95% of which employ fewer than 10 people, who are intimidated by companies from seeking the legal redress which would be the obvious route to get the money to which they are entitled.

Lord Henley: The noble Lord is quite right to point out that this started during the passage of the 2016 Act as a result of promises made by my noble friend Lady Neville-Rolfe. We instituted a report into this matter to gather evidence and following that report late last year we instituted the consultation. The consultation ended in January. That is why we are now considering that consultation, and we will act when appropriate.

Local Neighbourhood Services

Question

3.23 pm

Asked by ***Lord Greaves***

To ask Her Majesty's Government what priority they give to the provision of and funding for local neighbourhood services.

Lord Greaves (LD): My Lords, I beg leave to ask the Question standing in my name on the Order Paper and remind the House of my registered interest as a district councillor.

The Parliamentary Under-Secretary of State, Ministry of Housing, Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, the local government financial settlement sees a real-terms increase in resources to local government over the next two years and gives councils the ability to protect important services. However, local authority spending priorities are ultimately a matter for local decision.

Lord Greaves: My Lords, the Government are of course right that local priorities will be decided locally, but when the question is which services to cut the priorities are rather different. Across the country, fewer streets are being swept, libraries and leisure facilities are being closed, 500 children's centres have closed, neighbourhood policing is collapsing in many areas, there are fewer food inspections and in many places local bus services are being removed, while throughout the country it appears that local authorities are totally unable to fill in potholes. Do the Government not realise that what is going on cannot continue much longer without the whole fabric of local community services being destroyed?

Lord Bourne of Aberystwyth: My Lords, I shall take just a couple of examples from the rather dismal litany of the noble Lord. On libraries, I shall take the example of Worcestershire, where a very innovative way of running libraries as community hubs is being perfected. That is true also of Greenwich; it is not just Conservative local authorities that are doing that. The noble Lord mentioned potholes. We announced a pothole fund of £296 million in 2016.

Lord Kennedy of Southwark (Lab Co-op): My Lords, I refer the House to my relevant interests in the register. What work has the department done to look at the effect of cuts to funding for environmental health on the ability of local authorities to ensure that homes are safe, warm and dry and therefore fit for human habitation?

Lord Bourne of Aberystwyth: My Lords, environmental health is clearly an area of concern. It is a matter for local priorities. We keep this very much under review and we are very well satisfied. If the noble Lord wants to write about particular examples, I am happy to

[Lord Bourne of Aberystwyth]
look at them. As far as I can see, having looked at this, it is an area that is being very well delivered by most local authorities.

Baroness McIntosh of Pickering (Con): My Lords, does my noble friend not agree that the delivery of neighbourhood services in rural areas is key? Would it not be easier for local authorities to fund neighbourhood services if they had more certainty about future support from the Government? What steps do the Government propose to take in this regard?

Lord Bourne of Aberystwyth: My Lords, my noble friend makes two very good points. On the first, relating to rural services, she will be aware that we have increased the rural services delivery grant by £31 million in the current year, following two earlier years of extending that grant. I agree with my noble friend on the point about certainty. Through the business rate retention scheme, which is going to go up to 75% and is being piloted in 89 different local authority areas, we are seeking to provide just that, and that is continuing.

The Lord Bishop of Winchester: My Lords, in relation to the wider concern about neighbourhood services, we are yet to see the Green Paper on social care outlining plans for improved care for older people in an ageing population. From my own diocese, I am aware of the financial pressures on councils and the pressures that they are facing from the cost of social services for the elderly as they increase. Hampshire County Council expects an additional 1,000 over-85 year-olds every year. What assessment have the Government made of the demands on local social care services in the light of our current ageing population?

Lord Bourne of Aberystwyth: My Lords, the right reverend Prelate is right to highlight the importance of this area. As he has indicated, there is going to be a review of it, and that will be announced in due course. Hampshire County Council, along with many other county councils, recognises the pressure that exists here. We have provided 3% for the adult care precept. Additionally, I thank the right reverend Prelate and many other right reverend Prelates for the work that their dioceses do in support of what the Government and local authorities are also doing.

Lord Watts (Lab): My Lords, how many local authorities have told the Government that they have sufficient funds to meet their many responsibilities?

Lord Bourne of Aberystwyth: My Lords, the noble Lord has been around long enough to know that that is not something that local authorities ever do. I would be amazed if he were able to cite examples of any Government having a queue of local authorities, or even one local authority, saying that they had enough money. However, the fact remains that local authorities are doing an excellent job of delivering services on the ground, admittedly in challenging circumstances, and that remains the norm.

Baroness Pinnock (LD): My Lords, the Government are undertaking a fair funding review of local government expenditure. What value do they intend to place on neighbourhood services such as parks and public open spaces?

Lord Bourne of Aberystwyth: The noble Baroness is absolutely right: a fair funding review is due to report—in 2020-21, I think—on relative needs. Obviously, I do not want to pre-empt that, but suffice it to say that parks are a very important service delivered by local authorities. I had the great privilege of visiting Brockwell Park in Brixton recently and seeing an excellent park provided by the local authority there—Lambeth, I think—and work being done on the green flag scheme. That is vital. It is a matter for local priorities. There, it was obviously something that the local authority was concentrating on but, as I said, I cannot pre-empt the review that we are holding.

Cannabis-based Medication

Question

3.30 pm

Asked by ***Baroness Meacher***

To ask Her Majesty's Government whether they will issue a special licence under Section 30 of the Misuse of Drugs Act 1971 to enable the family of Alfie Dingley to import cannabis-based medication to treat his epilepsy.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the Government have a huge amount of sympathy for the rare and difficult situation that Alfie and his family are faced with. My right honourable friend the Policing Minister has undertaken to meet Alfie Dingley's family as quickly as possible. Both he and my right honourable friend the Home Secretary want to explore every option within the current regulatory framework, including issuing a licence.

Baroness Meacher (CB): I express my sincere thanks to the Minister for that very positive reply. I understand from it that Ministers are now united in wanting to find a legal way to support Alfie Dingley so he can receive medical cannabis in order to lead some sort of life.

I want to set out the main reasons why Ministers have to succeed in this case. The Minister knows that Alfie Dingley was suffering from a very unusual epilepsy mutation. This was causing 3,000 epileptic fits a year, 250 a month, under UK-prescribed medication which will probably lead to psychosis, damage to his internal organs and early death. Alfie Dingley and his family spent five months in the Netherlands, where Alfie was treated by a neuro-paediatrician with cannabis drugs. During that period, Alfie Dingley suffered one or possibly two seizures per month, down from 250 per month in this country.

On the legal question, the Minister knows that under Section 30 of the 1971 Act, licences can be provided.

Noble Lords: Too long.

Baroness Meacher: I express my profound thanks to the Minister and her colleagues in the other place for their absolute commitment to find a way under the law to enable this poor six year-old child to continue his life.

Baroness Williams of Trafford: I thank the noble Baroness for her positive words acknowledging the way forward that I and other Ministers want to find for this little boy. As she said, this little boy has a very rare form of epilepsy. I am very pleased to hear that his seizures have reduced and very much look forward to a positive way forward being found.

Lord Patel of Bradford (Lab): My Lords, we know that the Government successfully licensed heroin-assisted treatment, or diamorphine-assisted treatment, which is prescribed in a synthetic form to people who do not benefit from or cannot tolerate substances such as methadone. We know that the success rates for that group of patients in terms of health, social care, incarceration and money saved show that there is real benefit from heroin-assisted treatment. Why cannot that simply be put in place for cannabis-based treatment as well?

Baroness Williams of Trafford: With respect, I point out to the noble Lord that the Question is specifically about the medicinal use of cannabis for a very specific case. The noble Lord is probably straying on to the legalisation of drugs in a controlled way. I am not going there today because I have not been asked a question about it, but I have had many debates about it and the Government remain of the view that such drugs remain illegal.

Baroness Walmsley (LD): I am grateful to the Minister for her commitment to explore every option. Is she aware of the legal opinion from Landmark Chambers making it clear that there is an exception under Section 30 of the Misuse of Drugs Act 1971, which allows that a licence for possession of a controlled drug can be permitted for medical purposes? Will she make use of that exception to save this little boy's life?

Baroness Williams of Trafford: Well, I hope that I made it absolutely clear that we would explore every legal avenue that we could, and that both the Policing Minister and the Home Secretary would look at all legal avenues within the regulatory framework, so I hope that she takes comfort from that.

Baroness Browning (Con): Could my noble friend take a look at the history of how controlled drugs have been used for medical purposes? I am not somebody who would support deregulation of drugs but, as a small girl, I was offered the option when a school dentist extracted a tooth of having either gas or cocaine.

Noble Lords: Oh!

Baroness Browning: That was many years ago, but that was the choice. Of course, up and down the country today, hospitals will be dispensing opioid drugs to patients, many of which are derivatives of opium, and I really do not see why, if the legal framework is there to do it, we cannot get on and do it rather quickly.

Baroness Williams of Trafford: My noble friend makes precisely the point that I perhaps did not make as well, which is that within the legal framework we have to explore the art of the possible to bring such drugs forward that will help people in situations similar to Alfie's. Before I became a politician, I worked extensively with people who had multiple sclerosis, and I know that Sativex has been produced in aid of alleviating spasticity in suffers of that illness.

Lord Dear (CB): My Lords, can I move away from the sad case that we have heard about and those particular circumstances and move to a more general point on that issue? Does the Minister agree that the time has now come for a complete and urgent look at the situation? As many of us know, cannabis is currently included in Schedule 1 to the Misuse of Drugs Act as a drug with no medicinal value, yet that view has been roundly rebuffed by a number of countries in the world. I cite, for example, 12 EU countries—shortly that number will grow to 15—29 states in the USA, Canada, Israel and so on, all of which use cannabis under medical supervision. Will the Minister assure the House that the Government will look at this issue and at the licensed medicinal use of cannabis in these circumstances?

Baroness Williams of Trafford: The noble Lord has nicely segued through the general use of it back to the medicinal use, but I concur with him in saying that we must keep laws like this under review. Certainly, the WHO is currently reviewing cannabis as a whole, and the constituent parts of cannabis. The noble Lord is right that a number of states in the USA have actually legalised its use. We are keeping a very close eye on the outcome of that review and will take a view on it in due course.

European Union (Withdrawal) Bill

Committee (1st Day)

3.38 pm

Relevant documents: 12th Report from the Delegated Powers Committee, 9th Report from the Constitution Committee

Clause 1: Repeal of the European Communities Act 1972

Amendment 1

Moved by ***Lord Wigley***

1: Clause 1, page 1, line 3, at beginning insert "Subject to subsections (2) and (3),"

Lord Wigley (PC): My Lords, as well as moving Amendment 1 in my name, I shall refer to the other amendments that have been coupled with it for this debate. I declare some relevant interests, in that I own six acres of land that are rented out for agricultural purposes, and I receive a pension from two international manufacturing companies for which I worked, Mars and Hoover, both of which have major trading activities both in the UK and in continental Europe.

I should also make it clear that, while at later stages I shall certainly address those issues of particular relevance to Wales and the devolved regimes, I shall for the most part address issues that are of common concern across the United Kingdom. That is where I am coming from on the amendments before us now.

In tabling these amendments, it is categorically not my intention either to delay or to derail this Bill. I accept—yes, reluctantly—that the UK will be leaving the European Union and that it would be totally inappropriate for this unelected House to overturn the decision taken by the referendum. Neither is it the role of this House to overrule decisions taken by elected MPs in the House of Commons. We have no mandate to do so. It is, however, both our right and our duty to clarify the Bill, make it more workable, iron out the inconsistencies and ensure that, in its impact on citizens and businesses in every part of the UK, it is both even-handed and transparent.

Having said this, I do not accept the proposition that, if we leave the EU, we must per se also leave both the single market and the customs union. That is just not true. While my side of the Brexit debate is to accept that the UK voted to leave the EU, that vote in no way explicitly or implicitly requires us to break our economic ties. Some people who supported Brexit said that they had voted in 1975 to join the Common Market and that, if it were still just the Common Market, they would still support it. Retaining our single market and customs union links goes at least a little way to meeting those aspirations.

Many of the problems associated with the Brexit process have emerged only gradually, as those affected by it come to realise the full implications. As the Bill worked its tortuous path through the Commons, only slowly did its full impact become appreciated. This was not helped by the unwillingness of the Government to indicate where exactly they are heading. Had MPs been fully aware of the Government's objectives, they might well have come to different decisions on key parts of the Bill such as this.

It is our responsibility to pass amendments to this Bill that will give MPs an opportunity to address such matters in the light of developments in the negotiating process and give due regard to the Government's objectives, which may even now be only partially understood. This is particularly relevant when one considers the finality of this Bill. Unlike other legislation, if MPs get it wrong, they cannot return next year with an amendment Bill. With Brexit, once the die is cast, it heralds a permanent, irreversible change. We have to help MPs to get it right by giving them the appropriate opportunities to think again.

Amendment 1 is a paving amendment for Amendments 6 and 7. I introduce it at the very beginning of this Bill for a deliberate reason: to flag up that the implementation of Clause 1—the repeal of the European Communities Act 1972—cannot take place in a vacuum. There are considerations and provisions that must be addressed before the 1972 Act can be rescinded. There are no doubt Members of this Chamber who take the absolutist view of these matters that, irrespective of the consequences and regardless of the impact that such a decision may have on individuals, families, regions, industries, businesses and interests, the referendum must be seen in black and white terms and that, consequently, Clause 1 must stand unamended even if the rest of the Bill were to be jettisoned in its entirety. That is not the view I take; nor do I believe it is the view of the vast majority in this Chamber or in the other place.

Amendment 6 goes to the heart of the misgivings felt by industry and commerce across these islands. The Government have made it clear both that they are hell-bent on leaving the single market, which is important to so many industries and businesses across the land, and that their intention is not to maintain membership of the customs union, which could maintain at least some of the trade arrangements that currently exist. Industry after industry and service sector after service sector have begged the Government to rethink their stance on these matters. They point out the devastating effects that trade barriers would have on their businesses.

The EEF told me yesterday of its concerns: 84% of its members export to the European Union and any tariff would have a serious effect on their competitiveness. UK manufacturers form critical parts of complex EU supply networks. Any sudden changes at borders could, it asserts, have a dramatic impact on operations, costs, profitability and even viability. It calls for any new arrangements to include: zero-tariff rates; agreed rules of origin; a common approach to warehousing systems; the facilitation of the movement of goods under customs transit; and seamless customs administration. Those are the types of issues which must be resolved before we press the button to eject ourselves from the present customs union, which in fact answers these concerns. Of course, if we remain in the customs union, even if we give up our EU membership, those problems will be overcome.

3.45 pm

Only last Friday, I met people involved in the mussel industry in the Menai Strait. They told me that their main market is on the continent and that they need to ensure that their produce reaches the processors in France within 14 hours. If it does not, the quality will suffer and in due course that will undermine the market. Having physical customs borders at Dover, delaying shipments for, say, 12 hours, could kill their business. Another example in my old constituency involves a company making diagnostic medical products. It prides itself on its claim that any order it receives before noon today can reach its destination within the EU before tomorrow evening. It depends on frictionless movement by road to reach many of these destinations. Time is of the essence. It can sometimes be a matter of life and death. Our withdrawal from the customs

union with our European partners would not lead to the closure of that factory, but it would certainly lead to the global parent company thinking carefully before making new investments in the UK.

Thirdly, there is the position of our hill farmers, both in Wales and in other parts of the UK. Currently, 90% of their exports go tariff-free to continental European markets. If we have no customs agreement, their products could be subject to a levy of up to 70%. That would kill off the industry overnight. It is examples such as these which make it essential that such produce from the UK has unfettered, tariff-free access to European markets in future.

No doubt to assuage the phalanx of extreme Brexiters whom she has in her Cabinet, Mrs May is rejecting our current customs union. She would rather that we faced the massive uncertainties of the World Trade Organization agreement than even consider leaving the EU on terms similar to those enjoyed by Norway. Earlier this month, some of us were fortunate enough to hear the president of the CBI spell out in no uncertain terms that his members need such an agreement and that the Government must clarify where they stand on these objectives. The amendments address these issues.

Amendment 6 would require the Secretary of State to lay before Parliament a report outlining the Government's assessment of the effect on the UK economy of our withdrawal from the single market and the customs union. Bits and pieces of the Government's assessment have been dribbling out into the public domain, but we need a comprehensive report, sector by sector, region by region and year on year. This surely must have been undertaken by the Government. They could not possibly be taking such a massive step that potentially dislocates our trade with our biggest trading partner without first having undertaken such a comprehensive analysis. Could they?

Amendment 7 would require it to be written on the face of the Bill that the Government come clean about the UK having a negotiating objective of securing a withdrawal agreement which maintains the same trading rights and access with the EU for UK businesses as are provided by the UK's membership of the European Union.

The Committee may be aware that, a year ago, the Welsh Government published a White Paper with cross-party support that acknowledged the significance to Wales of our EU trade and called for single market participation. On Monday this week, a report was drawn up by the Welsh Government's energy, planning and rural affairs sub-working group. Its findings are staggering. Food prices are set to rise, especially for people on low incomes. The UK would operate under World Trade Organization rules that could be hugely disruptive for Welsh meat and fish producers. Land sector tariffs of anything over 20% could cause market collapse. WTO rules would cause considerable disruption for beef exports, and Welsh fishing would collapse, with devastating implications for shellfish production. The report concluded that evidence is piling up in favour of a Brexit deal which strays as little as possible from the status quo and that access to the EU single market would result in the least change for farms and within supply chains. Leaving the single market and the customs union would wipe £5 billion off the Welsh economy, and families, businesses and famers will pay the price with tumbling wages and a soaring cost of living.

If the Welsh Government can generate such a report, why on earth cannot the UK Government—or have they in fact produced such a report and realise that to publish it would be devastating? The leaked UK Brexit analysis published by BuzzFeed shows that, under the three most plausible Brexit scenarios based on existing EU arrangements, there is no scenario that does not leave the UK worse off. My party, Plaid Cymru, will seek to force a vote in the Assembly next week on maintaining our membership of the single market and customs union, but of course what happens in this Chamber and next door matters in this context. The issue will not disappear.

I will not address the Irish question, because I realise that time is pressing, but we will no doubt return to that and its great significance in the context of maintaining the customs union.

I will briefly refer to the other four amendments which stand in my name in this group. First, Amendment 89, which is also sponsored by the noble Baroness, Lady Kramer, and the noble Lords, Lord Fox and Lord Dykes, aims to prevent the UK Government bringing forward regulations that would weaken, remove or replace any requirement of law which is in effect in the United Kingdom immediately before exit day which was a requirement up to the exit day of the UK's membership of the EU single market and customs union. Essentially, this amendment would prevent the UK diverging from the frameworks which underpin our membership of the EU single market and customs union, and by inserting this safeguard we would help to ensure that businesses in the UK can continue to trade freely with our closest neighbours.

Amendment 162, which the noble Lord, Lord Hain, has also sponsored, is similar to Amendment 6 in that it would require the Chancellor of the Exchequer to lay before Parliament an assessment of the impact of leaving the EU single market and customs union on the level of GDP growth before making any regulations to implement the withdrawal agreement. Crucially, these assessments would include specific assessments for Wales, Scotland, Northern Ireland and England.

Amendment 189, which is also sponsored by the noble Lords, Lord Hain and Lord Judd, was submitted to the House of Commons by a cross-party group, which included the Westminster leaders of the Liberal Democrats, the SNP and the Greens, as well as Plaid Cymru. That amendment demonstrates the growing willingness of parties to work together formally to withstand the worst effects of Brexit. It restricts the Ministers of the Crown from being able to make regulations implementing the withdrawal agreement unless the Secretary of State has signed an agreement with the EU that the UK will remain a full member of the EU single market and customs union—arguments I have already made.

Finally, the proposed new clause in Amendment 197, which is also supported by the noble Lords, Lord Warner and Lord Hain, would require the UK Government to commit to adopting the principle of participation in the single market and customs union. As a negotiating

[Lord Wigley]
objective, it would require the UK Government to secure the same rights, freedoms and access available to the UK as exist through our membership of the EU. This is the position adopted by the Welsh Government's White Paper.

As always, these amendments tabled in Committee are probing amendments which seek to clarify the Government's thinking on these key matters. In the event that the Government do not provide us with satisfactory answers, I shall certainly return to these matters on Report with amendments along these or similar lines which can be voted into the Bill to enable MPs to give further consideration to these vital issues—which are matters of life and death for so many companies, businesses and families in these islands. I beg to move.

Lord Elystan-Morgan (CB): My Lords, I support these amendments, and in particular Amendment 5. The amendment proposed by the noble Lord, Lord Wigley, is a buttressing and an endorsement of the Sewel convention. As the House will recollect, the convention refers to the devolved authorities in this context: that the mother Parliament will not legislate in any way that is contrary to the will of the devolved authorities save in the most exceptional circumstances. The Westminster Parliament could not have gone any further at all without abrogating—

Lord Thomas of Gresford (LD): I think that the noble Lord is addressing Amendment 5, which is not in this group—and I shall no doubt be following in his footsteps when we do get to that amendment.

Lord Elystan-Morgan: I am pleased to stand corrected and apologise.

Baroness McIntosh of Pickering (Con): My Lords, I will speak to Amendment 136, which is in my name alone. Clause 1 is the crux of the Bill. It calls for the repeal of the European Communities Act 1972 but is silent on the question of our membership of the European Economic Area and what the status of our membership of the EEA will be on leaving the European Union—or indeed what the status of instruments or amendments agreed under the European Economic Area will be, either as we leave at 11 pm on 29 March 2019 or in the future if we are in a position to negotiate remaining in the European Economic Area.

I will speak to a number of issues that flow from the comments of the noble Lord, Lord Wigley, about leaving the customs union. The Prime Minister has been quite clear about wishing to leave the single market and the customs union. However, at no stage has anyone in the Government explained to the great British public or indeed to Parliament what leaving the customs union will mean or what the consequences will be of negotiating a free trade area either with our existing European Union partners or with third countries. The first point to make is that we immediately become a third country at 11.01 pm on 29 March 2019.

I forgot to mention my interests as listed in the register. I am a non-practising Scottish advocate; I practised for a short time—for two and a half or three years—as a European lawyer in Brussels; and I was a Member of the European Parliament for 10 years and a Member of the other place for 18 years, so I will indeed be in receipt of a European pension.

I should like to consider the position of perishable goods. An example that is very much in the news at the moment is medical isotopes, but I am more familiar with the free movement of perishable foodstuffs from the time that I was a Member of the European Parliament, particularly between 1989, when I was elected, and 1992, when the United Kingdom joined the European Union single market. In leaving the customs union, we face the consequences of leaving the customs union. At Prime Minister's Questions today, the Prime Minister repeated that we want to take back control of our own borders.

There is a conundrum here. I support enthusiastically what the Government and the Environment Secretary, Michael Gove, are trying to do—we are trying to increase the high standards of animal welfare that we already enjoy and to raise the standards of animal health, the safety of animal production and animal hygiene. However, particularly on the border between Northern Ireland the Republic of Ireland, there will have to be physical checks of animals and presumably of foodstuffs. I remember that as a newly elected MEP I got panic phone calls from companies in Essex, where I had been elected. People phoned or emailed and asked what I, as the local MEP, was going to do to move these goods along as they were time-barred. At the moment we seem to be going along on a wing and a prayer, hoping that everything will be all right on the night. I would like to hear from the Minister, when he responds on this group of amendments, what thought has been given to exactly what controls will be expected, particularly on the movement of perishable goods and the movement of animals, at borders such as the one between Northern Ireland and the Republic of Ireland.

I am also looking particularly at the fact that we are seeking to arrange new free trade agreements with countries such as Brazil and Argentina. It is no secret that they raise and rear their animals, and produce other products, to a standard that is considerably inferior to those in this country. I know that there is great concern in the Food Standards Agency about whether we will have time to put all the provisions in place governing how these imports will be considered.

4 pm

The noble Lord, Lord Wigley, touched on other issues, and I shall not repeat them, but I question the size of the market that we are giving up—505 million existing consumers—for these so-called new markets, which are as yet unidentified. Vietnam, for example, is a market to which we could export more meat and other foodstuffs, but Vietnam is not of a size commensurate with the market of 505 million consumers that we are wilfully giving up.

This is clearly a probing amendment. I seek clarification of the future status of our existing membership of the European Economic Area. Does it cease automatically with our leaving the European Union, or do we need a separate Bill to consider how to extricate ourselves from it? I think something that all of us—in the Committee, in the House and across Parliament—can

unite around is the idea that an alternative to leaving the single market and the customs union could be either our continuing membership of the European Economic Area or applying to join EFTA.

I am seeking reassurance that either we will confirm today what our future relationship with the EEA will be, and whether we will remain members of it, or whether we intend to adopt the instruments that have currently been adopted through our existing membership of the EEA and through the EU, with other EFTA countries. Perhaps the most difficult unresolved issue of leaving the customs union is, as I have already identified and set out in speaking to the amendment, the fact that we will not be in the customs union—as the Government have clearly stated that we shall take back control of our customs borders—and that will intrinsically lead to potential disputes with our existing European partners and other third countries, of which we will be one. Can the Minister tell us, in replying to the debate, precisely what dispute resolution mechanism the Government have in mind in these circumstances?

Lord Adonis (Lab): The noble Baroness is herself a distinguished lawyer, and she has raised one of the critical issues that we shall have to address in our debates: whether our membership of the European Economic Area automatically lapses by virtue of our leaving the European Union, or whether leaving it would require a separate Act on our part. As she said, she was a Member of the European Parliament for many years, and has practised law in Brussels, so will she give the Committee the benefit of her advice on whether she believes that our EEA membership will lapse automatically on leaving the EU or whether it would require a separate and explicit Act of Parliament, and therefore a vote in Parliament, to leave it?

Baroness McIntosh of Pickering: I am grateful to the noble Lord, but he places too great an emphasis on my legal abilities. I prefaced my remarks by saying that I am not an EU practising lawyer—although we do have a number of EU practising lawyers in this place. I would argue that no, our membership of the EEA will not explicitly lapse when we leave the European Union. This is a conundrum in which we find ourselves—or it could be the saving of us.

Lord Newby (LD): My Lords, I speak in support of Amendment 6, one of the earlier amendments in the group. It would simply require that a report be laid before Parliament,

"outlining the effect of the United Kingdom's withdrawal from the single market and customs union on the United Kingdom's economy".

This is a starter for 10 for the Minister, which he should be able to agree to—because such an analysis already exists. The *EU Exit Analysis—Cross Whitehall Briefing* explicitly does what the amendment requires. This analysis is not desperately long—only about 30 pages—but it would undoubtedly help Parliament if it were made more widely available. It is, of course, possible for Members of the other place or of your Lordships' House to see the document, if they go through a rather demeaning procedure and go to a curtained room—curtained, I was told by the civil servant who was invigilating me, because the document is so secret that the light of day, far less outside scrutiny, cannot be brought to bear on it.

I wrote to the Minister asking whether it would be possible for the Government to make the document public on two grounds. First, the document already is public, because Laura Kuenssberg has got it and has tweeted about it. Secondly, the argument for keeping it secret advanced by the Government—namely that if it were public it would undermine our negotiating position—is clearly false; it is a factual economic analysis and one that has been widely replicated by other think tanks and economic forecasters. I am very grateful to the Minister for the reply he sent me on 20 February. However, I was rather disappointed that he repeated the point that it was impossible for the Government to make this public because of their obligation to ensure security of negotiation-sensitive material. Most assuredly, this document is not that. He also said that it could not be published because it did not represent the Government's view and that publishing it would likely be misleading to the general public.

Let me remind the House what the general public would discover if they had the opportunity to read this document. It sets out three scenarios, one of which is too appalling, I am sure, for the faint-hearted to contemplate—including, possibly, the maiden aunts of the noble Lord, Lord Lisvane. It says that if we exited on WTO terms, in 15 years' time the economy of the north-east would have fallen by 16% below that than would otherwise be the case. You do not need to be of a sensitive nature to be somewhat frightened by such a prospect. It shows that if we had the sort of deal that Canada is negotiating, the economy of the country as a whole would fall by almost 5% and in the north-east by 11%. It states that if we had the Norwegian model, which is the closest model that anybody has contemplated, we would still see a fall in GDP of 1.6% and of 3.5% in the north-east.

There are those in another place who say that this analysis is far too pessimistic and who have castigated civil servants for deliberately including unrealistic assumptions in it. There is one very narrow respect in which I agree with the suggestion that some of the assumptions are questionable: they are far too optimistic. The analysis assumes that the UK will, over this period, have entered free trade arrangements with the US, China, India, the TPP, the Gulf Cooperation Council, ASEAN, Australia and New Zealand. There is not a single soul who knows anything about trade negotiations who believes that that is possible. In that respect this analysis is too optimistic.

If this document were published, it would at least allow people to see the likely range of consequences and to discuss them. They would also discover that in a Canada-type arrangement, which is nearest to what the Government's centre of gravity seems to be:

"There are over 550 individual restrictions on the services trade".

That is a quote from the document, which means fewer jobs across the board in the services trade, not here, there and in odd little places, but across the entire board. So is it surprising that the Government do not

[Lord Newby]
want to publish this document? Will it be surprising if the Minister, when he replies to this debate, says that they do not intend to do so? I suspect that it will not, but I hope that he will follow the advice of his colleague in another place, the former deputy Prime Minister, Damian Green, who only two days ago said:

"If analysis is being produced then publish it".

I agree: he should.

Lord Carlile of Berriew (CB): My Lords, to take up the theme of the noble Lord, Lord Newby, yesterday I went to 100 Parliament Street to read the EU exit analysis papers to which he referred. I will not break the rules by revealing, even though some of it has been leaked, what was written in them. It is a bit of an otherworldly, Kafkaesque environment. I was there with two retired Supreme Court judges and watched by very courteous young civil servants who ensured that we placed our mobile telephones on a desk in the corner of the room. But we were allowed to take our notebooks and pens with us so I have some notes that ensure that what I say is correct.

For those noble Lords who, like myself, have a maths education does that not go beyond ordinary-level additional maths, I recommend before you turn up that you look up the term "computable general equilibrium" or CGE modelling as it is known. It is a form of prediction that may be marginally less ignorant than any other form of prediction of the economy.

As a criminal lawyer who has been in practice for the best part of 50 years, I have seen quite a lot of suicide notes. I have seen real suicide notes and fake suicide notes. This was most certainly not a fake suicide note; it is most certainly a real suicide note. I read it with enormous concern. I am absolutely astonished, and indeed rather insulted, that Her Majesty's Government do not regard the documents—30 pages of slides, effectively—as essentially disclosable in the public interest. Every member of the public should have the opportunity to read them to understand what I mean by a suicide note.

It is very pleasant over there, if a little dark in a tiled basement. There are beautiful Victorian brick tiles on the walls. It is an architectural gem, so it is a pleasure architecturally. Noble Lords should just go there and read that document because I do not think we are well informed unless we do.

Having said that, I turn briefly to another subject that, because of time, was deliberately not mentioned other than in passing by the noble Lord, Lord Wigley, in his eloquent opening of this debate. That is the internal border within Ireland. This is in the context of the customs union. I was Independent Reviewer of Terrorism Legislation for nine and a half years until February 2011 and I have been carefully following the events and politics in Northern Ireland as a fascinated and interested observer since then. The Good Friday agreement was a remarkable document and has had stunning effects. It has brought together, in a democratic forum, people who used to kill each other. It has meant that people who used to behave in that way have been prepared to put aside their very strongly felt traditions—in many respects, hereditary, visceral traditions. It has led to the economies of both Northern Ireland and Ireland improving considerably. Above all, it has led to the saving of life.

We are not talking just about the saving of life in Northern Ireland. There are some residual terrorists who are still trying to kill people and occasionally succeed, but the numbers have been reduced dramatically. It affects all of us. Let us not forget the plaque above the doorway of the other place recording the murder of a very distinguished Member of that House as he drove out of the House of Commons car park, which some noble Lords also use to their advantage. Let us not forget that soldiers—British soldiers including some from Northern Ireland and indeed from the Republic—died as a result of bombings in London because of that dispute.

There is absolutely no way in which intelligent people could sit down to discuss customs union, be they UK politicians or EU negotiators, without the determination that the one thing which cannot be negotiated away is the liberty of the citizens of Ireland to pass in and out of Northern Ireland and the citizens of Northern Ireland to do the same vice versa. If by the time we get to the Report stage, either by a special provision in the negotiations or by a new treaty, the future of the Northern Ireland border as close to its current state is not guaranteed, I will be voting for amendments of this kind and I would expect a responsible Parliament to do the same.

4.15 pm

Viscount Hailsham (Con): My Lords, I begin with an apology to your Lordships' House. Because of professional engagements I was unable to be present for the opening speeches of the debate at Second Reading, but I have been able to reassure my Front Bench, and most particularly the Whips, that they can be certain of my presence throughout the Committee and Report stages.

I should like to speak briefly on those amendments, particularly Amendments 6 and 7, that deal with the customs union and the single market. I wish to express my deeply held view that we need to remain members of the single market and the customs union, or something very like them. That is absolutely essential if we are to retain our national prosperity. I agree precisely with what the noble Lord, Lord Newby, said on this subject, and all the analyses thus far bear that out. Indeed, we are seeing current prejudice being caused in terms of reduced investment, reduced growth and reduced spending. You do not have to look into a crystal ball; it is happening now.

Perhaps I may also say—with some regret, because I am talking about colleagues of mine in the other place—that those who have criticised the analysis produced by civil servants have in my view brought discredit upon themselves. As a Minister, I worked with officials for more than 10 years. I never knew or encountered a conspiracy to frustrate the policy of Ministers. I believe profoundly that those analyses were made in good faith and broadly speaking are correct. I also agree with the noble Lord, Lord Newby, that they should be published. They may not be right to the nearest decimal point, but I am certain that they correctly identify the

direction of travel. I have never thought that Brexit was a car crash, but I do believe it takes the form of a seriously deflating tyre and will cause the same kind of trouble.

Turning to the point made by the noble Lord, Lord Carlile, on Northern Ireland, I wholly agree with him and, if need be, I shall be voting accordingly in the same Lobby as him. We have talked about and agreed to a frictionless border between the Republic and the Province. I do not see how that can be achieved other than by the customs union or something very like it. Those who talk about technology are, I think, talking rubbish. I know of no technology that would achieve that purpose, and if there was such technology, I do not believe it would be affordable by a whole range of smaller businesses.

Incidentally, although it is to digress a little, I think that one of the surprising consequences of Brexit is that we will be asked to consider identity cards for British citizens. Once we have a frictionless border in Northern Ireland and once we have migration—as will happen—how can we operate our immigration controls without identity cards? That will be a very considerable consequence.

I want to make one final point, which echoes one made by the noble Lord, Lord Wigley. Nothing was said in the referendum that obliges this House or Parliament in general to do something that is deeply prejudicial to our national interest. Nor, indeed, is that the consequence of the general election, which was not, in all conscience, a great triumph for the Conservative Party. From time to time, one has to put one's assessment of the national interest before any other consideration, most particularly before one's assessment of one's party interests. That happens at various times in one's career. It happened early in my father's career, 18 months after the Oxford by-election, when he was compelled to vote against Chamberlain. He was much criticised then. It happened at the end of my career in the House of Commons with regard to the second Iraq war, which I deeply deplored. I helped to craft the anti-war Motion and acted as a Teller to make sure that Motion was voted on. Both of us were criticised at the time, but I am bound to say that those criticisms have not survived the historical experiences that we have all seen.

Lord Robathan (Con): I agree with my noble friend entirely about putting the country before party. He mentioned that nobody had said that we must leave the customs union and single market, but I recall very well that David Cameron—who I rate enormously—George Osborne and Michael Gove, from different sides, said that we must leave not only the single market but the customs union if we voted to leave.

Viscount Hailsham: It is the business of Parliament to form a judgment. We will come to other debates fairly soon—in the next group of amendments—that intend to give Parliament the decisive say. That is our function and we must not shelter behind constitutional niceties in order to refrain from doing our duty. I will certainly do whatever I can to ensure that we remain as close as possible to the customs union—and if I could, I would also frustrate the policy of Brexit.

Lord Davies of Stamford (Lab): My Lords, I wish to address Amendments 152, 197 and 206, on the matter of the customs union. Before I do so, perhaps I might be permitted to say a word of admiration about and pay tribute to the people outside this building—many of them waving British as well as EU flags—who have been there for several months, hoping to impress on us the importance of the case. We in this House—from the comfort of these Benches—should not be tempted in any way to neglect or slight efforts made by our citizens to bring their concerns to our attention. I have been most impressed by them. I have often spoken with them; one young lady, on a very modest salary, told me that she paid quite a lot of money on a fare from Manchester and was sleeping on a friend's floor in order to stand for 12 hours outside this House. Her account was very typical. I counted more than 140 people one evening, when the temperature was getting very close to zero. I believe that sort of dedication and selfless concern for the future of the country is most impressive.

I am well aware that many of my colleagues in the House have come to this debate in the belief that they are carrying out an instruction from a referendum. I reject entirely that concept, which clearly contradicts the idea of a sovereign Parliament. By definition, if a body is sovereign, it cannot receive instructions from anyone. That is a matter of definition; it is what philosophers call an analytic truth. Even more absurd would be the idea that we could take instruction from a referendum in a previous Parliament. Heaven knows what Parliament would be subject to after a certain period in which we adopted that proposal. One can easily see to what ridiculous results that would lead. It would also make a nonsense of the fundamental principle of our constitution that no Parliament can commit its successor, and if you abandon the concept of parliamentary sovereignty and the belief that goes with it that no Parliament can commit its successor and therefore every Parliament after a general election can open a new page, there will be very little left of our constitution that people who take that line will still believe in.

Lord Cavendish of Furness (Con): Would it not be true to say that the sovereign Parliament gave the people the decision through the referendum?

Lord Davies of Stamford: My Lords, as I have explained, I do not accept that we are in any way under instruction from anybody. I have heard the word "instruction" and it deeply shocks me. As a matter of fact, I heard it from the then Leader of the House in the days following the referendum. For the reasons that I have already set out and I do not need to repeat, that is a pernicious doctrine that is extremely dangerous in its constitutional ramifications and should be rejected.

Lord Hamilton of Epsom (Con): My Lords—

Lord Davies of Stamford: I will not give way for the moment; I would like to make a bit of progress.

I agree with the noble Lord, Lord Wigley, that even if you were to believe that we are under some kind of instruction relating to Brexit it certainly could not

[Lord Davies of Stamford]
apply to the issue of our remaining in the customs union or the single market. I do not remember that issue being mentioned at all in the referendum, certainly on the customs union. As we all know, there was nothing on the ballot paper about it. The noble Lord, Lord Robathan, intervened to say that he remembered some mention of it by certain people during the campaign. I would be very interested if he could put on record the particular dates, times and places where those comments were made, because I reckon I was pretty alert to what was being said during that campaign, in which I took an active part. I never heard the issue of our remaining in the customs union being dealt with at all, let alone seriously analysed and considered. I do not think that the British people had any chance on that occasion to express a preference one way or the other on that matter. As the noble Lord, Lord Wigley, said, that is a matter of practical fact. Parliament must be sovereign and must take what will be a very important decision.

We all know the potential damage that this country will suffer from Brexit. A lot of it will be from our leaving the single market. Admittedly, some of that damage can be mitigated by our signing a free trade agreement with the EU, but that will not cover financial services, which is such an important part of the country's economy. There will be great damage from our leaving the EU, even if we are able to sign such a free trade agreement.

On the issue of the customs union, an enormous range of businesses, sectors and companies see this as an existential threat to their continued survival in this country. That goes across all kinds of people, from automotive to aerospace, pharmaceuticals, the nuclear industry and the airline industry. Noble Lords are familiar with the arguments and the very depressing projections made by people from those industries about the costs that they would incur if we leave the customs union.

What is extraordinary is that we have not really heard any of the benefits. It is extraordinary that you can make a proposal for something involving undoubted costs—we can all disagree about the costs and what their extent might be, but we cannot possibly disagree with what sign is on the variable in the equation: it is a negative. The idea that we should incur costs and risks without really knowing what the potential countervailing benefit is seems extraordinarily perverse. No business would manage itself on that basis.

When you press the Government they say, "We need to leave the customs union because that enables us to sign customs agreements or free trade agreements with other countries outside the EU and outside those countries which have themselves free trade agreements with the EU at the present time". When you actually look at the prospect of doing that you see that it is a mirage; it does not exist at all. Let us take the United States, which spent eight or nine years failing to negotiate the TTIP with the European Union, as the Committee knows very well. Those negotiations broke down partly because of disagreement about the investment guarantees that the Americans were demanding and partly because of the demands being made by the Americans about access for their agricultural products to the single market. Anybody who knows anything about America knows perfectly well that it is inconceivable that an American Administration, let alone a Republican Administration backed by so many Senators and Congressmen from the prairie states and farm states, would ever ratify a free trade agreement with anybody that did not include agricultural products. If it includes agricultural products, of course it includes hormone-impregnated and antibiotic-impregnated beef and chlorinated chicken. Are the British people any more likely than their continental partners and neighbours to accept such products on the market? Would they accept the very appalling animal welfare standards which the Americans have? They have virtually zero grazing for well over 90%, if not very close to 100%, of their cattle at the present time. The idea that you can go through Texas and see lots of longhorn being herded by cowboys as you could 100 years ago is wrong: you will not see a single Texas Longhorn now out in the open air. Those problems will remain and in practice I believe they will be insuperable for us, just as they have been for the rest of the European Union.

4.30 pm

Let us take China. Of course, it is a very nice idea to have a free trade agreement with China but does the Committee seriously think that the Chinese would accept and sign a free trade agreement which provided for the continuation of quotas on Chinese steel exports? Can the Committee seriously imagine that the Chinese would allow such a precedent to be created? Can the Committee possibly imagine that the Chinese are so far away from their reputation of being concerned with face that they would ever accept an unequal treaty of that kind? Of course not. On the other hand, if we were to sign such an agreement and accept that Chinese steel quotas should be abolished, what is the future then of Port Talbot? What is the future of the British steel industry? We know that and we know that the Government have given an undertaking to the people of Port Talbot that they will not abolish the quotas on Chinese steel exports. There is a fundamental contradiction there. The Government have been completely unclear about it. I could use a less parliamentary term than "unclear"; they have really attempted to obfuscate this issue.

Let us take India. India is another apparent great prize but Mr Modi has said quite seriously that the first priority of India in negotiating a free trade agreement with this country would be a greater quota for Indian immigrants into this country. If we are acting on, or even being influenced by or taking account of, the referendum campaign then we know perfectly well that immigration was one of the most sensitive issues, if not the most sensitive issue, driving the result of that campaign. It would be extraordinarily perverse if the British Government now said that as a result of Brexit we would actually have more immigration from India or from anywhere else. Without more immigration, Mr Modi has said he is not interested in doing a deal.

I think there would be a good chance of our getting a free trade agreement with Australia and New Zealand, but of course it would be totally at the expense of the British livestock industry. We would have, every week, enormous frozen meat containers arriving on big ships from Australia and that would knock the bottom out

of the British beef market and the British lamb market. Anybody who is familiar with those markets, including the NFU, is very well aware of that. The Government have again been very unwilling to be clear and frank about the fact that if they want a free trade agreement with Australia and New Zealand they will have to accept their agricultural products. Actually there is nothing very much that the Australians are interested in selling us otherwise. There are minerals, such as copper, uranium and so forth, but they could sell us that anyway; they do not need an agreement, there are no quotas on that, it is an international commodity, an international raw material.

So if you break it down a bit further than the rhetoric you see that there is no such thing as this vast, wonderful, countervailing benefit to leaving the single market and the customs union, as the Government have been pretending. There is a fundamental falsehood here and we should use the opportunity that this Committee provides to try to expose some of the illusions which the Government have been putting forward, and to throw light in corners which the Government have been trying desperately to keep dark, of which this is undoubtedly one.

Lord Lamont of Lerwick (Con): My Lords, I had not intended to speak in this debate but since it seems that no one else is going to speak up for the option of leaving the customs union, I thought that in the interests of attempted balance, at least, I should make a brief contribution.

I thought that the noble Lord, Lord Wigley, spoke with great passion—not, to me, entirely persuasively—and his sincerity was palpable. But some of the phrases he used do not really correspond with the reality of the situation as I see it. He talked about breaking our ties. It is not the Government's intention that we should break our economic ties with the single market. He talked about this being an absolutist solution. No one is pursuing something out of dogma. We are trying to make an assessment of what we think is in the best interests of the country. I agree with the words that my noble friend Lord Hailsham used: we ought to be considering what is in the national interest. Noble Lords opposite may find it difficult to believe but that is actually what the Government are trying to do and what people on this side of the Committee are trying to do: come to a set of arrangements, once this decision has been made, that will maximise the welfare and interests of the country.

The noble Lord, Lord Wigley, was not comparing leaving the customs union with what the Government are trying to achieve. The Government are trying to achieve a free trade agreement with Europe. That is what you ought to compare the customs union with. In what respect would having a free trade agreement leave the country worse off than it is now? He was talking about a customs union. He did not make it clear but he said he was not disputing the decision to leave so he must have been talking about a customs union while being outside the EU. That is very different from being inside the customs union as a member of the EU. That is putting yourself precisely in the position of Turkey, which is inside the customs union and suffers all sorts of disadvantages, as I shall try to demonstrate.

Baroness Kramer (LD): Perhaps I could make a suggestion to the noble Lord. If he were to go to 100 Parliament Street and sit and read the assessment, he would indeed see the comparison between being in a customs union and being in a free trade agreement. If he were to look at *Hansard* again and read about the damage to the economy that my noble friend Lord Newby described, he would find a great deal of that detail which explains that the free trade agreement route still leaves an unbelievably damaged country, in every region, especially the north-east, and in virtually every single industry sector.

Lord Lamont of Lerwick: There are calculations that say that. No doubt when the noble Baroness comes to make her speech, she will give arguments. I am not going to be persuaded by just a piece of paper with a statistic.

Noble Lords: Oh!

Lord Lamont of Lerwick: Noble Lords jeer but are they really going to say that a piece of paper with a statistic somehow analyses the problem? I put it to the noble Baroness that if you have a free trade agreement you have access to the market. What is the disadvantage? The disadvantage, which I will come to, is that you have to trade against that the inconvenience of rules of origin. That is what it comes down to: balancing the advantages of free trade against the costs of rules of origin.

Nobody has said that there are any advantages to leaving the customs union and I would like to make a few points. First, obviously, the customs union that we are members of—on certain goods, not all—has quite high tariffs on goods that particularly affect the lower paid, especially food, clothing and footwear. That is not an inconsiderable factor. Despite what the noble Lord, Lord Davies, said, being inside the customs union would make it impossible for us to sign free trade agreements with other countries. He was pooh-poohing that and thinks we will not be able to do it. But I put it to him if he looks at the record of quite small countries such as Singapore or Chile or a medium-sized country such as Korea, he will find that when you add up the GDP of the countries they have signed free trade agreements with, it is very much in excess of the added-up GDP of the countries that the EU has signed free trade agreements with. That is to say: these small countries, precisely because they negotiate on their own and do not have to take into account the arguments of 27 other partners, have been very effective at signing free trade agreements. Switzerland, for example, has a free trade agreement with China but the noble Lord thinks it will be impossible for us to have one with it.

Lord Davies of Stamford: My Lords—

Lord Lamont of Lerwick: I assume this is not a point of order but a point of information.

Lord Davies of Stamford: I am grateful to the noble Lord and would like to give a point of information to him. We already have a free trade agreement with South Korea, as a result of our membership of the

[Lord Davies of Stamford]
European Union. Our leaving the European Union would result in our losing our free trade agreement with South Korea.

Lord Lamont of Lerwick: I do not know whether the noble Lord misheard me, whether I misspoke or whether he misunderstood. I was not talking about having a free trade agreement with Korea but about the free trade agreements that Korea has signed with other countries across the globe.

Another point about a customs union is that it is not just a question of collecting tariffs. A lot of regulations go with it and there is a vast range of non-tariff controls on goods—you obviously have to have definitions. We would not be able to divert from these at all if we remain members of a customs union, or even to depart from them in our own domestic market. If we did that, the goods that were allowed in which had circulated in the other countries of the customs union would be in contravention of them. Again, I put it that there are some advantages which have to be put into the balance of the argument for leaving the customs union.

One mystery about this amendment is that if you are in the customs union, there is the collection of the tariff revenue where the individual countries are allowed to retain only 20% of the revenue. The rest of it goes to the EU, so would we be outside the EU and paying 80% of the revenue on the external tariff to the EU? That does not seem to make a lot of sense.

It is also possible to be outside the customs union and to have a free trade agreement with the EU. That is precisely what Norway, Iceland and Liechtenstein do but of course, to come to the noble Baroness's point, if that is regarded as a cost you have to offset against it the fact that you have rules of origin. People have pooh-poohed the technology argument but is that really going to be such an insurmountable thing to do? Switzerland exports per capita five times as much to the EU as we do, and it has to operate rules of origin on many sectors when it sells goods to the EU. That does not seem to have had any inhibiting effect.

Baroness Kramer: My Lords—

Lord Lamont of Lerwick: I would like to make a little more progress, as this is taking rather a long time. The rules of origin are one of the points for consideration. I know that a lot of British industry is worried about this but I noticed what Mr Azevedo, the Secretary-General of the World Trade Organization, said in a newspaper interview that he gave the other day. He pointed out that a large part of Britain's trade, because we have a bigger percentage of trade with the rest of the world than some other European countries, already has to observe these requirements of documentation and rules of origin. He did not see that there would be a big problem in switching the rest of our trade to a similar regime.

I have also met representatives of some of the companies that run ports in this country, some of which operate on a WTO basis and some of which obviously operate on an EU basis. But when I talked to the management—I do not want to name them because they would not want to be too involved in political controversy—I was told that they did not see a huge difficulty in moving from one administrative system to another. Whether people agree with that or not, I put it to your Lordships that that is what the argument is all about: a trade-off between that and a free trade agreement with access to the market. It is not clear that the advantage is all one way.

Baroness McIntosh of Pickering: Does my noble friend not agree with me and the noble Lord, Lord Davies, on animal hygiene? Given the high levels that the Secretary of State has insisted our farmers will meet on leaving the European Union, how can we physically check the animals coming into this country when we leave if we have no customs controls at UK borders? It cannot be done by technology.

4.45 pm

Lord Lamont of Lerwick: Even in Northern Ireland, we have some checks already. There will have to be checks, as there are checks throughout the European Union. I would be in favour of checks, but this is not an overwhelming argument against leaving a customs union.

I have one final point on the customs union. The noble Lord, Lord Wigley, seemed to be advocating being inside the customs union but outside the EU. That is the consequence of the amendment. That really gives us the worst of all worlds. Consider the position of Turkey. It has to agree to whatever free trade agreements the rest of the EU signs up to and has to have goods under those agreements circulating within its economy, even if it is totally opposed to that, because it has no say in negotiating free trade agreements between—

Noble Lords: My Lords—

Lord Lamont of Lerwick: I would like to finish a sentence without being interrupted. The EU negotiates free trade agreements but does not take into account what Turkey wants, and Turkey has no say. I will give way one last time; then I will make one other point about the single market; and then, the House will be relieved to know, I shall shut up.

Lord Adonis: The noble Lord referred to Turkey twice. On the first occasion when he referred to Turkey he said that there were all kinds of disadvantages in its customs arrangements with the EU from being in the customs union but not being free to strike trade deals beyond that. Why therefore does he think that Turkey has willingly and freely stayed a member of the customs union?

Lord Lamont of Lerwick: As the noble Lord knows very well, Turkey aspires—that aspiration may now be fading—to join the European Union, so being in the customs union was for many a halfway house to joining the EU, just as for noble Lords who tabled this amendment it is a halfway house to rejoining the EU. That is what their amendment is really about.

Lastly and briefly on the single market, the noble Lord, Lord Newby, was exhorting us all to go to the Treasury, look at the papers, draw the curtains and see the forecasts that have been made. Of course those documents should be taken into account, but there are many other studies made outside Whitehall that take a very different view. I refer him to the research by the academic Michael Burrage, who was at the LSE and at Harvard. He has done an in-depth analysis, which is published on the Civitas website, of the effect of the single market on the British economy and British exports. He has come to the conclusion that there is no correlation between the single market and the growth of trade between the UK and the EU.

Furthermore, he has pointed out something that people have acknowledged in these debates before—namely, that many non-members of the single market, countries outside the continent of Europe, have increased their exports to the single market much faster than Britain has increased its exports to the single market. So the idea that this great liberalising force has had a huge impact on the British economy is absolutely not proven. I make these points simply because the debate so far has been very unbalanced and, as my noble friend Lord Hailsham said, we ought to be considering, in a sober, balanced way, what is in the interests of our own economy now that the decision has irrevocably been made.

Lord Liddle (Lab): On the customs union, as a pro-European in his youth, the noble Lord will be aware that the customs union was one of the founding acts when the European communities were established. I understand why Eurosceptics might make a lot of arguments that the European Union has become much more federal and political than the economic basis on which it started. But what, given the arguments that the noble Lord made so powerfully in the early 1970s in favour of membership of the customs union, now prevents us staying in the customs union on leaving the EU?

Lord Lamont of Lerwick: I am sure the noble Lord is not intentionally misleading the House when he talks about the arguments that I made so compellingly and eloquently in the 1970s. If he has been studying my maiden speech in the House of Commons, I shall be astonished. The reason why I supported the customs union in the 1960s was that we then lived in a world of very high tariffs, and the EEC was a liberalising influence in the 1950s and 1960s. It was only after the American Administration started cutting tariffs in the mid-1960s that the relevance of the EEC in tariff negotiations became much less significant.

Since the noble Lord wanted me to get my feet again, I will say that my attitude towards the customs union is very different from his. I remember a debate in which he spoke about not being in the single market. He explained how he had been to a German car manufacturer which had explained to him—I could not believe my ears—how Germany was manipulating car standards in order to keep out goods from other countries. The noble Lord thought that was admirable and we were very stupid not to be part of this racket. Well, I do not want to be part of it.

Lord Bilimoria (CB): My Lords, I am supporting and have added my name to Amendment 206 in the name of the noble Baroness, Lady McGregor-Smith. It is also supported by the noble Baroness, Lady O'Loan, and the noble Lord, Lord Alli. The amendment is simple but necessary and goes to the heart of Parliament's consideration of the UK's withdrawal from the EU. It says:

> "It is a negotiating objective of the Government to ensure that the withdrawal agreement provides for the United Kingdom's continued participation in a customs union with the EU".

In today's economy, business is integrated worldwide, transactions are global, goods and services cross national borders every minute of the day, our greatest customers are our nearest markets, and we know that half our trade is with the other 27 countries of the EU. A lot has been made of Canada having signed a free trade agreement with the EU, CETA, which took eight years. However, the comparisons made with our situation do not apply, because what people do not understand is that the EU makes up less than 10% of Canada's trade. Who is Canada's biggest trading partner by far? The United States, which is next door.

It is not just the finished goods that are sold to these markets; the components and ingredients of goods, food and of course drink can flow through as imports and exports. I was speaking in Dublin a week before last for the Irish Food Board, Bord Bia. There the example was given of Bailey's Irish Cream, which is made in Ireland, sent across the open border into Northern Ireland and packaged there, brought back into Ireland and exported from there around the world. In this European marketplace, we have stopped referring to these exchanges as "imports and exports" because the transmission of goods is so frictionless and continuous that we now just talk about "arrivals and dispatches". This really matters to business—I speak as someone who has been in business for a long time and started my own business—and to the people employed by these businesses, and it is the customs union that makes it a reality.

I think we take a lot of that for granted today, but this choice, this virtually instant array of products, was not always available to customers and entrepreneurs. We have to remind ourselves that this degree of tariff-free, seamless trade has arisen not by accident but by careful design and the sharing of decision-making on trade policy. We dismiss these benefits of a customs union with the EU at our peril.

I invite noble Lords to picture for a moment the 2.5 million lorries passing through Dover each year and how our ports will cope if, in a year's time, the continuous throughput of traffic is no longer. A programme on Radio 4 today illustrated this on both sides. If goods need inspecting at ports for exit and entry, revenue collecting, labels and licences checking, sanitary conditions measuring, quota weighing and duties paying, all this can take a long time and clog up the arteries of our economy. If these delays and blockages occur, not only will we need to contend with frustrated truck drivers and motorway congestion, companies with a just-in-time business model—we heard examples from the noble Lord, Lord Wigley—will need completely to rethink their practices, and their investors and customers will pay the price.

[Lord Bilimoria]

The EU has obtained more than 50 trade deals with countries across the world. This represents approaching 20% of our trade and will lapse in 2019 on our exit from the European Union. We need to remain party to those existing FTAs, and this amendment is the best way to ensure that. At the moment, 50% of our trade exists with the European Union. If you add approaching 20% of our trade through the European Union, we have a total of almost 70% with and through the European Union at the moment. We as a country are thinking of throwing that away to go after the 30%. Within the 30% is the United States of America, at 18%.

I am a great fan of the Commonwealth. We have CHOGM coming up here in April. I would love this country to do more trade with the Commonwealth and have been speaking about that during the 11 years that I have been a Member of this House. But let us get real. The Commonwealth makes up less than 10% of Britain's trade; 70% is with and through the European Union. We can drive a better deal for Britain by applying the strength of the whole of Europe, rivalling any other world power.

So often, we hear this talk of going global and that we are going to do trade deals with countries such as India. India would love to do a free trade deal with the UK, but the reality is that India has only nine bilateral free trade agreements with any countries in the world, not one of them a western country. If you speak to the Indian high commissioner over here, he says that India is very happy to do a free trade deal but, as the noble Lord, Lord Davies, said earlier, it is not just about goods and tariffs; it is about movement of people. The commissioner says: "What about international students? What about our IT workers coming here? What about the fact that the Chinese get two-year multiple-entry visas for business and tourists at £85 and we Indians have to pay £350? What about that? Then let's talk about free trade deals".

David Davis mentioned dystopian. To me, the Brexiteers are living in a utopian world. We can drive a much better deal for Britain by applying the strength of the whole of Europe, rivalling any other world power. There is no either/or choice between trading with the European Union and trading with the rest of the world; we need to do both successfully, just as the Germans manage to do within the customs union.

I have heard from the horse's mouth where India is concerned. It is very clear: an EU-India free trade agreement is far more important to India than a UK-India free trade agreement. It is simple: 500 million people or 65 million people; there is no comparison. Let us get real.

Then we have talk that, the moment we leave, we will just roll over these 50-plus free trade agreements that the EU has and do UK free trade deals with those countries straightaway—again, utopian dream land. Already, countries such as South Korea have said, "Hang on! We have to renegotiate that. We did a free trade deal with the EU on the basis of 500 million people and the world's biggest free market. You want us to treat you in the same way with 65 million people? Forget it. Let's renegotiate".

Lord Patten of Barnes (Con): Does the noble Lord recall that we made very good progress in the European Union in trying to negotiate a free trade agreement with India? It was actually slowed down—indeed, blocked—by the United Kingdom.

Lord Bilimoria: Well, we have worked for a long time to do a free trade deal with India, and it is in the offing. The Canadian one took eight years. Let us again be absolutely realistic about this.

The majority in the Commons are for staying in the customs union because of the fear of the extra costs. We know about the BuzzFeed leaked reports that found that Britain would be financially worse of outside the EU under any model or any of the scenarios. Hilary Benn, the chair of the parliamentary Brexit committee, has said that the government's decision to make leaving the customs union its policy without first assessing the impact of doing so is, in his words, "extraordinary".

The CBI, which represents 190,000 businesses which employ 7 million people, has said very clearly that customs union membership would,

"resolve the question of how to keep an open border between Ireland and the UK",

which, as noble Lords have heard, is so important for maintaining the peace. We should not jeopardise the Good Friday agreement for anything. We have to get our priorities right as a country.

5 pm

Chuka Umunna, the former shadow Business Secretary, said that it was "inevitable" that Labour would pledge itself to remaining in the customs union "in some form". He said:

"It is the only way we have of ensuring that we can protect one of our greatest legacies, the Good Friday agreement".

And lo and behold, what happened just now? The UK will have to have a customs union with the EU after leaving the bloc—Jeremy Corbyn has said that just now. Asked how Labour's position differed from that of the Government, Corbyn said:

"We have to have access to European markets, we have to have a customs union that makes sure we can continue that trade, particularly between Northern Ireland and the Republic of Ireland. That is key to it".

Emily Thornberry, the shadow Foreign Secretary, has said that it,

"seemed inevitable the UK would have to stay in some sort of customs union after Brexit".

She said,

"we cannot see a way forward when it comes to Northern Ireland or to tariff-free trade across Europe without us being in some form of customs union that probably looks very much like the customs union that there is at the moment, and that's our position on that".

It is an important task for the UK to try to rebuild all these other deals. David Davis said that it would be possible for the UK to negotiate trade deals,

"massively larger than the EU".

Where is the reality in this? Has he learned mathematics or arithmetic at school? I have just gone through the sums with noble Lords—but he says they will be massively larger than the EU.

Of course, on the sequencing on the negotiations, a US trade representative has said that,

"informal discussions won't be possible until decisions have been made about the UK and EU relationship. Even then, many countries will want to be clear about the UK's membership of the WTO before they open negotiations".

The no-deal scenario and falling back on the WTO would be the nightmare scenario—the worst of all options.

Finally, before I conclude, there is the number of business groups that are backing staying in the customs union. There is Carolyn Fairbairn of the CBI, whom I mentioned earlier. For the TUC, Frances O'Grady said:

"Working people's jobs, rights and livelihoods depend on maintaining our trade with Europe. Staying within the customs union is really important to achieving this".

The National Farmers' Union's policy is that,

"the best outcome … would be that the UK remains part of the European customs union".

The Farmers Union of Wales, as noble Lords will remember, voted to leave overall, but its president, Glyn Roberts, has said that,

"the only sensible outcome is to ensure we are still members of the common market and customs union on the day we leave the EU".

The chief executive of the Irish Business and Employers Confederation said:

"The UK plan to leave the customs union is at odds with the economic interest of both the UK and EU … The UK remaining in a customs union would partially offset the negative impact of Brexit on jobs and the economy in the UK, Ireland and the wider EU. It would also go some way to resolving the challenges posed by the trade border with Northern Ireland".

And 70% of Scottish businesses want to remain in the customs union and single market, according to a survey.

Finally—I am an alumnus of the Harvard Business School—the Harvard Kennedy School carried out a survey of small and medium-sized enterprises that concluded:

"Almost all businesses we interviewed expressed a preference for remaining in the Single Market and the Customs Union".

I conclude that our involvement in the customs union is a decision that this Parliament has to make, especially as it was not referred to in the referendum ballot paper. In fact, a lot of people when they voted to leave did not realise that they would have to leave the customs union and the single market. As someone who has built a business from scratch, Cobra Beer, it is a challenge to start a business, and that challenge continues as you try to grow, thrive and build. British businesses do not need more barriers, more bureaucracy or more expensive administration at the borders for goods—and there is a way to avoid that. This Bill provides a crucial opportunity for Parliament to express its preference for continued participation in a customs union with the EU.

I commend this amendment to the House and conclude by saying that it is not just about staying in the customs union but also the single market. I took part in a debate in the Cambridge Union on 8 February and one of my opponents was Jacob Rees-Mogg. Do not ask me the result—do not ask him the result either. It was closed by one of my contemporaries from Cambridge who concluded by asking, "Why is Lord Bilimoria so negative about Brexit? Why doesn't he realise that we as a country are the best of the best in so many fields? Look at that—we should be proud. We can go global". I then concluded for the opposition by saying, "Helena Morrissey rightly pointed out that Britain is the best of the best—at aerospace, automobiles, beer, architecture, accounting, lawyers, creative industry, museums, film and music. We are the best in the world. Isn't it amazing that we have done that in spite of being in the European Union for 44 years?" What we need to do is continue to remain in the European Union.

Lord Hain (Lab): My Lords, I will speak in greater length on the second group but I want to touch on just a few points, if I may, to support Amendments 162 and 197, tabled by the noble Lord, Lord Wigley. I begin by saying how much I agreed with the speech of the noble Lord who has just spoken and also the speeches of the noble Viscount, Lord Hailsham, and the noble Lord, Lord Carlile. I agreed with every word of them, and the best way those two noble Lords can express their passion about Northern Ireland and the dangers of having anything other than the same customs union and single market either side of the border is to support Amendment 198, which I hope, at least on Report, will be put to the vote.

The noble Lord, Lord Lamont, spoke with great eloquence. The problem is that he does not agree with his Government's policy. The Government signed up in December to an agreement with the European Council for regulatory alignment. That is not what the noble Lord is arguing for. This brings me to Amendment 197, which does not say that we will be in the single market and customs union but that we will have,

"the same rights, freedoms and access"

as exist now. I thought that this was the policy of the Government: to leave but to have exactly the same opportunities for businesses as we have now. As the noble Lord, Lord Wigley, explained, it is of great concern to the Welsh Government, who I am close to. It is the same concern of the London governing authority, expressed through the mayor, and I am sure—since it voted to remain—it would be the same view of the Northern Ireland Government, if they were functioning.

Publishing impact assessments is the least that the Government can agree to. I ask the Minister, in responding to this debate, to explain why they are so afraid of publishing impact assessments for Wales, Scotland, Northern Ireland and, for that matter, England. Why are they afraid of doing that? What is wrong with doing that? Can the Minister also say why he does not accept Amendment 197, when I thought that was what his Government were arguing for? Or are the Government reneging on what they signed up to in December, despite the fact that it was a solemn decision between the European Union and the United Kingdom?

Lord Fox (LD): My Lords, my noble friend Lord Newby and the noble Lord, Lord Carlile, spoke of Kafka in the basement, but I was struck by another, more bizarre allusion earlier this week when the Brexit Secretary ruled out the "Mad Max" scenario

[Lord Fox]
post Brexit—I was not aware that the "Mad Max" scenario was on the table. I was concerned about whether he had actually seen the post-apocalyptic, low-budget film packed with ridiculous contraptions and strange fashion. Then, today, the European Research Group issued its ultimatum and it became clear how appropriate the Secretary of State's imagery was. He clearly has seen not just the original "Mad Max" film but the sequels as well. We are living in a world where so many things are said that clearly cannot be true. We are living in a fantasy world, and we have heard some of those fantasies today.

In speaking to Amendment 89, I declare my interests as set out in the Members' register, which of late have focused primarily around the aerospace and automotive industries. Last night, along with other Members of your Lordships' House, I attended the Engineering Employers' Federation annual dinner, which followed its extremely successful conference. The EEF was celebrating arguably the best year for manufacturers for at least a decade. This is not a justification of Brexit; it is a repudiation of it. The single market, the customs union, the free movement of people and many other facets of the European Union helped to facilitate this highly impressive performance, built on the back of increased trade not only with a burgeoning European economy but with non-European countries. This trade increased while we were still in the customs union. Increased trade with China, albeit from a low base, was achieved while we were still in that iniquitous thing, the single market. We achieved growth with both our European partners and partners in the rest of the world.

To be clear—I know that all noble Lords know this—the single market ensures that UK companies can trade with any of the 27 European Union countries without restrictions and arbitrary barriers. It is a question not just of tariffs, of course, but of regulations and standards and what the Government term "friction". One of the most damaging things that the Government did from the outset was to rule out membership of the single market and the customs union post Brexit. We see the issues that that has caused, particularly in Northern Ireland. The noble Lord, Lord Carlile, has talked very eloquently about that issue but I shall address the business and industrial implications. The industrial fallout is extremely daunting. We heard evidence of that last night at the EEF dinner. Many companies are only just starting to realise the complexity and friction that will be introduced into their daily business dealings. Many more have yet to comprehend this. Certainly what this means for smaller SMEs is still beginning to dawn on them.

Amendment 89 is focused on the single market. As noble Lords can tell, I think the UK should remain in the single market permanently. However, in case that upsets your Lordships too much and they are reluctant to support Amendment 89, I should emphasise that that is not the point of that amendment. As the noble Lord, Lord Wigley, eloquently said, Amendment 89 is specific in seeking to ensure that the Government cannot use their regulation-making powers in a way that would lead the UK to diverge from the single market. Such divergence would introduce friction between the UK and the 27 in regulation and standards that would harm the very supply chains that manufacturers gathered to celebrate last night. Remaining in the single market would be the most desirable outcome. I hope that the Government will eventually see sense and realise that it is in the UK's economic interests to stay in the single market and the customs union, as was eloquently expressed by the noble Lord, Lord Bilimoria. However, I trust that your Lordships will recognise that Amendment 89 has a much less ambitious aim than that and will see it essentially as a prudent way of ensuring that we do not increase friction in our trade with the EU.

Your Lordships will be interested to hear that last night the Secretary of State for BEIS, who addressed the more than 1,000 manufacturers from all over the United Kingdom present at the dinner, said that we are going to remain in the single market and the customs union throughout the transition and that nothing will change. Essentially, that means that nothing will change for three years from now. I have heard other messages from other members of the Government, so it would be useful if the Minister could take this opportunity to confirm that that is the settled view of Her Majesty's Government. That being the case, I am sure that Her Majesty's Government will have fewer qualms about supporting Amendment 89, because surely Ministers will not seek to erode those barriers to frictionless trade.

In short, it is important that nothing in the Bill hinders the operation of the frictionless, tariff-free trade arrangements in goods and services that we currently enjoy. Amendment 89 seeks to achieve this, and I hope that the Government will realise that and support this sensible addition to the Bill.

5.15 pm

Lord True (Con): My Lords, I had intended to intervene after an hour to don a Wigan shirt against the Manchester City team arrayed in this Chamber. But then my noble friend Lord Lamont rose and scored the goal in a very interesting speech, which went to the core of the matter. I apologise, like my noble friend Lord Hailsham, for having been unable to be present at Second Reading, but I assure your Lordships that I intend to be present for however many days it takes to achieve what my noble friend said he would wish to frustrate, with the result that Brexit will go through as the British people requested.

The noble Lord, Lord Davies, took exception to the word "instruction". As a democrat, I am not quite sure from whom our Parliament should take its instructions except from the British people. I quote the noble Lord, Lord Ashdown, who said after the referendum that,

"when the British people have spoken, you do what they command".

What powerful words and instruction. Another gentleman said—

Lord Foulkes of Cumnock (Lab): My Lords—

Lord True: I have only just begun. I will give way later to the noble Lord. If I may continue this section of my remarks, I would like to do so. There were many interventions on my noble friend Lord Lamont, who spoke for the Wigan team, but there have not been so many interventions on the Manchester City team.

Lord Foulkes of Cumnock: This is material to what the noble Lord is saying.

Lord True: I will give way to the noble Lord later if he is kind and polite and stops interrupting. I will put on the record what another gentleman said:

"There are people in the party who don't accept the outcome, who feel incredibly angry and feel it's reversible, that somehow we can undo it. The public have voted and I do think it's seriously disrespectful and politically utterly counterproductive to say 'Sorry guys, you've got it wrong, we're going to try again', I don't think we can do that".

That was Vince Cable, since elected leader of the Liberal Democrat party. I hope that he will stand by those words as leader.

Lord Foulkes of Cumnock: For those of us who sat through nearly 180 speeches at Second Reading, it is rather galling, when we are dealing with amendments, to hear people who could not make it give Second Reading speeches. If the noble Lord was a Member in another place, he would be drawn to order by the Speaker. Can he not bring himself to order and address the amendment?

Lord True: My Lords, the noble Lord goes directly to the point. He wishes to know why I was unable to be here.

Noble Lords: Oh!

Lord True: I was honouring an engagement. It was not a social engagement: I was teaching medieval Greek culture on a university course in Italy, which I hope disqualifies me from being either a Little Englander or stupid, as some Brexit people have been described. I am not making a Second Reading speech but I was going to say that I rather thought that we were hearing a Second Reading debate again. Like everybody else, I read the debate. Looking at the groupings list for today, every one of the lead amendments seeks either to reverse Brexit or to delay its implementation. They are not about implementation or about progressing the matter but about obfuscation and delaying matters. I believe that there is a very important question that we need to address on the customs union.

Lord Wigley: My Lords—

Lord True: If I may, I will continue. The noble Lord has asked me not to talk too much. Let us have a debate on the customs union—a specific debate, not on a wide-ranging group. Let us hear the arguments. Maybe we will hear what the Labour Party's policy is. The noble Lord, Lord Bilimoria, says that it is one thing and other people say it is another. We will then have a short debate, or maybe a long debate, and we will take a decision on the matter. That is the way to proceed. However, in a debate that has already lasted an hour and three-quarters, we have heard about ID cards, chickens, Ireland, animals and all sorts of things, and we are not even going to have a vote on the matter. We have nine other groups to go through. We are repeating the Second Reading but it is not me who is doing that; it is many of your Lordships.

The noble Lord, Lord Wigley, who made an interesting and impressive speech raising important points, should decide on Report which of those elements he wishes to put to a vote and we will then decide. For now, we ought to get on. This Bill has gone through the elected Chamber and it comes to us from there. That elected Chamber is entirely satisfied with it.

Noble Lords: No!

Lord True: It passed the parliamentary rules. If a Bill goes through the other Chamber, it must be construed to have been approved by that Chamber. That is our constitutional arrangement. I beg to remind noble Lords that Manchester City is not the most popular football team in this country.

Lord Taverne (LD): My Lords, if these amendments were adopted by the Government, it is possible that there would be a successful negotiation. Let us look at the possibilities of a successful negotiation, which it is generally assumed there will be.

First, the Government have to make up their mind what their aims are. Having renounced the idea of staying in the single market or the customs union, it seems that they are aiming for a new kind of customs union and for access to the single market under a special kind of bespoke single market. The idea of having a new kind of frictionless customs union without being a member of the single market is wholly unrealistic. Nobody outside Britain regards the arrangements suggested by the Government as in any way credible, and the idea of a bespoke single market arrangement has been rejected by one European leader after another. Therefore, why is it assumed that when the Government come forward with their offer, it will be a serious basis for negotiation? At that stage, the negotiations may well break down.

Next, it is assumed that there will be a transition agreement. The Government envisage a period in which there will be an agreement on the framework and we will work out the details. During this period, which they say will last for two years and will include an implementation period, we will continue with the status quo. Maintaining the status quo, with acceptance of membership of the customs union and the single market, of the jurisdiction of the European Court of Justice and of a continuation of our making contributions, has been described—fairly accurately, I think—by both the noble Lord, Lord Kerr, and Mr Jacob Rees-Mogg as meaning that this country will become a "vassal state". I do not think it can be assumed that there will be automatic agreement by the EU 27—the Commissioners' negotiators—to this kind of transition agreement. There must surely also be a question as to whether the Conservative Party itself will accept it. And if there is no transition agreement, there will be no deal.

Most importantly, the trade negotiations were allowed to continue because there was an agreement in December about the Northern Ireland border, and alignment of regulations between the UK and Ireland. It was a fudge, which had a completely different meaning to Dublin and to the British Government. To Dublin it meant that Britain would stay within the customs union, and to the British Government it was a way of getting the trade negotiations going and preventing a breakdown at that stage. It is clear that the Government's

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frictionless border is not going to be a working proposition—and it seems to me that the negotiation over the Irish border will itself be a breaking point. If there is a breaking point then, of course that means no deal.

My noble friend Lord Newby was wrong when he said that on the whole people had been too optimistic. I think he was being too optimistic, because he assumed that there would be an agreement. All the signs are that we have very good reason to suppose that there will be no deal. If there is no deal the whole economic position will look entirely different—and unless some of these amendments are passed, the odds are that there will be no deal.

Lord Robathan: My Lords, in 1997, I—together with other Members of this House, including, I recall, the noble Lord, Lord Davies—was returned as a Conservative MP to the House of Commons. I quickly learned what it was like to be in a minority. I fear that I also find myself in a minority in this House today. I may be in a minority in this House, but it comforts me to know that outside this House I am not in a minority.

However, I think I am in a majority in this House when I say that I am not in favour of referendums. I think they are a terrible idea: look where they have led us. But whatever we think, we have had one. The noble Lord, Lord Newby, talked about misleading the British people. I shall be brief about this, he will be pleased to know, because that is where we should start, and finish. During the referendum campaign the Prime Minister at the time, and also George Osborne and Michael Gove, specifically said that we would have to leave the single market. People may not have paid attention, but that is neither here nor there. I think that we will also find that they said we would have to leave the customs union. But people were not very interested.

As regards the customs union, may I draw attention to the fact that the Conservative Party general election manifesto said that we would leave the single market and the customs union?

Lord Kerr of Kinlochard (CB): Does the noble Lord recall Mr Boris Johnson's riposte to the Prime Minister? He said, "Nobody is even talking about leaving the single market"?

Lord Robathan: The noble Lord has a much better memory than me: no, I do not. But then I do not agree with everything people on my side say—or, indeed, people on the other side. On the Labour Party general election manifesto, perhaps someone on the Labour side can illuminate me. I do not know what it said, but I am pretty sure it was talking about leaving the single market—and what about the customs union?

This is where we stray in talking about misleading the British people. They are the people who have the say here, not people like ourselves, sitting round in this House, who are not elected—and in some cases have never been elected. We have heard about the curtain in 100 Parliament Street and all that sort of thing. Economic predictions are all well and good—and may, of course, be right. There is one out today by the Institute of Economic Affairs, which takes an entirely contrary view—and my noble friend Lord Lamont mentioned the Civitas review. Who knows, in 10 years' time we may say, "Gosh, they were all wrong". However, let us not put too much faith in one review. I am not criticising civil servants, but that applies especially when the people writing these things are the same people who wrote that we would have a recession, half a million people unemployed, an emergency Budget and so on, if we voted to leave the EU—not if we left, but if we even voted to leave.

5.30 pm

Baroness Crawley (Lab): Does the noble Lord accept that the analysis he has just been talking about was a cross-government analysis? I have with me the notes that I took in my little red book. It was on the first floor when I went over there to read it; it has now gone into the basement. I should imagine noble Lords will need to be quick, before it is buried altogether. Does the noble Lord agree that this analysis was put together across government departments by neutral civil servants and not by think tanks with certain axes to grind?

Lord Robathan: Of course it was put together by civil servants. I have worked with civil servants and I rate them: let me say now that I think they are good people working to the best of their ability in the service of this country. But that does not mean that they are always right. I am a bit worried that, by the time I get round to going to look at this document, it might have been flushed down the sewer.

I turn briefly to Northern Ireland. I see at least one Peer here with much greater knowledge on this than me, but when I worked in the NIO four years ago, we had a lot of issues around the smuggling of cattle and diesel across the border. There are customs officials on the Irish border, as noble Lords should know, but animals were smuggled back and forth because of the various subsidies, and diesel was smuggled, particularly from the south, because the duties were different. So let us not say that everything is perfect now, because it ain't. I believe it is not beyond the wit of man that we can come to some decent arrangement with the Irish Government and use that border.

Lastly—

Lord Adonis: Will the noble Lord give way?

Lord Robathan: Of course; how could I resist?

Lord Adonis: Will the noble Lord tell us whether he agrees with those Conservatives who, in the past week, have said that it would be a good idea to end the Good Friday agreement?

Lord Robathan: That is slightly off the current debate, but no, I do not. I think that the Good Friday agreement has achieved a great deal. However, as in all agreements, sometimes things have to move on—not be changed necessarily, but move on. The reason for those people saying that there should be an end to the Northern Ireland agreement is the failure to get together a devolved Government; it was nothing to do with Brexit.

Lord Adonis: What would the noble Lord like to move on to?

Lord Robathan: This is nothing to do with what we are speaking about. I am not sure whether the noble Lord, Lord Hain, was involved with the Northern Ireland agreement, but some people in this House were, and a great deal of time was taken to get it together. But as life changes, so sometimes we need to adjust or amend things. I think that that is what the noble Lord is trying to do today.

My last point is on the national interest, which has been mentioned. I find it quite embarrassing and demeaning when it is suggested that those of us who believe that our national interest is better outside the European Union are in some way unpatriotic. I say, "I'm all right Jack": I voted for the future of my country, not for my own future. I voted in the national interest and I hope that everybody in this House can agree that the national interest is what we should all be talking about.

Baroness Kennedy of The Shaws (Lab): My Lords, I intervene at this stage because it is important noble Lords know that the European Union Select Committee of this House received evidence from the customs officials who deal with the Norway border and with the Swiss border. We also took evidence on the policing of the Norway border and the Swiss border, to hear just how frictionless it is possible to be and whether technology is on the horizon that could enable us to have what we currently have in Ireland existing into the future without the customs union and the single market. I have to tell the House that the idea that technology is going to solve the problem is absolutely pie in the sky. Of course technology can be used in many positive ways when dealing with vehicles crossing borders; for example, containers can notify in advance the authorities as to what they are carrying and so on. There are methods for that. But you still have to have—even if it is mobile units—the possibility of stopping and searching and testing. Let us be realistic about this. Please do not imagine that there is some magical, technological method to solve the risks that we run in removing the arrangements that have created the current frictionless border.

It shocks me that people have such short memories. I do not have a short memory about the effects of the Troubles. I took part in many of the most serious trials involving the Troubles in Ireland and the way that they impacted on life here in our own cities in mainland Britain. I was involved in the Brighton bombing trial; I was involved in the Balcombe Street siege; I was involved in the Guildford Four appeal. I did many of those cases and I can tell you of the pain they caused for the victims of those acts of violence and the ways that people were affected by and lived in fear because of them. We have very short memories if we do not recall that.

If we are really concerned about the great achievement of getting through that peace treaty and peace process, and about not it putting it at risk, we would not be so cavalier about what is provided by a customs union and why it is so important. Sustaining it into the future must be one of the things we seek to do.

Lord Hamilton of Epsom: Can the noble Baroness tell the House what happened before the Republic of Ireland and the United Kingdom joined the EU? At that stage there was a seamless border between two separate countries.

Baroness Kennedy of The Shaws: Is the noble Lord at all aware of the number of times there were bombings of customs posts? Is he aware of the number of times there were attacks on those who policed the border? Do we really want to revisit that past? It seems that many do.

Lord Patten of Barnes: Can I ask the noble Baroness a couple of questions about the border? Does she think it is an extraordinary coincidence that the principal advocates of forgetting about the Good Friday agreement happen to be some of the most prominent Brexiteers in the party of which I am a member? As I say, that might be just a coincidence. Does she think that there is any imaginable technology in Silicon Valley that could provide frictionless controls in, say, Fermanagh or south Tyrone or south Armagh? I think it would be an act of laureate-winning genius to discover that. Does she also agree that the Good Friday agreement is part of an international treaty between the United Kingdom and the Republic of Ireland? Who in the rest of the world will believe that they can have a treaty with us if we do not keep our word about that?

Baroness Kennedy of The Shaws: I could not agree more with the underlying sentiments that have just been expressed by the noble Lord. I have said it in this House before: unfortunately, many of those advocates of Brexit are the very same people who do not believe in international law and treaties; who do not support human rights internationally and their protection; who do not want us to be part of the European Convention on Human Rights, which is an important protection for citizens in this country; and who have reservations about what the peace process in Northern Ireland brought about. I regret that there are those common factors, and it is something that is worth our reflecting on.

Lord Hain: The answer to the noble Lord's question is that we joined the European Union at the same time as Ireland. We were, therefore, in the same situation together outside it, and we have been in the same situation together inside it for over 40 years. What we are doing, for the first time since the historic situation of the common travel area and all the rest of it, is putting ourselves outside it and in a very different place. That is why the problem has arisen.

Baroness Kennedy of The Shaws: I should explain that the European Union Select Committee has just been in Brussels—in fact, we returned this afternoon. It always comes as a surprise to so many in this House to know that law that was made in Europe, and all the things we are talking about that emanated from Europe, was not thrust upon us. Many of those regulations and much of that law were created by British lawyers, politicians and representatives collaborating with people across Europe and with our Irish colleagues to make a

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fabric that makes trade and many other things work. The idea that we are in many ways rending that apart is a source of great regret and we are putting at risk the peace that we have created across Ireland.

Lord Green of Deddington (CB): Before the noble Baroness finally finishes, is there not a slightly troubling aspect to this? I take the point that we have an international treaty that we must keep, but there is a slight feeling that the threat of terrorism in Ireland is overruling all other considerations. It could be seen as strongly influencing our arrangements with Europe.

Baroness Kennedy of The Shaws: It is the very opposite. It is the fact that peace has been secured. That is one of the great achievements of our being in Europe and working so closely with our European neighbours. It is the product of collaboration. This is not about the potential threat of terrorism, but about a celebration of the fact that we have achieved peace and a recognition of one of the mechanisms that has helped to secure that.

Lord Taylor of Holbeach (Con): My Lords, I wonder whether it might not be an idea to hear from the Minister at this stage. I have been watching the debate and it is clear that we are covering a lot of ground that we will cover in Committee. We are in Committee now and not at Second Reading. It would be appropriate if we heard from the Minister.

Lord Adonis: My Lords, I do not think that the noble Lord should intervene to cut short this debate. There are many amendments that have not yet been spoken to and my noble friend on the Front Bench has not had a chance to speak. Many other noble Lords seek to speak, too. The Minister should speak at the end of the debate after noble Lords who wish to speak have had a chance to do so. These are the most important issues that will face this country over the next generation and I do not think that we should be told by the Government Chief Whip that we have been speaking for too long.

Baroness Kramer: My Lords, I shall speak to Amendment 89 to which I had the privilege of adding my name. I want to draw the House's attention to that amendment because it addresses a constitutional issue. We are back to the issue of Henry VIII powers. This is to prevent the Government using Henry VIII powers in statutory instruments in order to drive through a separation from the customs union and from the single market rather than bringing those issues directly to this House for its decision. That is exceedingly important.

In supporting that argument, I want to underscore the importance of the customs union and the single market in response to the arguments put forward by the noble Lord, Lord Lamont. He said that without the customs union we can achieve what we need through a free trade agreement. What he did not say is that free trade agreements do not include services—or do so only at the margin. Our economy is an 80% service economy and a free trade agreement along the pattern and lines of other free trade agreements across the globe would leave us without the ability to sell our services freely as we do today across the European Union. Now the single market in services is not yet complete, but it is fairly close to completion and there is a great deal of opportunity.

The Government turn and occasionally say that there will be a mechanism to do this called mutual recognition. But within this House there are Members who will remember in the early days of Thatcher the development of the single market. This country thought that the route to be able to open up the single market and access across Europe was mutual recognition. But it was not effective, which explains the move towards regulation and harmonisation that currently overwhelmingly underpin our trade with the EU.

The EU has been very clear that it cannot see a way forward along the lines of mutual recognition except in fairly narrow terms. We have an example that the Government often cite with Switzerland where there is in effect mutual recognition through an equivalency agreement. But in December, when that agreement needed to be extended to provide for MiFID II, the EU would agree only to a one-year arrangement because it needed to be underpinned by a great extension of institutional arrangements to deal with disputes and a whole range of other issues.

5.45 pm

The notion that a mutual recognition system is available without the creation and adjustment of a whole series of institutions is extraordinary. Barnier has been fairly clear that he might be able to get one or two countries to vote for such an arrangement, but the chances of getting all 27 and their regional governments to vote for fundamental changes in EU institutions to accommodate a mutual recognition environment that the UK thinks is so easily available is completely impossible. That is why he repeats that, essentially, financial services with free access across the EU is not possible and that applies to the range of services. There is a critical issue here that affects our future relationship and our trade, and although someone like the noble Lord, Lord Lamont, says that this is all solved by a free trade agreement, it absolutely is not. In fact, the core issue is not addressed at all.

The noble Lord talked about the customs union. The only real issue if we have a different arrangement—and I say this to the Labour Front Bench as well, which wants to go from "the" customs union to "a" customs union—is with rules of origin. Let us not dismiss rules of origin so immediately and quickly. Members of this House will have talked with companies such as the automotive companies, and asked them what the costs would be for non-tariff barrier rules of origin declaration requirements whether done through pre-clearance, at a border or whatever else. The number that I keep hearing—and I am happy for the Government to correct me because they must have explored this number—is that it adds to costs somewhere in the range of 3% to 4%.

When I was a Minister in the Department for Transport and talked with some of our automotive companies, I asked one of them how it was successful in winning investment from its parent company to put

in a new production line, which had to be on a competitive basis against factories all over Europe. I asked by what margin they won that particular investment and was told that it was roughly under 1%. If a bid to get foreign investment into a new factory or production line here is on such a narrow margin and we are knowingly putting in place a burden that runs to a 3% or 4% benchmark, the economic consequences are huge. Rules of origin are not to be trivialised and tossed away as if this were some sort of barrier that we can talk ourselves out of.

I can humanise this in a particular way which addresses the Irish question. I was over in Dublin and the border country with some of my colleagues a couple of weeks ago. I did not understand until I went there that the economy of the island of Ireland has fundamentally changed in the past four or five years. It is now a single economy. There are mergers, acquisitions, and movement by companies. It functions as one single economy. I have a small example. I talked to a gentleman who sells stationery in Northern Ireland. The only wholesaler of stationery is in the south. Every week, a little van comes up to bring him his supplies. He has investigated rules of origin and every possible mechanism to find a technological answer—the same experience discussed by the noble Baroness, Lady Kennedy—to complete the necessary declarations for his van load. He has come to the conclusion—and if the Minister has a better number he can tell me—that every category of declaration will cost him roughly £40. So, six staplers in the van will cost £40; 10 boxes of copier paper, £40; two filing cabinets, £40 and five boxes of pencils, £40. Noble Lords will get my point. Every single item needs a separate declaration, and as far as he is concerned it means that he is out of business.

I talked with the owners of other small businesses who said exactly the same thing. If a clothing shop sells the suit that the Minister is wearing, that will cost £40. If it sells the suit that the noble Lord, Lord Forsyth, is wearing, that will be another £40 because of the different fabric and style, and the same applies to the suit being worn by the noble Lord, Lord Lamont. Understanding the impact of this is absolutely necessary and I do not believe that we should be able, through statutory instrument, to make those kinds of changes. I hope very much that this Committee will stick on them.

I want to pick up on the India issue. We quickly googled this to make sure that we have fully understood the point made by the noble Lord, Lord Patten. The EU was indeed close to making a free trade agreement with India, but it was not just the UK Government who stood in the way; it was Theresa May herself. She refused to agree to the visa arrangements that were acceptable to the Indian Government. This is the same Theresa May who sits there today and makes the same statements about immigration that she has made in the past and repeats the same commitments to reducing immigration. The Government have to accept that they are making offers which they are not willing to actually fulfil. I hope very much that we will pay attention to the detail and to the amendments.

Lord Green of Deddington: Perhaps I may make a brief point. The noble Baroness is absolutely right about India. What is missing from this discussion, and the noble Lord, Lord Davies, referred to it, is that in the future we will be able to substantially reduce migration from the European Union, much of which is low paid and therefore of less value, and that will give us some leeway when talking to countries such as India.

Baroness Kramer: The answer that I give to the noble Lord, Lord Green, is one that would be given by many people in this House. To reduce immigration to the tens of thousands means not only drastically and dramatically reducing European migration; it means drastically and dramatically reducing migration from elsewhere in the world. That is the reality that our employers in the various industry sectors face.

I will tell the noble Lord one more thing if we are talking about inconsistencies. Let me go back to the point I made to the noble Lord, Lord Lamont, about going to 100 Parliament Street, which I recognise. I will attempt to ensure that I do not breach the confidential content of the papers, but in the various scenarios, every one of which is frankly quite scary, there is a discussion about potential mitigations. Without breaching confidentiality I cannot define those mitigations—as I say, noble Lords should read the papers for themselves—but if one were to follow them, the speech that Michael Gove gave to the National Farmers Union is in absolute and complete contradiction to the mitigations. The speech given by David Davis about rising to higher standards is in complete contrast to the identified mitigations. The speeches or the comments that Theresa May has made about not weakening the rights of the workforce of the UK are completely contradicted. That is one of the reasons I recommend that people from this House should read the papers because all the contradictions in the statements being made are finally pulled together.

Baroness Humphreys (LD): My Lords, at this stage of the debate and with the indulgence of the Committee, I wish to return to the debate on Amendment 6 in the name of the noble Lord, Lord Wigley. I thank him for his eloquent introduction to the debate.

The amendment calls on the Secretary of State to lay before Parliament a report outlining the effect of the UK's withdrawal from the single market and customs union on the UK economy. That the Government have tossed away the UK's commitment to the single market and customs union without seeking an impact assessment or providing evidence for this has to be a cause of real concern. There can be no doubt that membership of the EU single market and customs union has been of benefit to Wales. If the noble Lord, Lord True, will allow me, I wish to refer to my Second Reading speech in which I pointed out that it has given us tariff-free access to a market of 500 million people, it takes more than two-thirds of our exports and the freedom of movement for citizens and goods has led to the success of many of our industries.

The creation of a single market was at the UK's insistence. We helped to create it, we have benefited from it and, until recently, we have wholeheartedly supported it. The Government's position on the single market and customs union is confusing, to say the least. They appear to want all the advantages of both while rejecting the institutions themselves. I have to

[Baroness Humphreys]
say that I find the attitude of the Government and of the hard Brexit supporters to be almost anarchic. There is a certain gung-ho, jingoistic element to their desire to crash out of the EU, the single market and the customs union with no parachute or safety harness to protect the country—straight into the arms of the WTO.

Those who advocate the WTO option have, according to experts, made a basic but fatal mistake. Their obsession with tariffs has blinded them to the difficulties presented by non-tariff barriers such as border checks, visual inspections and physical testing. Industries that now rely on integrated supply chains working to a "just in time" regime could find that their systems start to snarl up and eventually grind to a halt.

We would be turning the clock back to the world of 1988, the year that Margaret Thatcher made her speech opening the single market campaign. It makes for interesting reading:

"We recognised that if Europe was going to be more than a slogan then we must get the basics right. That meant action. Action to get rid of the barriers. Action to make it possible for insurance companies to do business throughout the Community. Action to let people practise their trades and professions freely throughout the Community. Action to remove the customs barriers and formalities so that goods can circulate freely and without time-consuming delays. Action to make sure that any company could sell its goods and services without let or hindrance. Action to secure free movement of capital throughout the Community. All this is what Europe is now committed to do".

All this we have succeeded in doing, so what has changed? It seems that the advantages we have gained by being members of this massive free trading bloc have been sacrificed on the altars of two perceived problems: lack of control of immigration and loss of sovereignty. But in reality, the Government have failed to control immigration from outside the EU, which they have always had the power to do. They have also failed to use the powers available under EU guidelines to control immigration from within the EU, and they have failed to admit to the benefits to this country that have come in the wake of immigration over the years. The Government have themselves admitted that there was never a loss of sovereignty. Along with 27 other nations, we pooled our sovereignty to come to common decisions on policies.

In throwing away all the benefits of the single market and customs union without providing the evidence to support their case, the Government are adding to the sense of injustice felt by many and to the concerns that this decision has been based on politics and preconceived views rather than what this amendment calls for, which is what is proven to be beneficial to the people of Wales and the UK.

6 pm

Lord Cavendish of Furness: I declare my interest as in the register: I am a businessman. I would love to lock horns with the likes of the noble Lord, Lord Bilimoria—he is not in his place—and other speakers who appear to have been overinfluenced by the briefings of the EU-funded CBI and similar organisations. Noble Lords laugh, but they do not deny it.

I am not a sponsor of one of the amendments. Having listened to the Second Reading debate, I am saddened by this group of amendments. I felt—and said so at the time—that the sense of the House was that the Bill would be improved, and examined with a view to improving it, whereas it seems that nearly all these amendments seek to obstruct, delay or simply wreck the Bill. I am afraid I cannot accept the assurance of the noble Lord, Lord Wigley, who said otherwise. I look at the Marshalled List and all these amendments seem to be wrecking ones.

I know that any suggestion of threatening our future causes resentment in your Lordships' House, but I want to refer to a quotation from Committee in the House of Commons:

"I think their Lordships should know that if they try to wreck the Bill, many of us will push the nuclear button".—[*Official Report*, Commons, 14/11/17; col. 197.]

Those words come from the very well-respected right honourable Member for Birkenhead, Mr Frank Field.

Noble Lords: Oh!

Lord Cavendish of Furness: Is he not respected by the Labour Party? I thought he was. He went on to warn that we would be sounding our own "death knell". That is probably good news to the Liberal Democrats; they have made no secret of the fact that they would like the House of Lords to be abolished, and therefore take licence with this institution.

Lord Newby: That is simply untrue. The position of these Benches has been that the House of Lords has a very valuable role to play. At the time, we sought the support of the Conservative Members of the coalition to reform the membership of your Lordships' House on a democratic basis. That is a very different proposition to seeking to abolish it.

Lord Cavendish of Furness: The noble Lord did not see behind him, but there were some signs of affirmation there when I said that they were sympathetic. I think he needs rather more careful whipping on that Bench.

The timescales are important. This reason has not been mentioned. Article 50 determines the date—we will come to this later—by which those who are responsible for negotiation have to reach agreement or fail to reach an agreement. Therefore, it is completely absurd to try to add a flexible date.

The Bill is not the narrow economic interest it has been portrayed to be. Many of the minutiae covered by the amendments are important, but they are not what the Bill is about. The Bill takes us out of the European Union on 29 March next year, at the behest of the majority of people in this country. It is about what people thought about their identity, their community's identity, their country's identity and their country's place in the world. Given the way that the Welsh voted, it seems to me that the noble Lord, Lord Wigley, does not take into account what his countrymen feel in this respect.

Lord Wigley: If the noble Lord had listened to the speech I made, he would know that I accept the fact that there has been a vote to leave the European Union, but there was no vote in Wales or elsewhere to leave the customs union and the single market.

Lord Cavendish of Furness: That has been thoroughly debated. I think people did understand; certainly, people in Cumbria understood, even if the Welsh did not.

As for the power grab, it is just the opposite. Never again will Ministers be able to offer the excuse that their course of action has been followed at the behest of the European Court of Justice or the European Community. We ought to be extremely cautious about how we treat the amendments and reject them.

Baroness McDonagh (Lab): I am prepared to lock horns with the noble Lord on Amendment 206, which I support. I have some quotes of my own.

In October last year, the Secretary of State for International Trade said,

"believe me we'll have up to 40",

free trade agreements,

"ready for one second after midnight in March 2019".

In July 2016, the now Secretary of State for Exiting the EU wrote:

"I would expect the new Prime Minister on September 9th to immediately trigger a large round of global trade deals with all our most favoured trade partners … So within two years … we can negotiate a free trade area massively larger than the EU".

He goes on to say that,

"the new trade agreements will come into force at the point of exit from the EU, but they will be fully negotiated and therefore understood in detail well before then".

Does the Minister agree with his Secretaries of State? Can he tell us how many trade deals the Government expect to be in place one second after midnight on 29 March 2019? Does he understand that the reality of what is happening, and the lack of progress, is driving an increasing number of voices to want to remain in the customs union—particularly those who voted to come out of the EU?

Baroness Altmann (Con): My Lords, I support Amendments 6, 7, 162, 197 and others, regarding protecting our position in the single market, customs union and European Economic Area, on the free and frictionless trade for goods and services with our closest partners, and on the integrated supply chains and free trade agreements with 60 other countries, which make up 70% of our trade. I echo the brilliant and inspiring contributions from my noble friends Lord Carlile and Lord Hailsham, the remarks from the noble Lords, Lord Wigley and Lord Bilimoria, and the remarks of the noble Baroness, Lady Kramer, with respect to Amendment 89.

The idea of losing our current free and frictionless trade and free trade agreements with other countries seems like industrial vandalism. That is not what the British people voted for. My noble friend Lord True and the noble Lord, Lord Davies of Stamford, talked about the instructions of the referendum result. We have listened to and respected the result by triggering Article 50. That was the decision made by the British people. However, we are not saying tonight that the British people got it wrong. The leave campaign got it wrong, and those pressing to leave the single market, customs union or European Economic Area got it wrong. They seemed to believe that we could have our cake and eat it. That is what people voted for; but now, in trying to find a way forward after triggering Article 50, we are discovering that far from eating cake, or having it, we may have to settle for bread—and not a loaf, but a slice. I echo the words of the noble Lord, Lord Hain, and support Amendment 197, which calls for the same rights, freedoms and access as now. Surely that is the least that British people who voted to leave would have expected. Leaving the single market, customs union or European Economic Area was not on the ballot paper. The leave campaign specifically ruled out leaving the single market on many occasions. It was the remain campaign that talked about it, and clearly those who voted leave did not take the remain campaign's warnings seriously.

What did leave voters vote for? The leave campaign promised them wonderful new trade deals in addition to existing ones. We are about to lose the deals that we currently have outside the EU. The very best we can get from those is the same terms we currently have. Already some of those countries are saying that they will give us worse terms if we try to negotiate separately, as we must do. Leave voters wanted and were promised much more money for the NHS. The OBR has already estimated that, far from having £350 million a week more for the NHS, we will have about £300 million less per week. We are losing money.

The campaign promised no change to the border in Northern Ireland, yet we hear about possible changes to the Good Friday agreement. This cannot happen. We must stay in the single market, the customs union and the EEA to preserve UK jobs. My noble friend Lord Robathan talked about misleading the British people. It is the leave campaign that is misleading the British people.

Lord Robathan: I am awfully sorry, but I hope my noble friend has read the Conservative manifesto, which, in only June last year, received a staggering number of votes.

Noble Lords: Oh!

Lord Robathan: Not enough, but a staggering number.

Baroness Altmann: My noble friend Lord Lamont and others have said that other countries manage without being in the EU, but their economies have not spent 40 years integrating and intertwining their industries and economies with the EU. The only country trading on WTO terms is Mauritania.

Lord Lamont of Lerwick: Could my noble friend tell me which country is more integrated with the EU: Switzerland or Britain?

Baroness Altmann: The industrial success of the British economy is based on the integrated supply chains. The jobs in Sunderland and across the automobile industry, as an example, and the biotech industry and pharma industry depend upon those integrations. The foreign companies that own those operations will be unable to compete if we do not have the same kind of access that we have now.

The Government's evidence, which is being hidden from the public, shows that Brexit will be a huge cost, the size of which depends on the hardness of the Brexit.

[Baroness Altmann]
I urge colleagues on these Benches and across the House to wake up to the reality that we face and to at least support these amendments to stay in the customs union, the single market, the EEA or equivalent.

Lord Adonis: My Lords, I have three amendments in this group, Amendments 4, 152 and 225, but I broadly support all the other amendments that have been discussed.

The most disturbing and alarming thing that has happened in respect of the Brexit process in the recent past has been the collapse of the power-sharing talks in Northern Ireland last week and the response of the DUP leadership and some prominent members of the Conservative Party, including a Conservative former Northern Ireland Secretary, since that collapse, who have said that they believe that the time may have come to end the Northern Ireland agreement, including a tweet from the said former Northern Ireland Secretary, Owen Paterson, saying that he thought that the Northern Ireland agreement had now served its purpose. I do not think I have heard more irresponsible words from a former Cabinet Minister in the recent past than those. As the noble Lord, Lord Patten, said, I do not think it is a coincidence that the people who are calling for an end to the Northern Ireland agreements, with all the potentially calamitous consequences for the people of Northern Ireland as well as the rest of us in the United Kingdom, are also almost to a man and woman ardent Brexiteers.

I know that the Prime Minister shares our concern, because in the Florence speech she said that,

"we and the EU have committed to protecting the Belfast Agreement and the Common Travel Area and, looking ahead, we have both stated explicitly that we will not accept any … infrastructure at the border. We owe it to the people of Northern Ireland—and indeed to everyone on the island of Ireland—to see through these commitments".

I believe that we too in this House owe it to the people of Northern Ireland to see through those commitments. When I heard Mr Daniel Hannan say that he believed that the Good Friday agreement was a consequence and not a cause of peace in Northern Ireland, I could not think of any statement that is playing with fire more dangerously from a responsible official. He is a Member of the European Parliament.

6.15 pm

Lord Judd (Lab): Would my noble friend not agree that perhaps the most irresponsible aspect of the remarks that have been made in this debate on Ireland is that painstaking work has gone on for a number of years now in building trust between two communities, with those communities beginning to establish a tradition of working together?

Lord Adonis: My Lords, I could not agree more with my noble friend, nor with all those other noble Lords who have responsibility for Northern Ireland, or have held it in the past, including the noble Lord, Lord Patten, my noble friends Lord Hain and Lady Kennedy, and the noble Lord, Lord Carlile, not least in his role as reviewer of terrorism legislation. Everyone who has been engaged in this sees the continuing value of the Northern Ireland agreement. It is a solemn undertaking on the part of the United Kingdom. It is an international treaty. Playing fast and loose with peace in Northern Ireland in the cause of Brexit is utterly reprehensible.

We are looking forward to the Minister's reply. I know that he has a mountain of amendments to reply to, but I am afraid that is the fault of the people whose responsibility it is to group them, who seem to want to group almost everything in the Bill into one group. I hope that when he replies he will begin by saying from the Dispatch Box that the Government remain committed to the Good Friday agreement, that they wish to see the restoration of devolved government in Northern Ireland, and that the Government will use every endeavour to do that and to ensure, as the Prime Minister also said in solemn undertakings at the end of last year, that all of the commitments that the Government of the United Kingdom reach in respect of Brexit will fully honour the Good Friday agreement. I take the amendments that we will discuss later, which my noble friend Lord Hain and others have tabled, which would enshrine a commitment to abide by the Good Friday agreement in the text of the Bill, to be immensely important to our consideration of the Bill, particularly in the light of comments made in the last week.

My amendments focus on two particular areas where I seek the Minister's guidance, because we have many long debates to come, and we need to establish a good evidence base as we do so. I take to heart the words of the Minister for Exiting the European Union, Mr Baker, when the House of Commons was considering the Bill—I was glad to see him at the Bar earlier—and he said:

"The Government have always been clear that the purpose of the European Union (Withdrawal) Bill is to ensure that the UK exits the EU with certainty, continuity and control".—[*Official Report*, Commons, 14/11/17; col. 206.]

We can have certainty, continuity and control only if we know what will happen as a consequence of enacting the Bill.

Therefore, there are two areas that I particularly wish to probe the Minister on. The first is the extremely important issue raised by the noble Baroness, Lady McIntosh, about the status of the European Economic Area and our membership of it. There is a debate that will range far and wide across our consideration of this Bill and future Bills as to what is the right status for the United Kingdom if and when we leave the European Union: whether we should be in the EEA, or in the customs union but not the single market, or in the single market but not the customs union; whether we should have bespoke trade arrangements, or whether we should belong to a customs union but not the customs union. The Schleswig-Holstein question was positively simple in comparison with the options and complexity of the options on offer but for our role as legislators, it is crucial that we understand the consequences of decisions that we take in respect of the Bill when we enact it. In many crucial areas—having read, as many other noble Lords will have done, all the debates in the House of Commons on the Bill—it is still unclear what will be the legal position in key respects after the enactment of the Bill.

The issue raised by the noble Baroness, Lady McIntosh, is of acute concern in this respect. The question that I hope the Minister will address himself to is: what is the procedure under which the United Kingdom will leave the European Economic Area if and when we leave the European Union? The noble Lord, Lord Owen, who I am sorry to say is not in his place this afternoon, has written, with help from serious lawyers—including, I think, one or two in this House—a very long and learned paper on precisely this issue. It says that there are two very different views as to what the position is, partly because the EEA agreement is itself ambiguous about the nature of the relationship between the European Union and the European Economic Area.

The European Union is itself a contracting party to the EEA agreement and on one reading—I am now going into areas where, seeing so many lawyers around me, I am waiting for them to leap in at any moment, but the definitive view from the Government is going to be important here—it is therefore not possible for those states which leave the European Union to remain a party to the EEA agreement. On another reading of the treaty, Her Majesty the Queen is the signatory to the treaty independently of the United Kingdom's membership of the European Union, and we would therefore continue to be members of the EEA when we leave the European Union. As a layman in these matters, this looks to me to be an issue of huge consequence. When and if we leave the European Union on 29 March next year, do we or do we not continue as a member of the EEA simply by virtue of leaving the European Union? If we do not leave the EEA, what is the procedure under which we do leave the EEA? Does it require a vote, does it require legislation, or are the Government proposing that it should be done by the royal prerogative? These are big issues and I hope the Minister can address himself to them, because they will have a significant bearing on amendments we raise later in Committee and on Report.

The second issue concerning withdrawal from the European Union, which is what the half of the Bill that we are substantially debating at the moment is about, is whether it is necessary to withdraw from the entirety of the European Communities Act 1972, or whether it is in fact legally possible—or what would be the consequences of deciding—to withdraw from some parts but not from others. This is an issue of such importance because of the customs arrangements enshrined in Part 2, Section 5 of the 1972 Act, which sets out all the arrangements under which the United Kingdom agrees to abide by customs rules set by the European Union. That is, as I read it, a large part but not the entirety of our membership of the customs union.

The question that was raised in the House of Commons but not properly debated, and that looks to me to be of significance to our debates going forward, is about not disapplying the customs clauses of the 1972 Act—Part 2, Section 5, and the appropriate schedules. If they remained in force and we repealed the rest of the Act but not those—by virtue of that fact, subject of course to an agreement with the European Union itself, we would remain in the customs union. Again, in terms of the legal means by which we might secure the objective which many noble Lords wish to see, continuing membership of the customs union and single market, that is a point of great significance.

Finally, in terms of the objectives we are seeking to achieve, in her Lancaster House speech, the second of the two significant speeches she has given on government policy in respect of Brexit, the Prime Minister, addressing our European partners, said:

> "The decision to leave the EU represents no desire to become more distant to you, our friends and neighbours … We do not want to turn the clock back to the days when Europe was less peaceful, less secure and less able to trade freely".

In my view it is impossible to see how we can have a Europe which maintains peace unless we start with peace within our own borders, which must mean peace guaranteed in Northern Ireland, hence the centrality of the Good Friday agreement to our consideration of the Bill. When it comes to,

"less able to trade freely",

I take that to mean not entering into any trade arrangements which are less advantageous for this country and involve any more border controls than currently apply. I look forward to the Minister explaining to the Committee how leaving the customs union and the single market can make it easier for us to trade than the extremely advantageous arrangement we currently have as a member of the European Union.

Baroness Ludford (LD): My Lords, I cannot match the dazzling intellectual exposition of the noble Lord, Lord Adonis, but I completely endorse his remarks on the Good Friday agreement. We need to stay in the single market and the customs union and to preserve the integrated economy and the peace and political enjoyment of the Good Friday agreement is one of the best arguments for doing so. I shall speak to Amendment 203 in my name and those of the noble Lord, Lord Adonis, and my noble friend Lady Smith of Newnham, who sadly feels that there is not time for her to speak. I shall also speak more generally on this group and second the remarks of noble friends who have spoken on it.

Amendment 203 requires a specific parliamentary vote on whether to leave the EEA. This would perhaps both remove any legal doubt about whether the Article 50 notification made that decision—I will slightly sidestep that issue—and be an explicit political decision in itself. Therefore I advocate the merits of Amendment 203.

We are in the dark about the future. The Cabinet is meeting again tomorrow at Chequers and we are all very hopeful that some white smoke will emerge from that meeting. As many noble Lords have said this afternoon, the implications of leaving the single market and the customs union are serious. Indeed, it has been described by my former noble friend Lord Carlile of Berriew as a "suicide note"—hence the need to have a specific vote on whether to leave the EEA, which would be a safeguard, at least against sudden death.

We learn from the *Financial Times*, in advance of having anything explained to us in the open by the Government, that the buzzword for the trade relationship that the Government will be aiming for is "managed divergence". Apparently:

> "Under this approach, economic activity between the UK and the EU would be divided into three baskets: complete alignment, where the UK would follow EU rules"—

[Baroness Ludford]
presumably to at least encompass the famous paragraph 49 of the phase 1 agreement—

"'managed mutual recognition', where both would agree to common objectives but each would choose its own rules; and a third basket where the UK can abandon EU regulations and do whatever it wants".

That sounds incredibly complicated for citizens and business, as against the simplicity of full membership of the single market and the customs union. This commentator says:

"The beauty of this approach is that it unites the cabinet".

This is possibly because it has three variations. However, it does not have one single theme.

Of course, we have heard all variants, not least this past week. We had the speech from the Foreign Secretary and the letter from the European Research Group—I am not sure that it does a lot of research but it writes a lot of letters. It wants "full regulatory autonomy". I hope that I will not embarrass the Minister if I quote him when he was in the European Parliament. He said in 2012:

"Surely one of the best ways for the EU to speed up growth is to scrap the employment and social affairs directorate in the Commission, repatriate its responsibilities to national governments, then we could scrap the working time directive, the agency workers' directive, the pregnant workers' directive, and all of the other barriers to actually employing people if we really want to create jobs in Europe".

We will discuss on other days the maintenance of employment and other rights, but it is illustrative of the problem that we have that there is such an array of opinion within the Government. The advantage of having a parliamentary vote in the context of the implementation of the withdrawal agreement would be that it would allow Parliament to have the backstop of saying, "Actually, we want to stay in the EEA".

6.30 pm

All the cherry picking and cakeism which these three variants represent—you could call it having your cherry cake and eating it—mean that it is pretty unlikely to be acceptable to the EU, as well, as I have just said, as being very complicated for citizens and businesses to work out which of the three phases they are in. The other thing, of course, is that we have no idea what dispute resolution mechanisms are envisaged for any of this. Are we going to get three types of dispute resolution? We already know that the Prime Minister is proposing to respect the remit of the European Court of Justice—indeed, for the long term—in the security field. What will happen in other fields?

We are in this state of huge uncertainty now 20 months after the referendum, as opposed to the great certainty and security of staying in the single market and the customs union. Other noble Lords have talked about the difficulties of being outside the customs union; the magical thinking of technological solutions; the problems of rules of origin, which the noble Lord, Lord Lamont, said were not important but which, as my noble friend Lady Kramer said, the car and aerospace manufacturers regard as absolutely crucial to their operations; and if we left the single market we would have to have checks for compliance with standards in, for example, food and agriculture across the Irish and other borders.

My noble friend Lord Newby talked about the Brexit study, which absolutely must be published. It is an insult to the citizens of this country that they are patronised to the extent that they are denied the knowledge that the Government have about the likely impact of their plans. Why is that? Because they might actually want to say to the Government, "No, we do not want to go in this direction". I say to the noble Lord, Lord True, that my right honourable friend Vince Cable did not and does not call for a rerun of the June 2016 referendum. What he and the Liberal Democrats, who are solidly united behind his leadership, are calling for is a final say on the deal itself. That is a completely different animal and it would be quite nice if some noble Lords opposite could actually grasp that point.

Lord True: If we have another referendum on the question of whether we should leave the European Union, to me that talks like a second referendum, walks like a second referendum and will be a second referendum.

Baroness Ludford: As many of the noble Lord's soulmates often say, it would actually be a third referendum—so you pays your money and takes your choice. But it would be quite different because it would be in the knowledge of the actual detail of what Brexit entails, which people did not have in 2016.

Lord Robathan: The noble Baroness talked about patronising the British people. I think that all politicians are capable of being patronising, but does she not think that we should accept that the British people are sensible and clever enough to work out what they voted for in 2016?

Baroness Ludford: Actually, there is growing support in the opinion polls for people taking control themselves. I think it was the noble Lord himself who talked about how it is the people who decide, not us—and especially not us in this unelected House. I totally agree with him that it is the people who are now showing through opinion polls that they want to take control of the decision on what should happen to this country and on whether to give a verdict on the Brexit deal.

This has been an extremely valuable debate on the crucial decisions about the single market and the customs union. My last remark will be to mention, as my noble friends did, that being in the EU has not stopped other EU countries, such as Germany, exporting many more times the value of British exports to countries such as India. In fact, Germany is India's top trade partner in the EU and its sixth biggest overall, and the UK is only India's 18th-biggest trade partner. Even Belgium has a trade surplus with India, unlike the UK. So being in the EU has certainly not prevented other EU countries making a greater success of trade with India than we have. It is the problem of visas that has prevented a deepening of the trade relationship with India.

I cannot resist mentioning that the noble Lord, Lord Marland, who I understand is the Government's trade envoy to the Commonwealth, was quoted recently as saying that it would be easy to do trade deals with

Commonwealth countries such as Singapore, Malta and Cyprus. Malta and Cyprus of course are in the EU and are not free to do individual trade deals—so good luck with that.

To conclude, I give my full support to the amendments in this group which, one way or another, seek to keep us in the single market and the customs union, which is vital not only to the integrity of the United Kingdom, particularly on the intra-Irish border, but to the economic future of this country.

Baroness Hayter of Kentish Town (Lab): My Lords, this has been a valuable and, indeed, an enjoyable debate, but it is particularly important for two major reasons. The Bill is not about whether or not we leave but about how we leave, and there are two important aspects of why we have debated and heard these views today that we should not forget.

One is that Article 50—and its author is here, as always—by which we are leaving, requires that we have the framework for our future relationship with the European Union. That is what all these amendments are about. But the second reason we have to discuss that today is because the Government have absolutely failed to tell us what their vision for that framework is. That is why we are doing this now and why these amendments are key. Indeed, as has just been mentioned, it is only tomorrow that the Prime Minister will finally lock her little brood into Chequers for what the *Financial Times* today described as "Mission Impossible", to thrash out some sort of consensus about the future of our country. Meanwhile, both in the UK and among our partners in the EU 27, there is a complete lack of clarity about the direction of travel. We need to know, as my noble friend Lord Adonis said, what is going to happen as we go into the negotiations.

What I have found rather strange is that, instead of the Prime Minister bringing her brood together earlier after the referendum 20 months ago, as we have just been reminded, she sent out her little chicks, and, indeed, a Fox, to make speeches far and wide—in fact, almost everywhere other than in Parliament—on their competing visions of what that post-Brexit future will look like. They are mostly doing that without a proper dialogue with consumers, with trade unions, with industry or with farmers. I will not have been the only one listening to "Farming Today" this morning to hear the responses to Michael Gove in Birmingham yesterday, when NFU members—not, incidentally, members of the Labour Party—lined up to say: "Where's the beef"? They had heard his speech; they still did not know what was going on and wanted to know where this Government are taking us. They do not know whether they can sell their meat tariff and quota free in 13 months' time. The fishermen in Newlyn have also been given little detail about their future and are beginning to worry about that, too.

Critical to this is the big issue: do we want tariff and barrier-free trade with the EU? Do we want no customs posts, particularly but not solely in Northern Ireland, no checks at borders and smooth, duty-free transit? The ports of Dover, Holyhead and Fishguard would like to know the answer to that, but so indeed would Calais and Rotterdam. But checks and paperwork will be avoided only if we produce and sell according to the same regulations, and if our internal systems of checks on food and manufactured goods are recognised and respected by the importing countries. Frankly, that means regulatory alignment. If that is not what the Government envisage, they must decide pretty quickly so that the plans, buildings, documentation, computer systems and, yes, the personnel can be put in place.

The big political question facing us is one that the Prime Minister seems not to dare ask those chicks: "Do we want to maintain our current, pan-EU high standards?" The Fox seems to think not. Reliable sources in his department—and I mean reliable sources—suggest that they hope trade deals with third countries will become materially easier when there is "less pressure", in their words, to stick to the high levels of regulations required by the customs union and the single market, and easier because the so-called political factors, which I gather is departmental code for having less respect for human rights, would be "less of a problem". Furthermore, the secret documents in Room 100 that have been referred to—I also saw them on the first floor—were, incidentally, reported in the *Independent*, so I am not giving any secrets away. My quotes are from that paper, which describe areas being explored where "maximising regulatory opportunities" are possible. It cited particularly what, as we have heard, was said by the Minister in an earlier life about the opportunity of ending the working time directive.

However, that is not what we heard from the Chancellor at Davos, nor what we heard from Austria yesterday when the Brexit Secretary stressed his support for,

"the principle of fair competition",

which I would argue implies no lowering of standards to gain competitive advantage. Mr Davis said that the UK and EU should be able,

"to trust each other's regulations and the institutions that enforce them … Such mutual recognition will naturally require close, even-handed cooperation between these authorities and a common set of principles".

So the Viennese version is that standards and regulations are the building blocks of free trade. This is of course in contrast to the Foreign Secretary, who asserted:

"The great thing about EU regulation is that it is not primarily there for business convenience, it is not primarily there to create opportunities for companies to trade freely across frontiers, it is primarily there to create a united EU".

There was not quite the same line coming out of Vienna.

We have also read—perhaps the Minister could confirm this when he comes to reply—that British and American conservative groups, including the Initiative for Free Trade founded by Daniel Hannan MEP, who I gather is his friend, are working on an "ideal trade agreement" that would allow the import of US meats such as chlorinated chicken and hormone-raised beef, along with drugs and chemicals currently banned in Britain. Is that the vision that they want?

6.45 pm

Here we are, a year and a month before we are due to leave, and neither we nor the EU have clarity about the Prime Minister's route map. Again favouring a non-British and non-parliamentary forum—I do not

[Baroness Hayter of Kentish Town]
know what is wrong with speaking in Parliament—the Prime Minister went to Munich to speak. She offered some hints on one area, security, that she knows something about from the Home Office and said that she could foresee a role for the ECJ. If she could prioritise trade as well as security, perhaps some of the hurdles that she has put in the way could be rubbed out.

These amendments today are critical to the way in which we are going to leave. That is what the Bill is about, and Article 50 demands that the framework should be there. They therefore pose absolutely crucial questions and I am looking forward to the Minister's response to them. I hope he can indicate whether the Viennese view of Secretary of State Davis or the "bridge across the channel" Johnson view that will guide the future of this country.

The Minister of State, Department for Exiting the European Union (Lord Callanan) (Con): My Lords, it is a great honour to contribute to the first day in Committee on this historic Bill. Let me say at the outset that I look forward to working constructively with colleagues from across the Chamber throughout the course of Committee to scrutinise and improve this vital Bill in the national interest.

Clause 1 is the shortest of all in the Bill—you would not believe it from the debate—but it could scarcely be more important. This debate has shown the House at its passionate best, but it was not really about Clause 1 at all. I think all noble Lords recognise that, when we leave the EU, we need to repeal the European Communities Act. So we have had a fascinating debate on the UK's potential ongoing membership of or future relationship with the single market, the customs union, the EEA and EFTA. These are of course issues of profound importance and I understand that noble Lords have strong views on them, but everybody really knows that they are not matters which the Bill is designed to address.

However, I will happily rehearse the Government's position once again. What this Government seek is a bold and ambitious economic partnership that is of greater scope and ambition than any such existing agreement. We have listened to EU leaders and we understand and respect the position that the four freedoms of the single market are indivisible, and that there can be no cherry picking. For that reason, we do not seek membership of the single market after we leave the EU, and nor do we seek membership of the customs union. By leaving the customs union and establishing a new and ambitious customs arrangement with the EU, we will be able to forge new trade relationships with our partners around the world and maintain as frictionless trade as possible in goods between the UK and the EU, providing a positive and powerful voice for free trade in the world.

Of course, I am talking about our future relationship with the EU. To answer the question which I think came from the noble Lord, Lord Fox, we also seek an implementation period which, we have been very clear, will be based on the existing structure of EU rules and regulations—but during which the UK will be outside the EU.

Let me take this early opportunity to draw the attention of noble Lords to our publication today of our proposed draft legal text for the section of the withdrawal agreement in relation to the implementation period. We have published this in part to facilitate parliamentary scrutiny. It is right, too, that the British public should be able to see our position. The details of that implementation period would be implemented in domestic law through separate primary legislation, after we have reached agreement with the EU and after these Houses of Parliament have voted on that agreement.

In the meantime, a number of amendments in this group seek to mandate our continued membership of one or both of the single market or customs union, presumably in perpetuity. But put simply, this is not something the UK Government could deliver unilaterally, even if we were so minded. The amendments tabled by the noble Lord, Lord Wigley, get around that by proposing maintaining the same rights, freedoms and access within the UK that we have currently, which in practice means staying in the single market in all but name but without any reciprocal guarantees from the EU. That would be the worst of all possible worlds.

Other amendments seek to mandate the Government to take a particular negotiating position or to pursue particular objectives. Leaving aside what I have said about those not being our objectives, the amendments raise constitutional questions about the role of these Houses of Parliament and they raise practical questions too. Who is to say whether the Government have truly made these things their negotiating objectives? How would they be judged? Would we see the courts ruling on the conduct of the negotiations, and what would be the consequences if they did so? I recognise the noble intention behind these amendments, but I do not think we can contemplate making them, especially when the repeal of the ECA or the exercise of crucial delegated powers becomes contingent on them. That is a recipe for undermining the essential certainty that this Bill is designed to create.

Other amendments call merely for reports to be published on certain things. In response to the question asked by the noble Lord, Lord Hain, we have confirmed that when we bring forward the vote on the final deal we will ensure that this House is presented with the appropriate analysis the Government have done to make an informed decision, and we will take such steps as we can to facilitate scrutiny in the interim. But the particular reports and timetables suggested are arbitrary and may not in fact serve Parliament well.

The Government intend to secure a new partnership with the EU. We will legislate in accordance with that and nothing in this Bill threatens that. This Bill is designed only to prepare our statute book; it is agnostic as to the outcome of the negotiations and rules nothing in or out. We will legislate for the agreement reached with the EU in due course.

Finally, let me say something about the EEA and the amendments tabled in the name of the noble Lord, Lord Adonis, and the noble Baroness, Lady Ludford, concerning the EEA. Amendment 152, for example, seeks to make continued membership of the EEA one of the UK's negotiating objectives, while Amendments 193 and 203 require a parliamentary vote on withdrawal

from the EEA before making regulations under the power in Clause 9. Amendment 225 seeks to prevent notification of the UK's withdrawal from the EEA agreement. On that specifically, our legal position remains unchanged. Article 127 does not need to be triggered for the agreement to cease to have effect.

My noble friend Lady McIntosh also asked about the EEA. In the absence of any further action, the European Economic Area agreement will no longer operate in respect of the UK when we leave the EU. However, as the Secretary of State has said, our existing international agreements should continue to apply during the proposed time-limited implementation period.

Lord Adonis: Will the Government publish the legal advice they have had in respect of that proposed procedure on withdrawal from the EEA?

Lord Callanan: The noble Lord knows the answer to that question.

Noble Lords: Oh!

Lord Callanan: We are not going to publish confidential legal advice. That has been the position of previous Governments, and it is the position of this Government. Our aim is to ensure continuity with international partners

Lord Adonis: I—

Lord Callanan: No, I have given way to the noble Lord once. I have answered his question. I have referred to his points. If he will forgive me, I will make some progress.

Lord Adonis: My Lords—

Noble Lords: Order!

Baroness Goldie (Con): If I can have silence, may I address the Chamber? It is important that this debate proceeds, even at this terminal stage of the first group of amendments, in a courteous manner. The Minister has been accommodating in taking interventions. He needs—

Lord Adonis: He has taken one intervention so far.

Baroness Goldie: I think the Minister can use his own discretion about what he considers appropriate. I do not think noble Lords would disagree for one moment that we have had a very extensive debate on the first group.

Lord Adonis: If I may say so, the Minister has limited experience of this House. He may not be aware that in Committee it is reasonable for him to take interventions on points raised in the debate which have not been properly clarified by his reply. He is not allowed simply to come to that Dispatch Box, read out the brief he has been given and not respond to the debate. That is not acceptable practice in your Lordships' House.

Lord Callanan: I responded to the noble Lord's question about the legal advice and to the other points that have been raised. I will respond further in my forthcoming remarks.

Baroness McIntosh of Pickering: My noble friend has been most gracious in replying to one part of my question, but not the other part about the status of regulations. He has now accepted that we will remain in the EEA for the duration of the implementation period. The precise content of my amendment relates to regulations passed and decisions agreed by the EEA before the end of the implementation period. What will the status of those regulations be?

Lord Callanan: I understand that the regulations of the EEA will continue during the implementation period. For the period after the implementation period we will seek to negotiate an ongoing relationship with the other three member states of the EEA. Our aim is to ensure continuity with international partners and the EU during the implementation phase and certainty for businesses and individuals. This approach will mean that we seek the continued application of the EEA agreement for the time-limited implementation period to ensure continuity in crucial elements of our trading and non-trading relationship with those three EEA states. Participation in the EEA agreement beyond the implementation period would not work for the UK. It would not deliver on the British people's desire to have more direct control over decisions that affect their daily lives and it would mean accepting free movement of people. As I have said to my noble friend, once the implementation period ends we will no longer participate in the EEA agreement. We will instead seek to put in place new arrangements to maintain our relationships with those three countries: Norway, Iceland and Liechtenstein. I hope I have made the Government's position clear, and I hope as a result the noble Lord, Lord Wigley, will feel able to withdraw the amendment.

Baroness Hayter of Kentish Town: There were a number of other questions, such as the one I raised on regulations, that are absolutely pertinent to the Bill. We will come later to how the regulations will be brought over and put into our law, and we will have debates on that on days three, four and five, I think. The question I asked the Minister specifically is: does he know about the work being done by Conservatives, along with Americans, to change regulations to assist a different form of trade? This is relevant to this Bill because we will be coming on to how we secure those regulations and their status in our law. I think the Minister's understanding of those discussions is relevant today.

Lord Callanan: My Lords, there is a huge amount of work being done by various economists, lobby groups, institutions and think tanks on regulation and various agreements. I am not aware of the specific work the noble Baroness talks about. Of course I know some of the individuals she mentioned—they are good friends of mine—but I am not aware of all

[Lord Callanan]
that work. Now she has mentioned it, I will go away and have a look at it. I am sure it is very good, but I cannot comment until I have seen it.

Lord Hannay of Chiswick (CB): The Minister puzzled me slightly just then by saying that once the implementation phase—that piece of Orwellian language—is complete, the object will be to negotiate with the EEA partners of Norway, Iceland and Liechtenstein to preserve our present relationship, but that includes free movement.

Lord Callanan: With great respect to the noble Lord, I do not think I said that we would preserve the present relationship. We will want to establish a new relationship with those states. We have always had close and friendly relationships with them. Ultimately that will be a matter for the negotiations.

Baroness McDonagh: I do not feel that any of my questions were addressed. I apologise to the Committee, but I have to say to the Minister that he has not addressed whether he agrees with the estimate of the Secretaries of State about progress on trade deals. This is paramount information to understand what needs to happen in terms of customs union, single market and so on. I wonder whether my questions can be addressed.

7 pm

Lord Callanan: My Lords, I thought we were here to discuss the Bill. We have spent three hours and 20 minutes debating so far, and I have listened very carefully to what everyone has said. I have sought to answer a lot of the questions where they were relevant to the contents of the Bill. The clause that we are debating repeals the European Communities Act. I understand that many Members want to raise concerns about the referendum, whether they thought the campaign was right or not and whether various people said various things or not, but I really do not think they are that relevant to the clause of the Bill that we are debating.

Baroness McDonagh: I apologise; I will make another attempt because I do not feel that I am making my questions understood. My questions are based on Amendments 191 and 206, and the purpose of the amendments is to seek answers so that we know whether we need to press them to a vote. My question is very clear: how is progress going? Does the Minister believe that the estimates given by the two Secretaries of State in the other place can be relied upon, and how are we getting on in terms of progress on the trade deal? This is paramount to understand what needs to go in the European Union (Withdrawal) Bill, and those amendments are before the House.

Lord Callanan: I am sure that the statements made by the Secretaries of State in the other place are true and valid and that they will be endeavouring to fulfil them. There will be further legislation, as we have said, on the withdrawal agreement and implementation Bill when we have sought and obtained agreement with the EU, and I am sure that further international trade Bills will follow in due course as well. However, that is not the subject of this legislation, as the noble Baroness well knows.

Lord Bassam of Brighton (Lab): My Lords, the Minister was on his feet for just 12 minutes dealing with a debate that had taken over three hours. There are four sets of amendments here that deal with delegated powers. He has not addressed that issue at all in this debate but it is very much the focus of those amendments. That is a pretty shabby performance, actually, and this House is entitled to be extremely dissatisfied with the response that we have had. Further, we have had a big debate about the single market and the customs union but the Minister dismissed that in his opening comments. He said the Government were preparing themselves for a customs union-lite type of arrangement but failed to set out any details of what that might look like. This House deserves better explanations to its amendments than that, and I hope this does not give rise to an equally shabby performance on all the other amendments that we have to consider; there are over 300 of them.

Lord Callanan: I realise that. I apologise if the noble Lord is disappointed but I was trying to address what is actually in the Bill. As I said, further legislation will follow. We have spent three and a half hours so far debating one grouping of amendments, and we have eight further groupings to get through this evening on the timetable agreed by all the usual sources.

Baroness Hayter of Kentish Town: I am sorry to say this, but the amendments were taken by the Public Bill Office as being in scope. They are therefore relevant to the House.

Lord Adonis: My Lords, before the Minister finishes after the very short intervention that he has just made, I point out that he did not respond at all to the points made by noble Lords from around the Chamber about the Good Friday agreement. Would he give the view of the Government, since it appears to be in question at the moment, about the future of the agreement and whether he agrees with the former Secretary of State for Northern Ireland who said it had now served its purpose?

Lord Callanan: I am happy to clarify for the noble Lord that we remain completely committed to the Good Friday agreement.

Lord Forsyth of Drumlean (Con): My noble friend has been accused of not being very experienced. I point out to those Members opposite that we are in Committee but we have had three and a half hours of Second Reading speeches, not speeches on the amendments.

Lord Wigley: My Lords, since we have come to the end of this interesting debate, as the mover of the first amendment I thank everyone who has taken part in it.

I have no doubt at all that the points that have been raised are relevant to the Bill, otherwise they would not have been accepted, and that the arguments in relation to those amendments are therefore equally pertinent and we are all entitled to have the Government's response if they have one.

One thing that has come through loud and clear from the Minister's statement is the fact that he regards this, yes, as a debate about the single market and the customs union rather than about the contents of Clause 1. Well, if it was mainly a debate about the customs union and the single market, as it was, the message that has come from this House is loud and clear: four out of five of those who have taken part in the debate want to see the countries of these islands remain part of the customs union and the single market. If the Government are not going to face up to that, we shall undoubtedly come back on Report with an amendment that can get support across this House, and the Government will then have to defend their case in another place. I beg leave to withdraw the amendment.

Amendment 1 withdrawn.

Amendment 2

Moved by ***Lord Adonis***

2: Clause 1, page 1, line 3, leave out "on exit day" and insert "on a date to be determined by a further Act of Parliament"

Lord Adonis: My Lords, I shall also speak to Amendment 3, which would leave out "on exit day" and insert,

"on a date to be determined in the Act of Parliament enacted for the purposes of section 9(1) of this Act".

The first and crucial significance of the Bill is the repeal of the European Communities Act 1972, and a critical issue that noble Lords will wish to address themselves to is the date on which that happens. The provisions in the Bill in respect of that date are not straightforward. Clause 1 provides that the European Communities Act 1972 will be repealed "on exit day". Clause 14(1) defines exit day as,

"29 March 2019 at 11.00 p.m.",

but Clause 14(4) provides that,

"A Minister of the Crown may by regulations … amend the definition of 'exit day' in subsection (1) to ensure that the day and time specified in the definition are the day and time that the Treaties are to cease to apply to the United Kingdom".

So exit day is set, but there is a provision for the Government to amend the date. However, my reading of subsection (4) is that a Minister of the Crown may only substitute one date with another date. He cannot suspend the operation of the Act entirely even if there is no agreement and it is in fact the intention of Her Majesty's Government not to proceed with leaving the EU.

My first question to the Minister is: what is the Government's understanding of the scope of Clause 14(4)? Is it only possible to substitute 29 March 2019 with another precise date under regulations or is it possible for the Government, by the exercise of the powers under Clause 14(4), to suspend the operation of the Act either indefinitely or in perpetuity? Secondly, in respect of the procedure under Clause 14(4), if the Government wish to change the date of 29 March 2019, what would that procedure be? I would be grateful if he could set it out so that we had it clearly established in *Hansard*, because I think it is an issue to which the House will wish to return in due course. The procedure for amending the exit date could be of crucial importance if the withdrawal agreement that the Prime Minister presents later this year or early next year leads, either by her intention or by a decision of Parliament, to a desire to extend the Article 50 period and apply for an extension beyond the end of March 2019.

I have those two specific questions for the Minister, but I wish to make a general point for this debate, about the concept of the exit day and the repeal of the European Communities Act 1972. It is clearly the case that Parliament needs to make provision for the substitution of the 12,000 regulations which have currently been made under the European Communities Act 1972, and there must be a procedure for those to be enshrined in United Kingdom law. There obviously needs to be a functioning statute book on 29 March 2019, or whenever the country leaves the European Union, and therefore there need to be procedures in place for that statute book to be fully in place by the end of March. We will have many debates in due course about what that procedure will be, how far it can be done by the Government making regulations and orders, how far it requires parliamentary consent and what the parliamentary procedure should be—all the issues which your Lordships will be familiar with under the broad heading of Henry VIII powers. We will have long debates on that question.

However, I do not think it reasonable for Parliament at this stage to give the Government a near-unilateral power to set the date of leaving the European Union when it is still not clear that it is the will of Parliament that we should leave the European Union. We have not seen the withdrawal agreement that the Prime Minister will negotiate or undergone the new procedure instituted by the amendments passed in the House of Commons, which will need to be followed before the withdrawal agreement is ratified by Parliament. As Parliament will itself make the decision on whether we leave when it can fully consider the terms which the Government have negotiated for leaving, it seems to me that the appropriate time to set the date under the Bill for repealing the European Communities Act 1972 is when Parliament agrees or does not agree to the withdrawal agreement that the Prime Minister has negotiated. To do it in advance in this Bill is a classic legislative case of putting the cart before the horse. The right time to set the date on which the European Communities Act will be repealed is surely when Parliament actually takes the decision and sets the date when it intends the treaty of withdrawal to take effect.

This is significant is because otherwise the danger is that we get into a convoluted and potentially destructive process in terms of relations between Parliament and the Government concerning the operation of the Bill when enacted with the withdrawal agreement. At the moment, the Bill stipulates that the European Communities Act 1972 will cease to have effect on 29 March 2019 or on some other date that a Minister

[Lord Adonis]
may set. That process is set out in the Bill, but there will then be a withdrawal agreement that will set out the date, to be agreed by Parliament, when the treaties replacing our current European Union commitments will take effect. It seems to me and, I think, to other noble Lords much more straightforward, simpler, less confusing and possibly more conducive to harmony between Parliament and the Government for the decision on the date of the repeal of the European Communities Act to be taken at the same time as Parliament takes its decision on the treaties which will replace it.

These are probing amendments seeking the Minister's guidance on the scope of Clause 14 (4), but I also wish to start a debate in Committee, which I think will probably continue into Report, on whether this is the appropriate piece of legislation for setting the date of departure from the European Union in respect of the repeal of the European Communities Act independently of Parliament reaching a decision on the withdrawal treaty. I beg to move.

Lord Hain: My Lords, having added my name to the amendments in the name of my noble friend Lord Adonis, I want to explain that they are designed to give back to Parliament control of when the European Communities Act 1972 is repealed and to strengthen the effect of the amended Clause 9(1), which was designed to give Parliament a meaningful vote on the final terms of withdrawal and which required that a new statute be put in place before any regulations are made to implement the withdrawal agreement.

I do not need to remind your Lordships' House that what is at stake is more than a matter of process or procedure. It is ultimately about whether either Parliament or a group of hard Brexiteers who are trying to manipulate the Government will decide the future of the people of this country. What is at stake is people's jobs and standards of living, which depend on our trading relationships; the protection of labour rights and environmental standards; the alliances on which Britain's future security depends; and the future of the Good Friday agreement, which has brought peace and stability to the island of Ireland for generations to come but is itself now under attack from assorted Brextremists—including, astonishingly and recklessly, a former Secretary of State, Owen Paterson, who should know a great deal better. It is reckless and downright dangerous to put Brexit dogma before peace and stability on the island of Ireland.

7.15 pm

As noble Lords will be aware, the notification of the UK's intention to withdraw from the European Union under Article 50(2) of the Treaty on European Union was served by the Prime Minister on 29 March 2017. Article 50(3) provides:

"The Treaties shall cease to apply to the State in question"—

in this case, us—

"from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period".

Therefore, Article 50 in its entirety means something quite contrary to the widespread impression, often reinforced by Ministers, that there can be no flexibility about exit day. As the noble Lord, Lord Kerr, the author of Article 50, has made it clear, the article contains provision for a possible extension of the period if that is needed to come to an agreement.

The main purpose of our amendments is therefore to give Parliament rather than Ministers the power to control the UK's position on the date of exit day. By specifying that the European Communities Act 1972 can be repealed only on a date to be determined either by a further Act of Parliament or in the Act of Parliament enacted for the purposes of Clause 9(1), Amendments 2 and 3 support the amended Clause 9(1) by ensuring that Parliament stays in control of the timing of exit day under Article 50, and is thereby in a position to influence the withdrawal agreement and its provisions for the framework of the future relationship between the UK and the EU.

Our amendments are of particular importance in view of the earlier government amendments to Clause 14, moved on the final day in Committee in the other place, which gave Ministers power to fix the date of exit day. In their initial draft of the Bill, the Government were apparently satisfied that, for the purposes of the Bill, the date of exit day could be left to Parliament. Then, for what appear to be purely internal party factional reasons, the Government introduced an amendment to fix exit day in the Bill for 29 March 2019 at 11 pm for all purposes. The Government also supported amendments by Oliver Letwin which allowed the date to be changed by Ministers if the withdrawal agreement provides that the UK will leave on a date different from that set out in Clause 14.

I trust that your Lordships' House will agree that Parliament rather than Ministers should be in control of the process. However, the government-supported amendments in the other place allow the date to be changed only by Ministers, not by Parliament, even if Parliament has a different view to that of the Executive. In addition, this could happen only if an alternative date on which the treaties ceased to apply to the UK was included in the withdrawal agreement—that is, only if Ministers agreed an alternative date with the EU.

Under the Bill, Ministers would in these circumstances therefore be able to use secondary legislation to change the date in UK legislation as well, thereby bypassing Parliament. Surely that is completely unacceptable on a matter of such crucial historical importance. Therefore, there are a number of important and worrying implications of the government and government-supported amendments approved in the other place, which can be overcome by the amendments that my noble friend Lord Adonis has tabled, giving Parliament control over the date when the European Communities Act 1972 can be repealed, thus forcing the Government, if necessary, to go back into the negotiations with the EU under Article 50(2).

One example, as the former Attorney-General, Dominic Grieve, made clear in the other place, is that it was always the intention behind his amendment to Clause 9, which the other place voted for, that the powers in the Bill for implementing the withdrawal agreement, including fixing the withdrawal date, should not be used until after the final statute had been approved by Parliament. However, because of the government-sponsored amendments referred to earlier,

those powers for Parliament in relation to the date of exit day are effectively removed from the scope of Clause 9, the other place having voted for that amended Clause 9. This could conceivably mean, for instance, that, given the first-phase agreement of December 2017 stating that,

"nothing is agreed until everything is agreed",

if negotiations were deemed to have failed, the date of exit could be made earlier than 29 March 2019, thereby pre-empting Parliament's consideration and implementation of a statute approving exit. As things stand, if there is no withdrawal deal, Parliament will be bypassed without any right to a vote. The Government's amendments relating to the date of exit day have therefore been seen by some as potentially paving the way for a pre-emptive no deal—a so-called "hard Brexit"—by hard-line Brexiteers.

Another potential outcome of leaving the power to change the date of exit day in the hands of Ministers only is that this could be used by them to fail to pursue issues where Parliament wishes to see progress in the negotiations, on the grounds that they do not need Parliament's support for Brexit in order for them to proceed on the pre-determined date. By the time any such vote comes on the withdrawal agreement, perhaps as soon as the end of this year, it could be difficult, if not impossible, to make substantive changes to the outcome. Neither the EU Commission, nor the member states, will be keen to renegotiate it. The European Parliament has its own agenda, and it seems highly likely that the choice facing the UK Parliament, as a result of Theresa May's premature triggering of Article 50, would in these circumstances be to either accept the terms or reject them, with no leverage to force the Government back into renegotiations, so risking precipitating the UK crashing out of the EU with no deal. Surely, it is incumbent upon both Houses of Parliament to prevent this scenario by ensuring that Ministers are obliged to refer back to Parliament during the negotiations to ensure they win the ensuing vote.

Another danger is that the transition period, which the Prime Minister has inappropriately referred to as the implementation period, and which Labour, with the support of the CBI and the TUC, has advocated, could be at risk in the negotiations if Ministers alone control of the date of exit day. This transition period is necessary to prevent a so-called "cliff edge", involving a legal and regulatory void, with chaos resulting for our businesses and services and gridlock at our borders after exit day. A transition period covering as many years as necessary would also ensure that exporters would not have to adapt to two new customs and regulatory arrangements in succession by first dropping out of the EU framework and falling back on the totally inadequate WTO rules and then later, possibly much later, becoming part of arrangements negotiated as part of a comprehensive trade deal with the 27 countries of the EU, which currently take almost half of our exports.

In addition, even if a transition period is agreed, the UK will drop out of the over 60 trade deals with "third countries" which we have access to through our membership of the EU. However, it appears that the Government's concept of "on current terms" in the transition period excludes the European Court of Justice from its role in arbitrating commercial and other disputes. This is one effect of those government amendments relating to exit day, which would potentially end the jurisdiction of the ECJ on 29 March 2019, thereby preventing agreement on a transitional period "on current terms". The UK also apparently wants to object to the application of new EU laws and to treat European citizens who come to this country differently during the transition period. All this makes it less likely that a transition period will be agreed in detail at the next EU summit, just weeks away on 22 March, in which case discussions will not move on to a framework for the future relationship. There are, therefore, now fears that the talks on the next phase, the post-transition end state, including the outline of a future trade deal, will have to be delayed, casting the whole timetable into doubt. The more things are delayed, the greater the danger that the EU will simply impose a very narrowly drawn trade deal on the UK or, worse still, the UK might crash out without a deal, to the evident glee of Brextremists such as Jacob Rees-Mogg.

Many people have imagined that the text of Article 50(2) of the Treaty on European Union—and I speak with some trepidation, given that its author, the noble Lord, Lord Kerr, sits opposite me—implies that any withdrawal agreement will constitute a new trade deal with the EU. It does not. However, anyone familiar with major trade deals knows that they reflect the judgment by states of what will be in their own interests and the relative economic power and weight of the parties involved, and that they take years to negotiate. That is presumably why the noble Lord, Lord Bridges of Headley, a former and very recent Minister for Exiting the European Union, said that he did not believe that it would be possible to sort out the divorce bill, the implementation period and the final deal on our withdrawal within the timeframe envisaged. It is therefore completely unrealistic to imagine that the detail of a new trade agreement with the EU will be finalised before the specified exit day or even before the end of the transition period, assuming one is agreed, which, for reasons relating to its budget period, is currently being set by the EU for the end of 2020.

The Dominic Grieve amendment to this Bill, carried in the other place, makes implementation of the withdrawal agreement subject to parliamentary approval. But all that is likely to be agreed by October this year, the deadline for giving time for consideration and ratification by the European Parliament and the other 27 member states of the EU, is just what the treaty states; that is, a,

"framework for its future relationship",

with little flesh on the bones, which may therefore fall very short of the guarantees which I believe that a majority both Houses of Parliament wish to see: namely, access in the future to EU markets equivalent to what the UK has now to prevent a "cliff edge" for businesses and services and to protect the hard-won benefits of the Good Friday agreement and a completely open border on the island of Ireland.

The Irish question is a crucial reason for Parliament being in charge of the exit date. The serious near-breakdown in the December negotiations between the UK and the EU was eventually resolved only through

[Lord Hain]
both sides pledging no regulatory divergence between the Irish Republic and the UK. However, although this cleared the way for the next phase of the Brexit talks, the task of giving it legal effect in the withdrawal agreement remains. Brussels has asked for "precise, clear and unambiguous" proposals to avoid reimposing a hard border between the Republic and Northern Ireland, linking this to progress on transition. Brussels and most dogma-free analysts interpret this December agreement to require the whole of the UK to remain in the single market and customs union, or its exact arrangements, if there is not to be "regulatory divergence" between the Irish Republic and the rest of the UK. Yet the Prime Minister has dogmatically excluded that. It is in everyone's interest, surely, including the DUP's, that the exit date is not set in concrete, as it is in this Bill, giving sufficient time both to find a solution on the Irish border and, as the CBI and the TUC have argued, the economy.

Parliament should not be asked passively to sanction a transition to an unknown destination by Ministers—what could be a suicidal leap into a chasm of chaos and uncertainty. We surely have a duty to ensure that, if no deal is struck, or the terms of such a deal are deemed inadequate by Parliament, the provisions of the European Communities Act 1972 continue in force and the timing of exit day will be delayed in order that these critical issues for the nation's future are properly addressed. The purpose of Amendments 2 and 3 is that, on the precise date of Brexit, Parliament—not Ministers—should have the final say on our country's destiny and on whether any deal either preserves or threatens peace and stability on the island of Ireland.

7.30 pm

Viscount Hailsham: My Lords, the noble Lord concluded his remarks by saying, effectively, that it should be Parliament that decides the terms. I am wholeheartedly in favour of that. It is an essential part of representative democracy, by which I mean that Parliament, at the end of the day, should be in a position to determine whether the terms that have been negotiated are acceptable, whether the absence of terms is acceptable, whether no deal is acceptable or whether we should remain in the European Union. It is Parliament, not the Executive, that should make that decision.

The amendments that have been tabled by the noble Lords, Lord Adonis and Lord Hain—it is remarkable that I find myself in agreement with the noble Lord, having been in disagreement with him for, I suppose, 25 years or so—are absolutely right. Give Parliament the power to determine the exit date and you greatly reinforce the control that Parliament has as to the outcome.

Lord Triesman (Lab): My Lords, I want to make clear my unequivocal support for the last three speeches. The critical issue that my noble friend Lord Adonis raised on the interplay between the various clauses that deal with the timing and the possibilities of how that could go wrong and the points made by my noble friend Lord Hain and also the noble Viscount, Lord Hailsham, on the sovereignty of Parliament seem to me to be right at the very heart of what the whole process in this House is about. It is either about us assuming the responsibilities that we are supposed to have and display, or it is about giving Ministers what they have plainly wanted throughout, which is the ability to take decisions irrespective of what Parliament might wish. I hope that Ministers will not be tedious enough to get up and deny that this is what they have been trying to do. At every key stage of this process, whether in front of the Supreme Court or elsewhere, it has been essential to force out of the Government an understanding of the role of Parliament and that Parliament will not be set aside.

Like everybody else, I have of course thought hard about why anybody would put a hard date into a clause of a Bill of this kind. Why would you do it? The answer is that it is a party management issue—and only a party management issue. I am sure that many noble Lords on the Government's side of the House will recognise that there are costs and disadvantages alongside what they might regard as advantages in taking the steps that they have taken. But the advantage they perceive—which seems to outweigh everything else—is that they can say with conviction to the people who are determined that we leave, crash out, or go any which way out of the European Union that they have set a hard date and have in some sense given certainty by virtue of that. I believe—and I think in this debate the House overall is likely to believe—that the complexities with which this country and this Parliament are faced in trying to deal with this absolutely massive constitutional, economic, security and every other kind of issue means that the setting of a hard date is about as arbitrary a thing as you could conceivably do in the circumstances.

In his response to the last debate, which I regret I found very limited, the noble Lord, Lord Callanan, said of a number of the amendments that they required reports to be made and the dates for many of those reports were arbitrary. There could scarcely be a more arbitrary date than this date, when almost nothing has been learned so far about the Government's intentions and when there is absolutely no certainty that we will learn any more about those intentions. The fact is that setting a date makes it more or less impossible to conceive of all the different elements being drawn together with sufficient coherence for any of us to exercise that final act of parliamentary authority that we have all been promised.

I recall just three, four or perhaps five weeks ago, the noble Lord, Lord Heseltine, spoke on industrial strategy. He made the telling point that, whenever we deal with people from other countries who have strong industrial strategies, strong industrial histories and a great deal of success in all those, we go about it believing that our native wit and wisdom is so superior to all of them that we can constantly get exactly what we want from them and they will never have a presentable argument to put to us. The noble Lord, Lord Heseltine, quite rightly said that if you look at the countries where we tend to take that view—Germany, Japan, China now and the United States—you come across people who are extremely competent at developing industries and strategies, who have views and will argue for those views and who may very well prevail. In this discussion about what future trade will be like,

those arguments will be displayed with great ability and, I have no doubt, will not be the pushover that many on the Government Benches seem to think they will be.

I suspect that one argument that will be made about having a hard date is that it focuses negotiation and is a means of drawing a negotiation to some sort of conclusion. I have said before in your Lordships' House—and I do not say it to cause offence—that my experience is that, by and large, politicians are not the best negotiators that you ever come across. Many of us have spent parts of our lives as trade union negotiators or general secretaries of trade unions, have done negotiation in government, in the Foreign Office—in my case—and so on or have spent a great deal of their lives negotiating in business and in industry. I say without any doubt in my mind that if I wanted to make my life more difficult in any negotiation, I would say, "Here is the deadline", and let everybody else stretch me out across the rack that I had made for myself, because that would be the easiest thing that they could conceivably do—and they will do it. If you are in a position of enormous strength, I guess you could say, "Well, we have set a date, we are going to push everybody else along". But if you are not in a position of enormous strength and if, peradventure, you are in a position of enormous weakness, everybody else will take the maximum possible advantage and they will succeed.

I have heard some of the comments made by others who have business experience, and I draw attention to my entries in the register as well. In business, I have never once seen the weaker party in a negotiation have any advantage out of a fixed deadline. If we ever needed to learn that in spades, we would look at what is happening in Northern Ireland now and the constant setting of deadlines—which has happened in the past—only to find that the people of violence, or the people who have been prepared to allow people of violence to push the envelope further, have always been those who took the greatest advantage of it and made it more or less impossible for anybody else to make real progress.

I hope that we will not trap ourselves in that way. These amendments give us a means of not trapping us in that way, and I urge all noble Lords to give us the best chance we can have, rather than the worst.

Lord Tyler (LD): My Lords, I do not wish to emulate either the forensic skill or the eloquence of those who have already contributed to the debate but rather ask the Minister a very specific question. He will be aware that in Clause 14—the interpretation clause—there is a specific reference to exit day, which is spelled out in subsection (4):

"A Minister of the Crown may by regulations—

(a) amend the definition of 'exit day' in subsection (1) to ensure that the day and time specified in the definition are the day and time that the Treaties are to cease to apply to the United Kingdom, and

(b) amend subsection (2) in consequence of any such amendment".

As the noble Lord, Lord Hain, said, that is secondary legislation. The Minister will be only too well aware that the Delegated Powers and Regulatory Reform Committee, on which I serve on behalf of your Lordships' House, is already very critical of the number of powers that Ministers are taking under this Bill, not least because it sets a precedent for powers that will be expected by Ministers under subsequent Bills in the series that relate to Brexit. Therefore, it is important for your Lordships' House to be told very clearly at this stage by what process the Government intend to put that secondary legislation before the two Houses of Parliament. Will it be by the negative resolution, the affirmative resolution or, indeed, the super-affirmative resolution, as that completely changes the way in which Parliament will be able to exert its control, as noble Lords have suggested? If the process is to be undertaken by negative resolution, that is very limited and the powers of the two Houses of Parliament would be so undermined as to be laughable. If it is to be done by the affirmative resolution, there is more opportunity for discussion and either House can decide what should be done in those circumstances. However, I suspect we will be told that this has to be done with such speed that it will have to be done by an accelerated process, which will inevitably mean that there is no proper opportunity for either House to decide whether we agree with this process.

The super-affirmative process may well be selected. The Minister may be better informed than most Ministers on the Government Front Bench but I defy him to spell out to the House this evening which of these options will be put in place. This is of critical importance. We should not just sweep away this opportunity to take this decision. As all noble Lords who have spoken in this debate have said, it is an extremely important one which will colour the views of your Lordships' House when we look at some of the other powers that Ministers seek to take under the Bill. Again, I refer to the recommendations of the Delegated Powers and Regulatory Reform Committee. If we really are taking back control, here is an early opportunity for the Government to show who exactly is taking back control.

Lord Hamilton of Epsom: My Lords, I am somewhat confused by this debate because it has been suggested that the Government have taken a hard line in saying that a decision should be reached on our future relationship with the EU by 29 March next year. It is not the Government's date; it is the Article 50 date as drafted—as the noble Lord, Lord Hain, acknowledged—by the noble Lord, Lord Kerr of Kinlochard, one afternoon in his garden in Brussels, when he decided that it should be two years from the moment when Article 50 was moved. Therefore, it is not our date, it is the EU's date, or, more precisely, the date of the noble Lord, Lord Kerr. I do not quite know why we are now saying that somehow this is the Government taking a hard line. When the House of Commons voted by an overwhelming majority to move Article 50, surely that was on the understanding that the negotiations would be completed in two years from when it was moved. Therefore, we now seem to want to go against the other place and tell it that it has decided on the wrong date.

On top of that, the EU has made it clear that it wants the negotiations to be completed not by 29 March 2019 but by October or November this year, so it is bringing the date forward. I do not accept the remarks of the noble Lord, Lord Triesman, on deadlines. Perhaps

[Lord Hamilton of Epsom]
he found deadlines inconvenient when he was a trade union negotiator, but it strikes me that they are the only thing which works when you are negotiating with the EU, and that everything seems to be decided at the last minute. It is important that we keep to 29 March next year and I would be very unhappy if that were changed.

7.45 pm

Lord Davies of Stamford: My Lords, we have heard some excellent speeches on these amendments. I particularly commend the brilliant analysis of my noble friend Lord Hain and the very penetrating questions asked by him and my noble friend Lord Triesman. I hope that those questions receive a serious response from the Government at the end of the debate on this group of amendments, and that they receive the clear and authoritative answers which Parliament deserves.

I wish to speak briefly about the transition or implementation phase, however you want to describe it, which emerges very much from the issues addressed by these two amendments. I am deeply worried about the way these negotiations are going. The Government seem very muddled in their own mind and have a completely false appreciation of the situation they confront. I will explain why I think those two provisions apply in a moment. There are surely just three logical possibilities. One is that we do not have a transition phase at all and go straight from the present regime of full membership of the EU to some future but permanent post-Brexit arrangement. Another possibility is that we have a special so-called bespoke intermediate regime between full membership of the Union and whatever ensues on a long-term basis in our relations with the EU. The third possibility is what we have by way of a transition period—namely, that we continue with the present regime until after agreement has been reached on the future regime and continue with it for some time—I hope at least a year or two—to give businesses the maximum amount of time to adapt to what they will know at that point is the new regime that is coming.

The first of those possibilities—that we have no transition at all—is rightly regarded, I think on both sides of the House and certainly throughout commerce and industry, as a disastrous prospect which would involve immense risks and costs for our businesses, quite unnecessarily so if a suitable alternative is available. I think there is general agreement on that. I would hope there would be agreement that the sensible thing to do is to choose the third option and continue with the present regime for some years after full detailed agreement is reached on its successor, so there is time for adaptation by everybody concerned. That seems to me thoroughly sensible. Unfortunately, I am told that that has been vetoed by the Eurosceptics in the Tory party. We know that Mrs May is very much under the heel of Mr Johnson and Mr Gove and is terrified that someone is going to send 41, 47 or 48 letters to Sir Graham Brady, and does not know how many have already been written. In these circumstances, she cannot move on that. She cannot accept that because, apparently, the Eurosceptics think that is an extension of our membership of the EU and they do not like it on symbolic grounds. I may misunderstand the situation but I am told on good authority that that is the position, so what might seem the most rational and sensible answer to this problem, which would certainly get strong approval from both sides of this House, is excluded for party-political reasons.

Therefore, we confront what appears to be the Government's preference at the moment, which is the second possibility: the bespoke regime. I say that the Government are in contradiction with themselves, which they certainly are, because while that arrangement is supposed to reduce risks for business and industry, it actually doubles them. It has already been pointed out by my noble friend Lord Hain that under those circumstances there would be two future regimes for business to go through. There would be two thresholds into that new regime rather than one or two cliff edges in that context, to use that cliché which everybody seems to be so fond of at present. That is a serious matter: a Government who are in contradiction with themselves.

The second problem I have is that the Government clearly seem to have misunderstood the position of their counterparties in these negotiations and, once again, to have been quite excessively euphoric about the impact of any proposals that they would make on their negotiating partners. In short, they are overreaching themselves. That is of course again a worrying situation when you go into any kind of negotiation. I say that because it is inconceivable that our continental partners would agree to have some bespoke intermediate regime; it would be quite extraordinary if they did. It would mean that any member of the European Union could issue notice under Article 50 and immediately negotiate some special bespoke arrangement, maximising, presumably, its own benefits and minimising its own costs at the expense of other members of the Union, quite contrary to the whole purposes of the Union. Therefore I cannot believe that very intelligent and competent people, which the European Commission and leaders of our partner nations certainly are, would go down that road for a moment. That leaves a strong possibility that the Government will find that they have a rough time ahead of them.

I suppose that you can go into a negotiation with a self-contradictory proposal, although that is rather a handicap and not a good augury for the success of the outcome, and you can go into a negotiation making a fundamental misjudgment about the objective situation in which you find yourself. However, to do both is clearly to be at a considerable handicap. I fear that these negotiations will not result at all in a favourable outcome in this country and that there will be a lot of gnashing of teeth, shedding of tears and, no doubt, shouting and imprecations of all kinds. The Government will no doubt say that it is all very unfair, everyone is being beastly to them and that it is not their fault, and there will be a mixture of paranoid self-pity and nationalist demagoguery, which the Tory party seems, sadly, very often to fall victim to. That will be a sad day if it happens to this country. I hope that it can be avoided, that my analysis is wrong and that the Minister will explain to me exactly why it is wrong.

Lord True: My Lords, the noble Lord opposite who just spoke constantly makes disparaging references to members of the Conservative Party. I suggest that he might have been better informed about what happens

inside the Conservative Party if he had remained a member. I do not consider him a great authority on the subject.

I would also like to deal with a canard which I find offensive and which I hope will not colour the next 10 days of debate. This is this business about people who favour Brexit wanting to repudiate the Good Friday agreement. The noble Baroness, Lady Kennedy of The Shaws, spoke with great passion on the subject, and I agreed with a great deal of what she said, certainly in the emotional content. She referred also to the cases she had taken which involved people in the Brighton case. Some of us were at Brighton on that day and many of us have lived with the consequences of the terrible events that took place and are passionately attached to the peace process and what happened in Northern Ireland. I am very proud that I served under a Prime Minister who had the courage to start the process that led to the peace agreement, Mr John Major. This false syllogism—it is the worst kind—which says, "Somebody who favours Brexit said that we might move away from the Good Friday agreement; therefore, every Conservative who favours Brexit is against the Good Friday agreement" is one that I find evil and offensive, and I hope it will be dropped. Those who express that view can answer for it, but I do not share it and I do not think that many on this side do.

Those are general points; the noble Lord, Lord Davies, took the debate a little wider, but I thought that, admirably, this debate had focused on a precise subject, which was raised clearly and forensically by the noble Lord, Lord Adonis, and by the noble Lords, Lord Hain and Lord Triesman, which is how we deal with this question of a date. The problem of the date is that exit day for the purpose of the Bill—it is in the Bill, although I note that there are now amendments to these clauses—is mentioned in Clauses 2(1) and 3(2)(a), which define laws which are retained as those which are in effect "immediately before exit day". If exit day were not on the same day as the Article 50 date, as my noble friend Lord Hamilton of Epsom said, there would potentially be confusion. You would have a position where the UK had left the European Union but it was not clear what would happen with regard to retained law. This would create the very kind of uncertainty that noble Lords opposite say they wish to avoid. Therefore those two things have to march in parallel.

Here we come to the crux of the real argument behind these amendments and suggestions, which is that we should not leave so quickly as 29 March 2019; we should delay the matter; we should delay the implementation and extend the Article 50 period. As the noble Lord, Lord Kerr, said in one of our recent debates, we might want to be members again and might come back to reapply. In the first place, as has been pointed out in this debate, those things would require unanimity on the other side, and in the second place it would require legislation in this House and an Act of Parliament, as the Gina Miller case suggested. The reality is that we would have an Act of Parliament if we were taking the thing further down; we are already having an Act of Parliament on the withdrawal agreement. The two things have to march in parallel. At the moment that date is set, accepted and understood in this Parliament and across Europe as 29 March 2019.

This is an Act of Parliament, so if Parliament wanted to define a date—we may not like the date of 29 March 2019, but it is the one in the process that has been set in motion—it would be legitimate. I do not particularly care for the amendment that was put in in the House of Commons—at the last minute in Committee, as someone pointed out—to give a power to the Secretary of State, but that is what the House of Commons has sent us. If that needs to be dealt with, deal with that question directly: ask the House of Lords. But do not decouple the date in the law from the date that is working in Article 50. That would create uncertainty and difficulty. It does not require a further Act of Parliament to set the exit day because this is an Act of Parliament; the Bill has already been approved by the other place and it is already there—we can just do it.

However, of course that is not the course that is being taken, because both these amendments seek to strike out the phrase "on exit day". The noble Lord, Lord Adonis, has got out his dandelion clock—you used to blow on it when you wondered whether you would ever have a girlfriend, when you first came to be aware of those things. "This year, next year, sometime, never", was it not? Many of the British people rather thought in 2016 that it might be this year. It has now been two years; many people in this House would agree that we have not got that far in two years, which is a bit disappointing, but it will not be this year. At least the Bill says that it will be next year: 29 March 2019. But along comes the noble Lord, Lord, Adonis, and—next year? No. It is now sometime. His amendment gives the impression that it will be on a date to be determined sometime, but we know that he means "never". I know, the House knows, and the noble Lord, Lord Adonis, knows, that he would never vote for any exit day to be voted for by this Parliament.

Therefore we should not support a dandelion clock amendment. If we want to deal with the Secretary of State issue, that is a separate debate, but let us not create new and unnecessary uncertainty by removing the date and uncoupling the exit day and the Article 50 day.

8 pm

Lord Kerr of Kinlochard: I should like to respond briefly to what the noble Lord, Lord True, has said. He refers to the Article 50 date. Without deciding where we wanted to go, we chose to send in an Article 50 declaration on 29 March. That meant that we chose when the clock would start ticking. That is my answer to the noble Lord, Lord Hamilton—like Nelson, I cannot resist provocation from a Hamilton. However, there is not a single Article 50 date. There is provision in the article for the possibility of an extension and there is also provision for the exit date to be after the two-year period. If you read the article carefully, you will see that you are out after two years or when the withdrawal agreement comes into effect, so there is the possibility of a post-dated cheque.

In my view, the noble Lord, Lord Triesman, is exactly right. Flexibility in negotiation is extremely important. Giving yourself deadlines is crazy, as is surrounding yourself with red lines. The reading of Article 50 by the noble Lord, Lord Hain, is, in my

[Lord Kerr of Kinlochard]
humble view, completely correct. However, the big point in this debate is not that; it is the question of who takes back control. Who decides? Is it the Executive or the legislature? So the point raised by the noble Lord, Lord Tyler, is extremely important.

I end by saying that I warmly welcome what the noble Lord, Lord True, said about the Good Friday agreement and the Belfast treaty of 1998, and in particular what he said about Prime Minister Major. To someone like me who was an observer at the time, it is completely correct. I remember when the leader of the Opposition, Mr Blair, went to Washington when I was the ambassador there. He was asked about Northern Ireland and what he would do if he became Prime Minister. His reply at my dinner table to assorted Senators and the Vice-President was that he would try to do exactly what John Major had tried to do and he would be very pleased if he could do it half as well. It is very good to hear that the solid voice of the Conservative Party is not that of the Patersons and Hannans but is in favour of retaining all the good work done by the Conservative Government and then by Mr Blair's Government in that astonishing first year.

Lord Hamilton of Epsom: If the House of Commons voted by an overwhelming majority to move Article 50, surely that was done on the understanding that the negotiations would be completed in two years. If the date was to be changed, surely that would need a vote in the other place.

Lord Elton (Con): Perhaps I may ask a question for elucidation—I may have missed something. The noble Lord, Lord Adonis, and others have spoken as though Parliament is not to be consulted by the Minister making the order. However, paragraph 10 of Schedule 7 states:

"A statutory instrument containing regulations under section 14(4) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament".

It may not be sufficient scrutiny, but there is scrutiny—Parliament is not being completely bypassed.

Lord Patten of Barnes: I would like to offer an addendum to what the noble Lord has said. In a way, it is a response to my noble friend Lord True. All those who feel as passionately as he and I clearly do about the Good Friday agreement—I think that it would be slightly unsavoury to try to compare who did what about that agreement, and I am glad to see that my noble friend agrees with that—can later support the amendment to the Bill which will write the Good Friday agreement on to the face of the Bill. I look forward to having the support of my noble friends Lord True and Lord Hamilton and others when that amendment comes before the House. Perhaps even some of the duty Privy Council Brexiteers on their Bench down there will be able to support it too.

Lord Adonis: Perhaps I may ask the noble Lord, Lord Kerr—the supreme oracle on Article 50—a question which, again, I think will be important for our deliberations later on. An extension of the Article 50 period requires unanimity in the Council. However, if Her Majesty's Government wished to extend Article 50 for the purposes of holding a referendum, or conceivably for a parliamentary vote, thus completing our established constitutional procedures, would the Council recognise that automatically because it recognises the domestic procedures of member states when it comes to the ratification of agreements?

Lord Liddle: I would like to follow that up with a relevant question to the noble Lord, Lord Kerr. I agree with all the excellent speeches in favour of this amendment. To me, the politics of the amendment is the question of whether, when exit day is discussed, Parliament knows what it is exiting to. That is the question. If Parliament does not know what it is exiting to, surely the logic is that the date should be extended until it does.

Along with my noble friend Lady Kennedy, I have recently been on Select Committee visits to Brussels, and she can confirm that there is much uncertainty about what information will be available to Parliament in the autumn of this year. If things go well, we might have a withdrawal agreement and a transition period, but the only thing on the future relationship that we will have is a political declaration. There is no question at all of there being a trade agreement when Parliament votes; it will be a political declaration. The European people to whom we talked said that they wanted that to be clear and precise. However, at the same time, people said to us, "We think that possibly your Government might quite like to get away with a fudge". Why should Parliament be put in the position of taking this crucial decision when all the British Government are offering is a fudge?

Lord Kerr of Kinlochard: To respond simply to the noble Lord, Lord Adonis, it would be a political issue, not a legal or a treaty issue. My view has only the same weight as anybody else's, but I would say that if one sought an extension in order to carry on a negotiation, it would be very doubtful that one would get it. However, if one sought an extension because Parliament had decided that the terms of the deal available were such that they should be put to the country at large in a second referendum, I am convinced that that request for an extension would be granted.

Lord True: It is very interesting that the noble Lord, Lord Adonis, has added a fifth element to the dandelion clock: this year, next year, sometime, never, and a second referendum. The idea of a second referendum is spreading across the Committee. However, returning to the point that the noble Lord, Lord Kerr, made, I was taken up for using a phrase as a lay man, just as my physics teacher used to take me up for not really understanding "light". When I talk about an Article 50 date, it is the date that flows as a consequence of the article and the decision that Parliament has taken by an overwhelming majority, as my noble friend Lord Hamilton said. The date of 29 March is the date that everybody, from Monsieur Barnier to everyone else, is working to. Therefore, in lay man's terms, that is what I mean by the date which would have to be changed, and I submit it would have to be changed in tandem. That is why I oppose moving "exit day" and the date out of the Bill.

Baroness Ludford: My Lords, this issue is linked to those under Clauses 9 and 14 about the withdrawal agreement and the exit day in that context. No doubt we will come back to some of these issues, because they are all interlinked and it is quite difficult to get a holistic view. The noble Lord, Lord Liddle, is quite right: one key issue is what we are going to be exiting to. Flexibility is one thing but an excess of uncertainty is another—particularly, as my noble friend Lord Tyler said, when it is coupled with ministerial discretion.

We have the exit date, we have the date when the treaties cease to apply, and we can add on the layer of what is going to be in the transition terms—I have not had time to read the Government's proposal today. We also have the question about whether Article 50 might be extended, and the question of whether Parliament might want to put the deal to the citizens for a final say. There is also the question of the post-dated cheque. So, all in all, they went all round the houses in the other place—no fixed date, then an attempt to fix it, then a date movable by Ministers. In all this brew, the amendments raise a very reasonable point about Parliament being in the driving seat—something that has been the theme of so many of our debates in the last year and a half.

We have no idea exactly what being subject to EU law, or even respecting the remit of the ECJ, whatever that will turn out to mean, during transition and even in the longer term—because that was the implication of the Prime Minister's speech on Saturday—means. That sits uncomfortably with the Bill as a whole, and especially with the specification of exit day. We are being asked to fall into a black hole and trust Ministers to get it right—which on current experience is not a very wise thing to do.

The amendments have been described as probing, but answers from the Government—I am sure that the Minister is about to give very precise answers—will be very helpful to our understanding of how the jigsaw will fit together. At the moment it all looks far too uncertain for anyone to be comfortable.

Baroness Hayter of Kentish Town: My first question to the Minister is: why did the Government slot in the calendar date at Committee stage, when that was never foreseen in the original Bill? Was it for some good legislative reason, or was it, as my noble friend Lord Hain suggested, to satisfy a certain hard Brexit group of MPs sitting on the Prime Minister's shoulder, rather like the 60 who have been writing her helpful letters today? It certainly looks as if this was more to do with party management, in the words of the noble Lord, Lord Triesman, than being in the national interest, which we have been advised should control everything we do.

Secondly, I ask the Minister to comment on the point discussed a few moments ago—the exact wording of Article 50. The Bill as it stands would allow the date specified to be extended in exceptional circumstances, but this probably deals only with the possibility of an extension to Article 50, which, as the noble Lord, Lord Kerr, has said, provides:

"The Treaties shall cease to apply to the State in question"—

that is us—

"from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification … unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period."

The date could be amended in accordance with what is in the withdrawal agreement. We indeed might come to an agreement that, for some other reason, chooses an earlier or a later date. Or we might want to amend the date if the withdrawal agreement were not finalised. On the evidence of negotiations so far, it is quite unlikely that this divided Government, seeking to negotiate something which, I have to say in all fairness to them, has never been undertaken before, will keep to their timetable. They should therefore want the flexibility.

There is another issue. Even if we had a deal, what would happen if the European Parliament voted it down? I understand that that vote could be as late as one year from now; it could be as late as February 2019. And the European Parliament has the right to vote any deal down. Guy Verhofstadt told Andrew Marr at the weekend that a thumbs down from the European Parliament meant exit with no deal. So if in a year's time the Parliament were to vote a deal down, I assume that we would be out a month later, on WTO terms with no transition deal, which would also mean no safeguards for EU citizens—either ours living in EU countries or theirs living here. I do not think that the European Parliament would do that, but my judgment is that if it did, the 27—or indeed the 28, with our Government as well—would speedily get themselves into a room and row back from that. I cannot imagine that we, or they, would want to be in that position. Again, that would mean a change in the date, so the flexibility needs to be there.

8.15 pm

Furthermore, it looks as though the present let-out provision would not be enough to cover an equally fundamental, but less pressing, issue—which is whether there is a single exit day. To be fair to the Minister, I shall use the word "implementation", because he does not like the word "transition". If the implementation phase is as we envisage it, and we will be within the single market and the customs union, and under the jurisdiction of the European Court of Justice, a single exit day for all purposes is completely unworkable. On 29 March Clause 6 would remove us from being under the ECJ, yet obviously we would continue to need it in the transition period, not least for the EU citizens who, under the original wording of the agreement, although not in legal terms—I have not seen the letter that has come out today—would be able to go to the ECJ during that period. But the exit day would, of course, exclude that, because it ends any ability for us to use the ECJ.

I must say that as I approached today I was rather against my colleagues' amendment, for the obvious reason that the trade union of thee and me does not want another Brexit Bill. However, I do find their arguments immensely persuasive. We will come back to this matter, because we have tabled amendments to Clause 14 to remove the date from the Bill and put things back as they were—but as I say, I find some of the arguments for the amendments immensely persuasive.

[Baroness Hayter of Kentish Town]

Lord Callanan: I am sorry to disappoint the noble Baroness, but we will be having a number of Brexit Bills, not least of which will be the withdrawal agreement and the implementation Bill, once we have reached agreement. I shall endeavour to respond to all the questions that I have been asked.

Repealing the European Communities Act is an important step to ensure that there is maximum clarity on the law that will apply in the UK after we leave the EU. I cannot see the sense in needing a separate Act to repeal the European Communities Act. This repeal in Clause 1 is front and centre of the Bill; indeed, this Bill was originally called the great repeal Bill. To prevent this Bill from repealing the European Communities Act would undermine perhaps the most important part of it.

I suspect that I have read the intention of the noble Lord, Lord Adonis, correctly when I say that he would prefer the European Communities Act to be repealed in the withdrawal agreement and implementation Bill that was announced by the Secretary of State in November. That Bill would then deal with the implementation period and our relationship to EU law during that period. This may be founded on the misconception that, if Parliament does not repeal the European Communities Act and appoint an exit day, that will somehow prevent the UK exiting the EU. If that is the case, I am sorry that I have to disappoint the noble Lord: our leaving the EU is a matter of international law, and we are leaving no matter what is or is not done to the European Communities Act.

I will address the noble Lord's question about exit day and procedure. What will become Section 14(4)—currently Clause 14(4)—could be used to change the exit day in the Bill only if the Article 50 period were to be extended; it could not be used to prevent us leaving the EU. That is a matter of international rather than domestic law. The exercise of Section 14(4) to alter the exit day in domestic law in accordance with Article 50 would be subject—in answer to the noble Lord, Lord Tyler—to the affirmative procedure in both Houses. I will give more detail on that in a minute. We do not expect to use this power and we are leaving the EU on 29 March 2019.

The noble Lord, Lord Hain, and the noble Baroness, Lady Hayter, asked further questions about our exit day and the amendment. In the other place we tabled an amendment which set exit day in order to provide certainty and clarity, and we accepted further amendments on the issue, again to provide further clarity. The amendments set the exit day in the Bill as 11 pm on 29 March 2019, while retaining the technical ability to amend the date at a later stage. As I said, that can happen only if the European Council—including the UK, of course—unanimously decides to change the date on which the treaties cease to apply to the UK, as set out in the famous Article 50. We do not intend this to happen.

I will give the noble Lord, Lord Tyler, more detail on his point. Any change to exit day in domestic law under the power of what will become Section 14(4) will be by the affirmative procedure, guaranteeing a vote in both Houses. The affirmative procedure in this instance is provided for in paragraph 10 of Schedule 7.

Providing for the date of the repeal of the 1972 Act in the Bill that implements our withdrawal agreement might seem tidy in certain scenarios, but it would put the legislative cart before the diplomatic horse in what I feel would be quite a dangerous way. Both the withdrawal agreement and the implementation period are, of course, still matters for negotiation. This Bill, being agnostic on the negotiations, is designed to prepare the statute book for our withdrawal. I say to the noble Baroness, Lady Hayter, that there will be additional legislation to implement our withdrawal agreement. As I said a moment ago, this Bill is designed to implement the clearly expressed will of the British people to leave the EU, and therefore the date of repeal is set at the point that the UK will fall out of the Treaty on European Union and the Treaty on the Functioning of the European Union.

There are many demands on parliamentary time, as we know to our cost, and this is the Bill that will prepare our statute book for exit. The amendment would force the date of repeal into the agenda of another Bill. This is the right time and place for the debate on the repeal of the ECA, and the debate should incorporate all the additional context and provisions necessary for a smooth exit. Indeed, if we did not reach an agreement and the second of the noble Lord's amendments were agreed, we would be in a state almost of paradox. To repeal the ECA, the Government would be compelled to enact a statute for the purposes of Clause 9(1) of the Bill—a clause which itself is predicated on the existence of a withdrawal agreement. So we would be forced to enact a statute enabling us to approve the final terms of the withdrawal agreement and set the date of the repeal of the European Communities Act without such a withdrawal agreement existing. That is too much of a logical conundrum to ask any Bill to bear, and not an acceptable way to go about legislating.

Clause 1 will provide certainty to businesses and individuals that the European Communities Act will be repealed on exit day. Any attempt to change this while negotiations are ongoing would lead only to a lack of clarity on the law that will apply in the UK after we leave the EU. This would run counter to the primary aim of the Bill, so I hope that the noble Lord will be willing to withdraw his amendment.

Lord Tyler: I am grateful to the Minister for seeking to clarify the point about process, and I take on board what he said about paragraph 10 of Schedule 7. But will he give an absolute undertaking to the Committee that there will be no attempt to accelerate the process? I think he would accept that, if the Minister in this case were seeking to do something at speed, for expediency's sake—surely that would be the only circumstance in which it would be necessary to change the date—it would be extremely difficult to give both Houses of Parliament advance notice and the usual time for consultation. Is the Minister giving us an absolute undertaking that the normal process and timescale will apply and that there will be no attempt to accelerate the process?

Lord Callanan: Yes, I am giving the noble Lord an assurance that the normal timescale of the affirmative procedure for statutory instruments would apply in this case.

Lord Adonis: My Lords, I am very grateful to the Minister and to all noble Lords who have spoken. We will need to study the Minister's statements with care before we decide what course to take on Report.

If I may, I will echo the remarks of the noble Lords, Lord True and Lord Patten, about the Good Friday agreement. I fully recognise the huge contribution made by many noble Lords on all sides of the House in negotiating and taking forward the Good Friday agreement. I was very reassured indeed to hear from the noble Lord, Lord True, who from my experience of him in this House I take to be on the right of the Conservative Party, that not all of those on the right of the Conservative Party are turning against the Good Friday agreement. I take that to be a commendable statement, and hope that he manages to persuade his colleagues, including former Ministers, who are starting to call for an end to the Good Friday agreement that that is not an appropriate course. I beg leave to withdraw the amendment.

Amendment 2 withdrawn.

Amendments 3 and 4 not moved.

House resumed. Committee to begin again not before 9.27 pm.

Volunteering

Question for Short Debate

8.28 pm

Asked by ***Baroness Armstrong of Hill Top***

To ask Her Majesty's Government what action they are taking to promote the importance of volunteering.

Baroness Armstrong of Hill Top (Lab): My Lords, I am grateful to be able to have this debate this evening on volunteering. I am touched by the number of other noble Lords who wish to speak. I am sorry that they have been allocated only two minutes, but I was beginning to think we were not going to get anything.

Every day, all across the world, millions of people give up their time in the service of others. Across our own country, school governors, magistrates, charity trustees and thousands of others make an invaluable contribution to public life, which is often hidden from view. Volunteering is the glue that holds together many of our communities. It helps to build a vibrant civil society and, along with that, more social cohesion, well-being and social capital. Volunteering has certainly enriched my life, and several of the charities that I am now involved with are blessed with volunteers who contribute to their work but also help to hold the charity accountable and feed into its culture.

This week is student volunteering week and Changing Lives, the charity that I chair based in Tyneside, works widely with people with complex needs. We have great experience of students volunteering and sometimes then becoming sessional workers, or even working full-time for us—a side of students that does not often hit the news.

When I was 21, I spent two years volunteering in Kenya with Voluntary Service Overseas. The experience was life-changing for me. One thing that it did was to make it very clear that you really can make a difference—you just have to decide that is what you are going to do. I have been re-involved with VSO over the last 10 years in various governance roles. My experience is not unique. VSO recently surveyed over 3,000 of its former volunteers from across the globe to find out more about the long-term impacts of volunteering. Over 80% of them said that their experiences had made them more confident and resilient, and 50% of them were more socially active as a result of volunteering, contributing more to their local communities when they returned from their placements.

In drawing up the sustainable development goals, the UN recognised the importance of the vital contribution of volunteers to the delivery of those goals, which all nations, including our own, have signed up to. The Institute of Development Studies at the University of Sussex did some ground-breaking research over two years with VSO which looked at the specific ways in which volunteers make a contribution to international development. This research found that there is a special role that volunteers as outsiders play. They can bring new ideas which spark innovation within the organisation and within the community. Volunteers inspire change, not just by what they do but by how they do it, through building trust and social capital. That helps to strengthen local ownership of the work, meaning that there is lasting change after the volunteers leave.

Volunteers can help to challenge some deep-rooted cultural practices and attitudes; for example, on gender equality—is that not something we still need today? Volunteers also help to get to places that others cannot, to extend and improve the reach of public services. Cath Nixon, a public health nurse from Manchester, spent two years in remote communities in Nepal training community health workers and supporting local women's groups to advocate for better local healthcare, meaning that those communities could, for the first time, receive treatment locally rather than having to walk for several hours to the nearest clinic. That is but one of many examples that I could give; sadly, we do not have the time.

Finally, the research found—and I do not think that this will be a surprise to many in this debate—that volunteering is often the first step that people take towards becoming actively involved in their own communities and societies. It is often the beginning of a long journey of social action and active citizenship. There is a UK government-funded programme for young people that brings all these elements to life called International Citizen Service, which enables young people from the UK together to volunteer alongside young people from developing countries for three months. The programme has proven to be a great success both for the communities where the volunteers are placed and for its lasting impact on the personal and professional development of the young volunteers who take part. In Bangladesh, ICS volunteers have worked with the local community to set up child marriage prevention committees, stopping many young girls being married off at a young age. In Nigeria,

[Baroness Armstrong of Hill Top]
volunteers have helped to get out-of-school children back into education, while in Kenya a team of all-deaf British and Kenyan volunteers has been teaching sign language and helped to challenge stigma, meaning that, for the first time, deaf children can communicate with their classmates.

The programme is helping to forge lasting friendships between young people around the globe. Many Ministers of Health, Education and Finance around the world fondly remember being taught by the first cohorts of VSO volunteers in the 1960s and 1970s. I can predict that many future politicians, entrepreneurs and leaders around the world will be formed from this cadre of young national volunteers who have taken part in the ICS programme. The Government are currently looking at the options for what they will do with the next phase, and I hope very much that they will continue to recognise the lasting benefits that it can deliver. Some 99% of returned volunteers say that it was useful to their personal development; 74% attribute their current career plans to their experiences with ICS, and two-thirds remain actively involved in volunteering a year after their placement ends. There are, of course, other steps that could be taken by the Government to make volunteering easier, and I am sure that other speakers will deal with some of what is in place in this area, as well as the recent reports which have been produced. I want in particular to thank the organisations that work with young people. I have had a good briefing from vinspired and am only sorry that I do not have time to include more about its work.

Changes to the benefits system have created additional hurdles for those who may wish to volunteer, particularly people living on housing benefit, who risk losing access to their accommodation if they volunteer on programmes such as ICS. More work needs to be done with the Department for Work and Pensions to recognise the valuable impact that volunteering has on the skills development of young people, and that this message is filtered down to jobcentres. I was pleased to learn that the Secretary of State at DfID will be taking this up. For volunteer doctors, re-registering with the GMC upon their return can be a challenge after a long stint out of the UK, and we need to deal with that.

Volunteering is a very practical way for each of us to live our commitment to social change. So many of VSO's volunteers, whatever their age or nationality, volunteer because they choose to take part personally in the change in society and the world they want to see. I will finish with just one challenge: for those journalists who have rightly brought to our attention the bad things some involved in charities have done. I say this to them: come and volunteer, and help to develop a culture that is open and accountable in these organisations, and find and contribute to the good things that people are involved in.

8.38 pm

Lord Hodgson of Astley Abbotts (Con): My Lords, the House owes a great debt of gratitude to the noble Baroness for giving us the chance, albeit briefly, to debate this matter. I am aware of her work with VSO and indeed I took part in the International Citizen Service in Tanzania and saw the terrific work it is doing. I also want to underline all the points she has made about the interaction with the Department for Work and Pensions.

During my remaining 100 seconds I would like to focus on the role of volunteering in getting unemployed people back into work. It is pretty hard for us here tonight to understand or fully appreciate the way that unemployment can sap the self-belief of individuals and replace it with a sense of hopelessness, and as a result the self-discipline needed to obtain and hold down a job in the commercial sector can ebb away. That is where voluntary groups can definitely help by giving these unlucky individuals a chance to re-enter the world of work from the shallow end of the pool, so to speak. That is extremely helpful to them and to society. What is not to like about that?

The role of the Department for Work and Pensions is, as the noble Baroness has said, absolutely critical. The guideline which states that someone can spend up to 50% of the time that is supposed to be used looking for work on volunteering without loss of benefits may appear very clear from the Olympian heights of Whitehall, but it is much less clear on the ground. When you get to individual jobcentres around the country, often the message has become more blurred. The concern among unemployed individuals that volunteering can put at risk their entitlement to universal credit and other benefits needs to be allayed. It can be allayed only if every—and I mean every—staff member in every jobcentre is properly briefed and trained.

When he comes to reply to the debate, I hope my noble friend will understand the importance of this and the points made by the noble Baroness about the Department for Work and Pensions as regards the ICS, as well as reassure the House that these issues will be tackled. They require constant attention because staff turnover means that, very often, they are not aware of what can be done and allowed; in those circumstances, unemployed people are worried about volunteering.

8.40 pm

Baroness Janke (LD): My Lords, I too am grateful to the noble Baroness, Lady Armstrong, for giving us the opportunity to speak about volunteering.

In my city of Bristol, volunteers make a crucial contribution. As the noble Baroness said, volunteers inspire creativity and inspire people to change their behaviour: through mentors, as volunteers, as health champions and as volunteers growing produce on green space and selling it at reduced rates to encourage people to eat more fresh and healthy foods. There are cycling projects and projects that encourage people who are victims or in recovery to mentor other people and give them the understanding that they need; that happens particularly for people with multiple problems, such as drug and alcohol abuse and mental health problems. I would be happy to provide details for one of those projects, but obviously we do not have the time.

I am sure that across the country there are lots of ideas for creative, imaginative and transformative projects. In the recommendations of its report, *Stronger Charities*

for a Stronger Society, the Select Committee on Charities talks about the development of regional context to address the local needs of people more closely, as well as provide more transparency of governance and perhaps more accountability. With the accent now on devolution to city regions, I wonder whether the Government might look at how this could help to get more volunteers—for example, whether it could be part of the local agreement with government. One example would be incentives to get more employers to give time off for volunteering—only 30% do so at the moment—and to increase the number of retired volunteers through post-career advice. Many retired people say that they would love to volunteer but they just do not know how to get the information and get into the right organisation.

We could also encourage more innovation. As I said, my city has plenty of imagination, creativity and enthusiasm, and I am sure that there are cities and regions like it across the country. I hope that we will build on that.

8.42 pm

Lord Freud (Con): My Lords, I add my thanks to the noble Baroness, Lady Armstrong. I want to draw the attention of the House to my entry in the register as a trustee of the Jecda Foundation. Over the last nine years, we have been steadily building an initiative to organise older volunteers to mentor children leaving care. We have called this initiative "Grandmentors". It is intended to try to replicate the relationship that a grandparent would have with a youngster as they make their way to independence—finding education, housing or a job. The grandmentors support the children leaving care between the ages of 17 and their early 20s. This group represents the most vulnerable youngsters in our society. They have no hinterland of relations and nobody that they trust to talk to as they face the difficult choices involved in becoming an independent adult. That is the role of the grandmentor in our initiative. We have been working with Volunteering Matters, which I believe is the largest volunteering group in the country. Nesta also supports the initiative. We are now established in four separate local authorities and are starting up imminently in two more.

What have we learned? First, it is very hard to get to the youngsters who need the help the most. The solution that we eventually developed was to embed a worker in the social services department. Getting the right kind of money is hard. Both charitable donations and government grants can often be quite short term. For the Grandmentors project, continuity is vital. We need a three-year horizon to make sure that we do not let youngsters down just when they have found someone they can trust. Measurement of outcomes is vital. This is an area where volunteering initiatives often fall short. I am pleased to say that Volunteering Matters is making great strides.

Finally, this relationship really does seem to work. Jumping a generation means that the grandmentor is less judgmental and more supportive. We have seen some wonderful outcomes as a result. In conclusion, the paradox of volunteering is that, like anything else in the modern world, if it is to be effective it needs to be run with great professionalism.

8.45 pm

Lord McConnell of Glenscorrodale (Lab): My Lords, I draw attention to the entry in the Lords' register under my name as chair of the McConnell International Foundation, partly because we are currently in the middle of our annual round of support for the Livingstone volunteers, named after David Livingstone, which seeks to support disadvantaged young Scots in international volunteering, giving them the same chance as those who come from better-off or more advantaged backgrounds. I will say something very briefly about full-time volunteering and international volunteering.

Full-time volunteering can make a huge difference to the lives of young people. Volunteering generally benefits society and creates stronger communities, but full-time volunteering can be, as the noble Lord, Lord Hodgson, said, that step into work and better opportunities that can make such a difference for a young person, especially one who has been discarded in some sense in their teens. It is essential that the department responsible for social security continues to work hard to try to ensure that every young person will have the right to take part in full-time volunteering without being disadvantaged from any benefits that they might otherwise have had. When we set up Project Scotland back in 2005 we had ongoing problems with the department on the subject. I know that the National Citizen Service has had teething problems on this as well. I hope that the Government as a whole will provide as much support as they can.

International volunteering should not just be for those who can afford it or those who come from backgrounds where there are connections in that world. Supporting young people to have a chance to broaden their horizons and contribute internationally is an enormous opportunity that should be seized. The ICS has played a great role in this. I would welcome a statement in the Minister's summing up on the timetable for the review of the International Citizen Service, mentioned by my noble friend Lady Armstrong, and when we will see some decisions on the next phase of that scheme. It takes about 12 months for a young person to apply, take part and follow up afterwards. The scheme is due to end in April 2019.

8.47 pm

The Earl of Sandwich (CB): My Lords, I have been saddened and puzzled by the scandal that engulfed Oxfam last week and affected some of the other aid agencies. It has vast implications for volunteers worldwide. I have worked with several aid agencies and this makes me naturally defensive of Oxfam, though I fully appreciate the gravity of the charges. But I also feel indignation against those in the media and government who climb on their high horses and create the impression that the practice is widespread. It is not. The outcry, as Oxfam's CEO has said, is far out of proportion to the problem. But of course it does provide a good opportunity to re-examine standards of behaviour in charities. There has to be a review at both DfID and charity level.

There is a wide divergence of individuals involved in aid giving. In times of crisis, trust and friendship may be stretched to the limit. When it comes to moral standards, we here assume an international code that simply does not exist: every community has its own

[The Earl of Sandwich]
culture. The phrase "voluntary agencies" is less used now precisely because standards and regulations have been introduced that do not always apply to volunteers. While you can insist on standards upheld by staff it is nearly impossible to expect the same degree of responsibility of other related groups and partner organisations, and of the individuals who may be best placed to help.

Finally, in our family home in Dorset we have 17 wonderful volunteers. If we did not have them—they are retired teachers, NHS staff and others interested in heritage—we simply would not survive as a business. It has become part of their life. We learn a lot from their wisdom, acquired knowledge and skills in looking after people. These are skills needed all over the world. We know that the need worldwide is enormous—6 million children live in areas of conflict. Volunteers, alongside aid workers, are essential in meeting that need.

8.49 pm

Baroness Neville-Rolfe (Con): I am delighted that the noble Baroness, Lady Armstrong, has secured this fascinating debate on volunteering, which has been part of my life from an early age. My mother worked for many years as a mental health volunteer. I remember helping her in the charity's shop in Salisbury and, best of all, painting and decorating halfway houses for mental patients coming out of care, freeing up beds for others. I still give my clothes to the successor shop and I recollect that one of her biggest problems was with the Charity Commission, which was slow at approving the purchase of these halfway houses. I used to walk for Shelter at school and, as part of my charitable work at Tesco, ran—or tried to run—for 11 years in Cancer Research UK's Race for Life, as part of an effort that raised more than £400 million.

These examples show, first, the value to the individual of charitable engagement. We learn new competences or, as my noble friend Lord Hodgson said, get back into work. Secondly, they show the substantial sums of money that can be raised, especially with the backing of a big corporate. Companies can also move very fast. I remember being the first donor to the Thailand tsunami, allowing the Red Cross to fly out immediate supplies. Thirdly, volunteering is good for us morally: it is good to think of others and often good physically as well.

Finally, I want to talk about the Trussell Trust, based in Salisbury. It provides food banks, and I first came across the trust in Liverpool in the wake of the financial crisis. It relies heavily on volunteers and I have seen moving testimony of the positive effect that volunteering has had on them. What the trust does, in a no-nonsense, modest way, is provide support for those who suddenly fall into real difficulty, such that they and their dependants cannot see where to go or where the next meal will come from. It has branched out, but that is its fundamental purpose.

We should admire the extensive efforts made by many people in volunteering to help others. We need more engagement in volunteering and in charity work by more people. They will enjoy it and bring in valuable funds. But practical enthusiasm from individuals is the single most important thing we need.

8.52 pm

Baroness Warwick of Undercliffe (Lab): My Lords, in thanking my noble friend, I recognise her huge commitment to overseas volunteering. It is a commitment I share, and I strongly support her comments today.

In my few words I want to reinforce two points that I made earlier this year in the debate on the contribution that charities make to civil society. First, however, I want to recognise volunteering work in our universities, since we are halfway through national student volunteer week. I declare an interest as a council member of Nottingham Trent University. At NTU, students and staff are actively encouraged to volunteer in both local and global communities. The communities benefit and the students benefit and acquire broader employment skills. Volunteering promotes social mobility. As NCVO reminds us, young people who volunteer are better prepared for the world of work. At NTU, students from low socioeconomic backgrounds are particularly encouraged to volunteer, since the university's own research shows that students who volunteer considerably outperform non-participants. For NTU staff, the university gives time off for volunteering work—for example, as charity trustees or school governors—which makes a significant contribution to their development and direction, while also helping to develop higher-level skills.

Statutory time off is my wider point. The Charities Select Committee's recent call for consultation on statutory time off for charity trustees seemed to fall on deaf ears. Putting trusteeships on the same footing as other public duties, such as school governorships or magistracy, would broaden the range of people volunteering and would increase diversity and take-up. It would help smaller charities. Can the Minister tell us whether the civil society strategy's listening exercise will reconsider this issue? Will the strategy consider how the Government can support employer-backed volunteering? Employers have a role to play in encouraging people to incorporate volunteering into their lives, and further government support would make a huge difference. Let us reduce barriers to volunteering to ensure that more people can contribute to their communities.

8.54 pm

Viscount Brookeborough (CB): My Lords, I, too, thank the noble Baroness for introducing this subject. I declare an interest as a lord-lieutenant and therefore involved with the Queen's Award for Voluntary Service. I will talk about recognition and people understanding the importance of the volunteer. We are a country of volunteers—17 million of them.

The Government should concentrate on improving existing mechanisms for promoting the importance of volunteering, and not invent new ones. From my practical experience, I have some simple suggestions. The QAVS team in DCMS is two people. The Government should increase this to five, as for the Queen's Award for Enterprise, which is roughly the same sort of award. The Queen's Award for Voluntary Service was introduced to reward groups, including those with as few members as three. However, the assessment criteria are now too complicated and result in many more awards to larger volunteer groups rather than to smaller volunteer groups, which is what the award was largely designed for.

Awareness of the QAVS is not widespread, even in more obvious instances. This is an issue for the Government.

The National Council for Volunteer Organisations—the NCVO—sent out a brief for this debate. I contacted the sender and he was unaware of the QAVS. I went with a committee to Toynbee Hall recently and the people there were unaware of it. The NCVO runs the annual Volunteers' Week in early June. Few of the public and only volunteer organisations registered with it seem to be aware of that week at all. Why do the Government not sponsor cheap sticky badges like cancer charities or the RNLI do to be worn during that week and raise the awareness dramatically? We do not raise it when we are talking about Brexit and other things. But that is volunteer week.

I draw the Minister's attention to the Uniting Communities programme run by the Department for Communities in Northern Ireland, which is incredibly important. In a nutshell, it is developing groups of 16 to 24 year-old volunteers from very difficult surroundings and backgrounds to be recruiters and mentors of volunteers in the future. These suggestions are all low-cost, especially when you take into account that in 2014 the Office for National Statistics estimated the value of volunteers at £23 billion. That is 1.3% of GDP.

8.56 pm

The Lord Bishop of Newcastle: My Lords, let me tell your Lordships about Benwell in the west end of Newcastle. It is one of the most deprived areas in the country, with 37% of children living in poverty. It is home to one of the largest food banks in the UK, which featured in the Ken Loach film, "I, Daniel Blake". In his film, Loach deliberately used the real-life food bank volunteers as extras. Kathy, committed volunteer and a reader in her church, featured in the film. Kathy volunteers at the food bank because she knows what it is like to be hungry. She volunteers at the citizens advice bureau because she knows how complicated the benefits system is. She volunteers in the local school because school was one of the few sources of hope in her own difficult childhood.

Kathy is not a one-off. Just down the road from the food bank, at St James Church, Pat, Anne and Elsie have all been awarded MBEs for volunteering in their local community. Benwell is not a one-off. The Church Urban Fund *Church in Action* survey shows that it is churches in the most deprived areas of our country that are the most active in contributing to social action in the community. Kathy, Pat, Anne and Elsie and many, many others like them make the most extraordinary impact in the communities they serve. But something else beyond that happens, too: volunteers themselves have their lives transformed, growing in confidence and a sense of self-worth. The asylum seekers who volunteer at the food bank are not allowed to work for money but they do know the dignity of making a difference in the community.

This month, the north-east is celebrating the 20th birthday of the "Angel of the North". To mark this, Newcastle diocese has launched a My Angel of the North campaign, asking for nominations to recognise and honour the unsung heroes in our communities. I hope the Minister will be able to reassure us that the Government will do all they can to honour and resource our volunteers, especially those in our most deprived communities.

8.58 pm

Lord Colgrain (Con): I, too, thank the noble Baroness for introducing this debate. I refer to my interests in the register as a trustee of a number of charities. I am sure we are all in agreement in recognising that the level of volunteering taking place is a measure of our society's moral and spiritual well-being. We can measure it in many ways, for which, sadly, this short debate does not provide sufficient time. So how can we promote its importance?

Promoting volunteering is best done early. Requiring schools to have their young people do more community service will make them more aware of the existence of and need for charities. It could foster a lifelong involvement and this might encourage their parents to become involved as well. The National Citizen Service programme is a positive step in this direction, but I feel that it could be increased in its time commitment and the age of its participants. Can the Minister give a figure as to how many active NCS participants there are currently and how this compares to the figure forecast for 2018?

We need to recalibrate Kennedy's,

"Ask not what your country can do for you—ask what you can do for your country",

to try to persuade people that it is incumbent on everyone to put something back into society and not always instinctively look to the public purse. There is sometimes a negative view of volunteering: that it is a cheap alternative to public or private sector jobs. But with our demographics being what they are—fewer working people supporting more retired people—we must encourage more of the over-60s to volunteer in some way. Can we not give some sort of tax credit against the evidence of their so doing—a credit, incidentally, that they would not have to exercise if they are not so inclined and feel it conflicts directly with the fundamental credo of volunteering?

On the level of self-esteem, come the time of the next 10-year census can we not ask the Government to include a work category of volunteer? It will assist the authorities in having a more accurate number of those who are giving of their time freely, and give individuals the private satisfaction of having some official recognition of their contribution. If I may finish on a personal and most positive note, during my year as high sheriff I had occasion to ask people, the majority of whom I had not even met, to help with a wide range of voluntary activities. I never experienced a refusal.

9.01 pm

Lord Mawson (CB): My Lords, the Queen Elizabeth Olympic Park volunteering programme, Park Champions, started as a result of wanting to harness the spirit and energy demonstrated by the Games makers during 2012. I must declare an interest as a director of the London Legacy Development Corporation and as the chairman of its regeneration and communities committee.

We have used this programme, which has involved many hundreds of local people and impacted on thousands of lives, to build long-term relationships

[Lord Mawson]
between local people and the new park and place. We have understood that volunteering is a good route, but by no means the only one, to help improve personal well-being and community resilience. We have used volunteering as a pathway towards increased skills and employability. We have focused on first-time volunteers and on ensuring that we offer a fully inclusive volunteer programme, which has low barriers to entry, as well as proactively supporting those with physical disabilities, mental health problems and learning difficulties.

We have purposefully grown a strong network of local volunteers who embody the pride and positivity they feel for their park and this part of London. One hundred and twenty-four of our Park Champions have gained accredited training through their volunteering roles; a further 33 have benefited from employment support and another 36 have gone on to secure employment as a direct result of their volunteering roles and experience. The lessons learned are: first, the value of co-production and of designing the programme with volunteers as much as possible; secondly, the benefit of offering a range of pick-and-mix volunteer opportunities; and, thirdly, the power of "thank you" and a recognition of the importance of relationships. Our Park Champions have become a huge additional team on the park who both care about the place and welcome others. Successful volunteer programmes are all about people and relationships, and a sense of purpose.

Come and spend a day on the Olympic park this spring and see what we have been getting up to in east London since 2012. Your Lordships will see an entrepreneurial response to the issues of Olympic legacy—the most successful legacy in the history of the Games—and I suggest that our approach to volunteers is a clue to this success. There may also be helpful clues here regarding the actions of the public, business and voluntary sectors, and for government, in the actions we all need to take going forward.

9.04 pm

Lord Lingfield (Con): My Lords, I refer your Lordships to my charitable interests in the register. For six years I had the good fortune to be the voluntary director-general of one of this country's major volunteer charities, the St John Ambulance. It was created in late Victorian times for the best of all reasons: it was seriously needed. Life in most workplaces was extremely dangerous and medical help was sparse so there was a great need for industrial communities to practise self-help and learn the techniques of first aid. St John Ambulance personnel are still needed as much as ever today in public places, as they were, for instance, at the Hillsborough stadium disaster which involved St John Ambulance volunteers in my time.

Our fathers' generation retired at the age of 65 and looked forward to perhaps five to 10 more years of active life. Now extraordinary advances in medicine in past decades mean that living to 80 or 90 is commonplace. Our population is therefore becoming older with all the huge difficulties of care that this will bring, and so I believe that we are going to have to learn once again, as did our Victorian forefathers, to look after each other in our homes and communities far more than we do at present, as our health professionals will be even more severely stretched than they are now. There is no better way for this to happen than the development of more voluntary organisations to add to the many excellent ones that we have already in this country.

I have spent a lot of time in recent years visiting schools and FE colleges, and I am always gratified to see evidence of the voluntary work that some of their students do. However, we need a fresh national initiative to bring a new culture of volunteering to schools and colleges. If far more youngsters can be encouraged by their schools to give an hour or so each week to voluntary work in healthcare areas, our society would be better able to meet the great challenges that an ageing population will bring.

9.06 pm

Lord Fink (Con): My Lords, I, too, thank the noble Baroness, Lady Armstrong, for initiating this debate, and I draw attention to my entry in the register of interests as a trustee of several charities. I have listened to the debate carefully and find myself in enormous agreement with virtually everything that has been said. I believe passionately in helping the disadvantaged, and I also believe that while some people can do that through philanthropy and money, others who do not have the means to do that can do it through the gift of time. Most of us should be able to do one or the other and if we are really lucky, both.

In my younger days as a student, I was a volunteer in a youth voluntary group in Manchester. It was probably one of the most worthwhile things I have ever done. It was nothing glamorous. We painted elderly people's homes, tidied their gardens and helped out in schools for the disabled. In many cases, the main thing we did was alleviate loneliness, particularly that of the elderly, who just needed someone to talk to. It taught me that many things that many of us take for granted are not necessarily the case, such as that good health for all and a well-functioning brain and body are not universal but really are blessings, as is the opportunity to be surrounded by friends and family. It also led me to meet a lovely young lady whom I married a few years later. I guess that after nearly 40 years of blissful life together I can safely say that volunteering probably did more for me than it did for the supposed beneficiaries.

Since then, I have continued to volunteer, as has my wife. I look back now and I see that in those days volunteering was relatively easy. There was no real vetting or CRB checks, and while I entirely understand that some subsequent events have proved the need for safeguarding, will the Minister see if there is anything the Government can do to streamline some of the red tape needed to protect the vulnerable, as some of it possibly reduces the level of volunteering, particularly among the young, who tend to do casual volunteering? I have some ideas, but I will share them with the Minister later as time has run out.

My hope is that in my lifetime volunteering becomes normalised across the UK so that everyone can benefit from it in the ways I did and I know my fellow volunteers and recipients do.

9.09 pm

Baroness Barker (LD): My Lords, I congratulate my fellow VSO friend, the noble Baroness, Lady Armstrong, on this debate, and I declare my interest.

The Government's flagship volunteering scheme is the National Citizen Service, funded at the unprecedented level of £1.25 billion between 2016 and 2020 and put on the basis of a royal charter body despite the lack of a convincing case to do so. It is a very controversial scheme about which there are many questions and over which parliamentarians have to exercise a degree of vigilance. I therefore read the NCS Trust's annual report for 2016-17, in which I note that yet again it missed its targets and its very high unit costs remain static.

I have three questions for the Minister. I do not expect him to be able to answer them today, but I shall put them to him and await his answers. First, in 2016-17 the NCS generated a surplus of income over expenditure of £4.1 million. How much of that was from the NCS's government income? How much will be returned to the Government and how much will go into the NCS's reserves?

Secondly, the NCS Trust states that it has access to government databases to allow it to highlight eligible young people. During the passage of the Bill, Parliament was told that NCS would be allowed to send messages and mailings to 16 and 17 year-olds via HMRC. There was no mention of it having access to government databases. Could the Minister explain what form this access takes and which databases are put at the disposal of NCS?

Lastly, another question arising from the annual report: two members of staff, the chief executive and the marketing and communications director, receive remuneration of between £125,000 and £130,000 per annum, while six other staff receive remuneration in excess of £80,000. That is for running a single programme, the majority of the funding for which comes from the Government. How does this represent value for taxpayers' money? This is a very high-profile scheme and it should be able to withstand detailed scrutiny. Given the amount of investment in it, Parliament ought to be responsible for ensuring that that scrutiny happens.

9.11 pm

Lord Griffiths of Burry Port (Lab): My Lords, I seem to have measured out my life in volunteering, and it is with great pleasure that I come to this debate. I thank my noble friend, who is both noble and, as it happens, my friend, for tabling it and giving us this opportunity to speak on the subject.

As I look back over a colourful life, I see the faces of the groups of people who, in such a wide spread of the activities in the voluntary sector, have brought a smile to people's faces and hope to the lives that they live, and a sense of purpose to those helping in this way—school governors; food banks; prison visiting; chauffeurs to hospital appointments; pastoral care; good neighbourliness; homeless, especially the street homeless; hospitals and daycare centres; addiction of various kinds; HIV/AIDS; running a museum; and organising for people who would be lonely on Christmas Day an opportunity to be with others and have some fun.

I could go on: there is the Haiti Support Group and, the one of which I am proud, the Boys' Brigade—of which I am the president, as is recorded in the register—which gives tens of thousands across all the countries of these islands meaningful endeavour and adventure and a great sense of fun and purpose.

I want also to say how proud I am that I am the father-in-law of a young woman who spent three years in Pakistan with VSO; the father of a daughter who spent three years in China and then 10 in Cambodia doing voluntary work much of the time; and the father of a son who has served much time, and indeed is still serving, as a school governor. In all those ways, I can personally testify again and again to the benefits of these activities.

I have two points to make—very quickly, because I see that my time has gone. First, I have noticed that when schemes are begun by volunteers and eventually taken over by professionals, tension emerges. Secondly, when school governors are to become directors of academies, different skills and attitudes prevail. Those are questions that need answering, and I offer them for what they are worth.

9.14 pm

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Lord Ashton of Hyde) (Con): My Lords, I too thank the noble Baroness, Lady Armstrong, for calling this debate on such an important topic and the many contributors this evening. I fear that the length of time allowed was testament to the interest in the subject.

The latest Community Life Survey suggests that nearly two-thirds of adults engage in formal or informal volunteering at least once a year, and 22% said that they had taken part in formal volunteering at least once a month. People volunteer because they want to make a difference to the lives of others, to gain skills or build social networks.

I want to show tonight that the Government recognise the huge importance of volunteering as one way that people can tackle some of the greatest social challenges of our time and contribute to building thriving communities. We recognise the value of volunteering through not only the difference made to those we volunteer for but the improved wellbeing of the people who take on these roles in their community. My noble friend Lady Neville-Rolfe clearly explained the benefits in her speech.

That is why we celebrate inspirational volunteers through Points of Light, the Prime Minister's daily award, which shines a light on volunteering as a force for good. These awards showcase inspirational individuals making an outstanding contribution to their communities and encourages others to follow in their footsteps. We have already celebrated 896 UK winners to date, including, for example 13 year-old Sofia Crockatt, who has raised more than £40,000 for the Meningitis Research Foundation after the charity supported her and her family.

The Government are striving to promote a society where volunteering is celebrated and valued. We support new and innovative ideas for involving even more people in their communities. Since we created the

[Lord Ashton of Hyde]
National Citizen Service, for example—I shall come to the questions of the noble Baroness, Lady Barker, in a minute—more than 400,000 young people have donated 12 million hours of their time to serve others in their communities. We also support Step Up to Serve's #iwill campaign to encourage a lifetime habit of volunteering by providing more social action opportunities for young people from all backgrounds.

The Government are committed to removing barriers to volunteering, and that is why the independent full-time social action review was set up to look at the challenges and benefits of young people committing to full-time volunteering. Those findings are now being reviewed to see how participation can be increased in future. I shall say a bit more about that later if I have time.

Since 2013, more than £36 million has been invested in the Centre for Social Action to harness the power of social action and put it at the heart of communities and public services. The centre supports innovative ideas for bringing volunteering into public service delivery, concentrating on the roles that are shown to make the most impact in a variety of sectors. For example, through the Q-Volunteering programme, volunteers complement the work of clinical staff to ease pressures on the NHS. To help improve the scale and diversity of volunteering in sport, Sport England launched two new volunteering funds worth £6 million to create meaningful volunteering opportunities for people from economically disadvantaged communities.

The Government are also investing in volunteering for older people, which the noble Baroness, Lady Janke, talked about, and provided £7 million of grant funding to charities which are mobilising the time and talents of people over 50 in high-impact volunteering roles in partnership with Nesta. More research is currently being carried out with the Centre for Ageing Better into what barriers to volunteering older people face and what more can be done to remove them.

In the time I have, I shall try to answer some of the points that noble Lords raised. I start with the National Citizen Service, which the noble Baroness, Lady Barker, said was very controversial. I agree with some things she said, but I do not agree with that. I know that she had issues with it and has been very open about that, and I said at the Bill's Third Reading that I pay tribute to her for consistently bringing those points up. I agree that it should be capable of receiving scrutiny. I am very grateful to for saying that I could reply to her points in detail in writing, because we could spend a lot of time talking about the National Citizen Service. I will copy my replies to noble Lords who took part in the debate.

My noble friend Lord Freud talked about Grandmentors. DCMS is funding Volunteering Matters to scale up Grandmentors through the Centre for Social Action. The centre supports organisations to spread their social action projects in a sustainable way, which is an important point. An evaluation is also a core part of all of the centre's grants to grantees so they can effectively measure their outcomes. I shall come to another more strategic issue, which he also says is important, in my concluding remarks.

The noble Lord, Lord McConnell, talked about full-time volunteering. I mentioned full-time volunteering and the benefits that it can bring, and I wanted to say a bit about the full-time social action review, which was published on 31 January. We will set out a response. The report set out the panel's vision for a well-signposted continuous social action journey for young people, of which full-time volunteering is an important fact. It outlined eight recommendations, including for a number of organisations beyond just DCMS. As the Office for Civil Society, we will co-ordinate that across government. We acknowledge that full-time volunteering is an important aspect, both domestically and, of course, as the noble Baroness, Lady Armstrong, said, internationally.

My noble friend Lord Lingfield talked about schools, which will offer opportunities for their pupils to undertake volunteering, often working with national bodies such as Step Up To Serve or by creating their own links with local organisations. The Department for Education also works closely with the National Citizen Service on that, and will pilot a number of innovation pilots within the opportunity areas.

The right reverend Prelate talked about supporting disadvantaged communities, and I can reassure her that we think that is important. For example, the community organisers programme is kick-starting a grass-roots movement for change in England's most deprived neighbourhoods. In this Parliament, Her Majesty's Government have invested £4.2 million in expanding the number of organisers to 10,000.

My noble friend Lord Hodgson has wide experience in these matters, and I acknowledge and pay tribute to all that he has done, even though we have not always done everything that he asked us to. The ongoing interventions in jobcentres are, of course, important. Work coaches carry out diagnostic questioning to understand the claimant's circumstances and, when there is lack of work experience, for example, they may encourage claimants to carry out some voluntary work. All jobcentre staff are strained to be aware of this. But I take his points on board and will bring them to the attention of the DWP—and I note that the DWP Minister was here to hear his remarks.

My noble friend Lord Colgrain asked about the DCMS numbers and participants. Some 75,595 took part in 2015 and just under 100,000 young people in 2017, which did actually miss the target of 101,000. The noble Baroness, Lady Barker, also mentioned targets, and I shall address that in my letter to her. The fact remains that the NCS is still the fastest growing youth movement in this country for over a century.

The noble Baroness, Lady Janke, talked about devolution. The £4.5 million place-based social action programme will create positive change for people, communities and local organisations by creating a shared vision for their place and addressing local priorities through social action, including volunteering. She also referred to older volunteering, which I have already mentioned. The DCMS has invested £7 million to boost volunteering for people over 50.

The noble Baroness, Lady Armstrong, and the noble Lord, Lord McConnell, mentioned the International Citizen Service review. I will have to write to both of them; it is a DfID matter and I am not completely up on that, I am afraid.

I want to finish, if I may, by looking to the future. Civil society has developed significantly over the past decade, becoming more diverse than ever before. We have seen the rise of new ways to fundraise, a greater focus on grass-roots initiatives, increasingly flexible ways to volunteer, the rise of social media and digital and an ever growing inclusive economy. For this reason, the Minister for Civil Society, Tracey Crouch, has announced her intention to deliver a civil society strategy, which will provide a clear vision for the Government's work with and for civil society. We will shortly be launching an engagement exercise which will inform this work. People from all across the country are encouraged to take part in the conversation, whether they are a young volunteer, a charity trustee, a social enterprise employee or an active member of a local community—and indeed noble Lords, who have demonstrated such knowledge and commitment tonight. The strategy will reaffirm the tremendous value that the Government place on this vital contribution and strive to work with and for civil society as a whole to support it in delivering its invaluable work.

European Union (Withdrawal) Bill

Committee (1st Day) (Continued)

9.26 pm

Amendment 5

Moved by ***Lord Foulkes of Cumnock***

5: Clause 1, page 1, line 3, at end insert—

"( ) Regulations under section 19(2) bringing into force subsection (1) may not be made 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 commencement of subsection (1)."

Lord Foulkes of Cumnock (Lab): My Lords, it is a great pleasure to move Amendment 5. I pay particular credit to my good friend, the noble Lord, Lord Elystan-Morgan, who, having thought that we were going to deal with this earlier on—as indeed many of us did—has managed to stay with us right through to this late hour. I think that that indicates his enthusiasm and commitment, for which he deserves credit.

Amendment 5, generally designed to provide consent by the devolved Administrations, would prevent the European Communities Act 1972 from being repealed until legislative consent has been obtained from the devolved Administrations. Effectively, it would give a veto to the devolved Administrations. One or two of my more unionist colleagues have been having a go at me and saying that this goes too far, and no doubt the noble Lord, Lord Forsyth—I was going to say my noble friend—might come in and say that. I am arguing this for the Scottish Parliament, the Welsh Assembly and the Northern Ireland Assembly, which I hope, by the time we get to this, will be back up and working again as effectively as it has in the past and providing an effective voice for Northern Ireland.

I recall when devolution was introduced. I was in the Department for International Development at the time. I know the Minister is a bit younger than me and may not remember all the details—

Lord Bassam of Brighton (Lab): Do not hold that against him.

Lord Foulkes of Cumnock: Yes, he is a good bit younger than me, Steve—sorry, I mean my noble friend. He may not remember this, but Whitehall mandarins and Ministers did not like the idea of devolution. They were losing power from their central departments in Whitehall and opposed it. However, we had strong and effective Labour Ministers, particularly Donald Dewar, my noble and learned friend Lord Irvine and others, who made sure that real powers were devolved to the Scottish Parliament. Whitehall mandarins and Ministers still do not understand devolution. They have not come to terms with the new reality that there is not just one Parliament in the United Kingdom but four and that the others must at the very least be consulted on matters that affect them.

9.30 pm

This Bill has exacerbated the already serious tension that has grown up between the United Kingdom Government and the devolved Administrations. In both Edinburgh and Cardiff, serious concerns have been expressed by all parties, not just nationalist parties, about the balance of power and the effect that the Bill has on the balance of power within the United Kingdom. As drafted, Clause 11, which we will discuss later, gives all retained European Union powers to Westminster initially. Then mandarins and Ministers in Whitehall will decide what powers should be devolved and how they should be devolved. As I say, I do not have the greatest faith in that. The United Kingdom Government argue that in areas such as environmental regulation, agricultural policy, state aid and some aspects of justice and transport, regulations and rules throughout the United Kingdom need to coincide to take account of the United Kingdom's single market. I understand that; there is logic in that as regards certain areas. But why, for instance, does the United Kingdom not want the Scottish Government to deal with pesticides, fertilisers, the composition of mineral water and the tracing of animals, to take a few random examples? What difference would it make if the Scottish Parliament and Government or the Welsh Assembly Government took a different decision from that taken in England in many of these areas?

There are 111 areas to be dealt with. They were all forgotten about, certainly during the referendum. No one talked about them. We know about the bus that went around the country with lies painted on its side. At last, today, a red bus came through Westminster with the truth painted on its side, which pleased those of us who are fighting Brexit to the last breath. However, people's attention during the referendum campaign was concentrated on the bus with lies on its side. These areas were not discussed during the debate on the triggering of Article 50, when they should have been discussed in detail. They have been the subject of apparently fruitless debate for many months between the UK Government and the devolved Governments.

We can legitimately ask why no agreement has been reached. Months and months have passed during which agreement could have been reached. The Secretary of State for Scotland promised that these amendments

[Lord Foulkes of Cumnock]
would be introduced when the Bill was in the other place. But what happened? Nothing; there was no sign of them whatever. That suggests a lack of trust between the United Kingdom Government and the devolved Governments. A reason for failure to reach agreement is the fact that the joint ministerial committees, particularly the joint ministerial committee on the European Union, have not met regularly. The noble and learned Lord, Lord Wallace, will remember that under previous Governments—if my noble friend Lord McConnell were present, he would confirm this—we had regular meetings. I remember when I was Minister of State for Scotland going to a number of these meetings. I also remember going regularly to Edinburgh, with Ministers from the Scottish Parliament coming down regularly to Whitehall, and we had meeting after meeting to discuss things. Maybe there was a little more of a coincidence of interests and understanding between the Scottish Government and the United Kingdom Government then. However, even when there is not a coincidence of interests—and even more in that case—meetings should be taking place to try to resolve that.

I understand that at last—the Minister will perhaps confirm this—the joint ministerial committee on the European Union will meet tomorrow. Perhaps the Minister will give some indication as to whether we might expect to have something positive out of it. We need agreement as quickly as possible. We need amendments to Clause 11 to be tabled soon.

Lord Forsyth of Drumlean (Con): Could the noble Lord indicate whether he thinks that, if the House were to pass his amendment, that would make it easier or more difficult to reach an agreement?

Lord Foulkes of Cumnock: It would have no great effect either way, to be honest. I would like to think that it would have a greater effect on getting an agreement, but I do not think that it will. Other factors will have greater sway. However, no doubt the noble Lord, Lord Forsyth, will have an opportunity to make his usual spirited contribution to the debate.

It is a running sore that these government amendments to Clause 11 have not been tabled. I say to the Minister that we in this House—I hope that the whole House will agree with me on this; I certainly know that the Official Opposition agree with it—should not debate Clause 11 not just until the amendments have been tabled but until the amendments that have been tabled have been considered by the devolved Administrations. It would be entirely wrong for us to discuss Clause 11 without having the views of the devolved Administrations about the amendments that the Government will table. I hope that we will get an assurance from the Minister that we will not have a debate in Committee on the amendments until they have been considered by the Scottish Parliament, the Welsh Assembly and the Northern Irish Assembly, if it is up and running by then.

Lord Hope of Craighead (CB): As it happens, I have an amendment directed to Clause 11. I would have thought that there was an advantage in debating in Committee so that we can at least engage with the Minister and explain the points that lie behind the amendment. Otherwise, if the amendment is simply not pursued in Committee, we cannot come back to it until Report. Therefore, I hope that the noble Lord will forgive me if in due course I move my amendment, which is intended to be helpful. At the end of the day, I hope that the amendment that the noble Lord is pursuing today will become completely academic because the differences between the devolved institutions and Westminster will be resolved. That surely must be the aim, not to keep this sense of tension until the Bill is passed.

Lord Foulkes of Cumnock: My Lords, I have great respect for the noble and learned Lord, Lord Hope, and he is right on this. I will now rethink what I just said. As long as we have not deliberated finally on Report, we need on Report to have the result of the deliberations and the views of the devolved Parliament and Assemblies. The noble and learned Lord has made a good point, which I accept, and I hope that he is right that it will make my amendment ultimately redundant. No one would be happier than me if that were the case. The Sewel convention is that the UK Parliament will not normally legislate—

Lord Warner (CB): I am sorry to interrupt the noble Lord in full flow, but I want to make an intervention that I hope will be helpful in reconciling his position with that of the noble and learned Lord, Lord Hope. There is a precedent for pausing legislation. During the Committee stage of the Health and Social Care Bill, which became the Health and Social Care Act 2012, there were problems with making progress and the legislation was paused. I do not know whether that idea appeals to the noble Lord, but it occurs to me that, when we get to Clause 11 and if there has been no action from the Government, it might be possible to pause consideration in Committee at that point to give the Government sufficient time to come forward with their amendments, having agreed them with the devolved Administrations. I do not know whether he finds that a helpful intervention.

Lord Foulkes of Cumnock: I was not in full flow; in fact, I was near the end, noble Lords will be pleased to hear. That is another helpful suggestion. It shows the advantage of debates in this place—we come up with helpful suggestions. I can only say that I wish that Ministers were as ready to accept helpful suggestions as I am, because this place would work a lot better if they were. To be fair, the Minister of State for Scotland was helpful when we discussed the British Transport Police. He came to this House and said that he would take the matter away and look at it further. One good thing is that yesterday the Scottish Government announced a delay in the implementation of British Transport Police integration. That says a lot for the wisdom of this House; it says a lot for the positive intervention of the Minister; and it indicates that, if we put some pressure on the Scottish Parliament, we can influence it. However, it should also be able to influence us.

As I said, under the Sewel convention, the UK Parliament will not normally legislate without the consent of the Scottish Parliament, although it depends what you mean by "normally". However, this issue is

so material to the work of the Scottish Parliament and indeed the Welsh Assembly and the Northern Ireland Assembly that this is one area on which we should not legislate without their consent. I beg to move.

Lord Forsyth of Drumlean: My Lords, I well remember the debate on the latest Scotland Act. I think that it was Clause 2 that enshrined the so-called Sewel convention. I remember arguing very vigorously that a convention was a convention and it was a mistake to try to incorporate a convention into statute. The then hapless Minister, reading from his brief, explained that "normally" meant that it would not be a problem. Some of us argued from different points of view that the word "normally" was rather vague and that its meaning could end up being discussed in the courts. We were given assurances that "normally" meant "normally", but to argue that it is "normal" for the Sewel convention to apply to our repealing of the 1972 Act is stretching the meaning of the word.

I have great respect for the noble Lord, Lord Foulkes, and I feel very sorry about the position that his party now finds itself in in Scotland. It started off with the slogan that devolution would kill nationalism stone dead, but some of us on this side of the House argued that it would not; it would result in the nationalists getting power in Scotland and using their position in the Scottish Parliament at every opportunity to break the United Kingdom. Fortunately, there is a bit of a backlash in Scotland to the advantage of the Conservatives and unionists. I say to the noble Lord that this is not a unionist amendment; it is an extremely unwise amendment. It gives a veto to the Scottish Parliament, the Welsh Assembly and the Northern Ireland Assembly on United Kingdom matters. The noble Lord said that there are four parliaments in the UK. Yes, there are four bodies in the UK, but there is only one United Kingdom Parliament, and that is this Parliament. It is for this Parliament to implement the results of the referendum. The notion that the Scottish Parliament or the Welsh Assembly would be able to stop in its tracks the delivery of leaving the European Union, following the biggest vote in our history, is utterly absurd and ridiculous.

9.45 pm

If we look at this from a Scottish point of view, as I tend to do, one of the ironies of the Brexit vote, when we are told that in Scotland Brexit was not the majority view, is that the political party with most of its members supporting Brexit was the Scottish National Party—and those 400,000 votes are apparently just to be written off. We all know that the Scottish nationalists use every opportunity to turn everything into a constitutional crisis. Ministers have worked long and hard to reach agreement, and I believe that agreement is there on a way forward. Personally, I do not see how we could write an amendment that could resolve this problem; we shall come to that later in the Bill.

When I was Secretary of State, from time to time I disagreed with my colleagues because there was a particular Scottish interest, whether that was in fishing, agriculture or other matters handled in Scotland under the arrangements. We had a joint ministerial committee, we would argue about the merits and we would reach a conclusion. It seems to me that when we have left the European Union and those powers have come back to the United Kingdom, it would be perfectly sensible to have some kind of administrative arrangement that enabled us to do what we have spent quite a lot of time talking about today, and preserve that single market. The nationalists are saying that they want to remain in the European Union because it is important to have access to the single market—but that single market is about a quarter of the size of the single market that is the United Kingdom. What is at issue here is how we maintain a United Kingdom single market and at the same time provide for devolved responsibilities to be carried out.

I look forward with interest to seeing what amendments may be brought forward, but providing a veto for the devolved parliaments is certainly not the way to preserve the single market.

Lord Wallace of Tankerness (LD): May I ask the noble Lord to cast his mind back to 26 January 2012, when I moved a Motion that the Scotland Bill be considered in Committee, and he moved an amendment that the House,

"declines to consider the Bill in Committee until Her Majesty's Government have laid before Parliament a report on the results of the consultation they launched on 11 January on Scotland's constitutional future and until the Scottish Parliament has passed a further Legislative Consent Motion in respect of the Bill"?—[*Official Report*, 26/1/12; col. 1161.]

He was going to deny a Committee stage on a Bill that contained measures supported in the Conservative, Liberal Democrat and Labour manifestos at the preceding general election. This amendment would still allow the Bill to go forward and become an Act. How does he describe his apparent lack of consistency?

Lord Forsyth of Drumlean: I think I was behaving exactly like the noble Lord, Lord Foulkes. I was using the procedures of the House to make an argument against what I thought at the time was a very bad Bill—and which only this week has meant that people like me are now the highest taxpayers in the United Kingdom, as we predicted would happen. If I may say so to the noble and learned Lord, his point is completely irrelevant to the amendment before us.

The noble Lord, Lord Foulkes, talks about tensions being created in Edinburgh between this Parliament and the Scottish Parliament. There will always be tensions between this United Kingdom Parliament and the Scottish Parliament, as long as it is run by people who wish to destroy the United Kingdom. That is what they are about: using their powers to break the United Kingdom. The notion that we should move in a direction and get ourselves into a position where we need lots of legislative consent Motions simply provides more opportunities for everything to be turned into a constitutional crisis, which is the nature of the SNP. We will come to that later in our consideration of the Bill.

Lord Hamilton of Epsom (Con): Does my noble friend think that the noble Lord, Lord Foulkes, was briefed by the Scottish National Party before he tabled this amendment?

Lord Forsyth of Drumlean: That is highly unlikely, although I am sure that it would welcome this amendment.

The key point, surely, is to be able to retain a single market in the United Kingdom. No one is suggesting not devolving powers as appropriate to the various parliaments and assemblies that make up the United Kingdom, but it has to be done in a way that preserves the single market. The noble Lord, Lord Foulkes, asked why we should not have different rules on pesticides. Noble Lords could ask a farmer who has one half of his farm in Scotland and the other half in England whether it would be a problem to spray certain pesticides in some fields and others in others. It is surely sensible in a single market to have a common view on matters such as that. Or let us take an issue that the Scottish nationalists have been keen on, such as fishing. Some of the Scottish Government would quite like to say that all fish caught in Scottish waters should be landed at Scottish ports. How would that go down with fishermen in the north-east of England or elsewhere who had caught fish in northern waters? How would we enforce proper fishing conservation and other policy other than by international treaty? Treaties are made by countries and so far we have one country, which is the United Kingdom.

There are all kinds of issues that need to be sorted out and the way that they are sorted out is by people sitting down and coming to sensible conclusions, not by putting in the Bill an amendment of this kind, which does not actually strengthen the devolution settlement but undermines it because it gives grist to the mill to those who would destroy the United Kingdom. My advice to the noble Lord is to withdraw his amendment. When we come to discuss the amendments of the noble and learned Lord, Lord Hope, and others, we can perhaps address this issue more fully.

Lord Thomas of Gresford (LD): I wonder if I might add a Welsh dimension. The Joint Ministerial Committee did not meet from February last year until October. During that time, the department was beavering away producing the Bill without any consultation with the Welsh and Scottish Administrations about how the devolution of powers from Brussels would take place. Then we had a model produced in the Bill which even the Government rejected. They told us that they would bring forward an amendment to the Bill before Report in the House of Commons. That did not happen, so they continued to beaver away on their amendment. I do not know whether there have been any discussions since, but certainly up until the week before last, Welsh and Scottish Ministers were saying that they had not been consulted about the package that would now be put forward—no consultation. I gather that tomorrow the Joint Ministerial Committee will meet in Edinburgh, and no doubt the Government will produce an amendment and tell the Committee to accept an amendment on which there has been no consultation or discussion.

At Second Reading, I suggested that the whole devolution area should be taken out of this Bill altogether. There should be agreement between the devolved Administrations and the UK Government, and they should bring back a Bill that would encapsulate that agreement. It would go through both Houses without any difficulty. That would be proper consultation and the proper way to make law. We will come to something like that when we discuss Clause 11, because I have given notice of my intention to oppose the question that it stand part of this Bill. If by the time we get there, which no doubt will be in some weeks' time, there is still no agreement because we have no idea what the reaction of the Scottish and Welsh Administrations will be to what is put on the plate for them tomorrow, then the only thing that this House can do is to take out the devolution principles and proposals in this Bill and bring them back when they have been agreed. There is plenty of time—a month, two or three months, however long it will take—for that process to happen.

Lord Forsyth of Drumlean: I wonder whether the noble Lord could help me, and perhaps help the Government, and suggest what an amendment to this Bill might actually say that would meet his requirements?

Lord Thomas of Gresford: I am not suggesting an amendment; I am suggesting that we take out Clause 11. The amendment being moved by the noble Lord, Lord Foulkes, today is born of frustration; you can see the frustration that is coming from him. Obviously the opposition to his amendment will say, "We can't have this. We can't give Nicola Sturgeon or Carwyn Jones a veto on legislation of the UK Parliament". I understand that. The frustration behind the amendment should put pressure on the Government to get to grips with this issue. Earlier. my noble friend Lady Humphreys was quoting Mrs Thatcher on the single market. Noble Lords will recall that Mrs Thatcher said that there must be action on this and action on that, but with this Government there is no action. Nothing is happening and no decisions are being made with which we can get a grip.

This is one very important decision and it requires agreement from the devolved Administrations. Why is that? It is because if all the powers come from Brussels to Westminster and are then parcelled out as Westminster thinks fit, it gives incredible power to Ministers, particularly if it is done by means of secondary legislation. That gives them enormous power drastically to alter the devolution settlement. I mentioned at Second Reading that the grants which come to Wales—a lot of money comes to Wales—are sent because of need. That is the criterion that governs the distribution of funds for agriculture and for deprived areas. We are used to operating a Barnett formula in devolution terms and there would be nothing to prevent a Westminster Government with all these powers from Brussels from saying, "I think we will go back to the dear old Barnett formula. We will not look at the needs of the nations of this country; we will look simply at the population and distribute money in accordance with the way we have done it up to now". That is the sort of thing that could happen. I am not saying it will, but it could, and it would create resentment and concern for the people of Scotland, of Wales and no doubt of Northern Ireland as well. That is the issue which has to be tackled.

Lord Elystan-Morgan (CB): My Lords, my understanding is that about a fortnight ago an undertaking was given in the House of Commons to the effect that

this matter would be visited and that a suitable amendment would be made to enable consent Motions to be passed by both devolved Parliaments in this matter. It seems to me a matter of a strict undertaking. I do not know whether the Government are in a position to say how soon that undertaking will be brought into force.

Lord Wigley (PC): My Lords, I am grateful to the noble Lord, Lord Foulkes, for moving Amendment 5. I had intended to add my name to it, but then I started to look at the Northern Ireland dimension and how that could be covered. I therefore want particularly to speak to my Amendment 356, which is linked with Amendment 5 and which tries to deal with the unfortunate situation in Northern Ireland. I shall be brief because noble Lords have probably heard enough of my voice today.

At a time when the devolved Governments feel that they are facing what they call, rightly or wrongly, a power grab, surely it is important that the UK Government should carry those Administrations with them in such a major project as this. I listened very carefully to what the noble Lord, Lord Forsyth, said. As always, he was totally consistent, but he must accept that there is a conflict between the perception of a legislative consent mechanism at Westminster—which tends to regard it as a convention, as I said—and the understanding that has developed among the devolved bodies, which see it more as the norm and a mechanism required as part of the legislative process. I understand the noble Lord when he says that there may be parts of the legislative process without it, because of their international connotations et cetera, but when there is an impact, as has been mentioned in certain cases, on the powers coming back from Brussels and going to wherever they go to—Edinburgh, Cardiff and Belfast—then there clearly needs to be a mechanism to sort that out. That is not just at this point in time; that mechanism needs to be ongoing for the future, because I entirely accept that there is a UK single market and that there must be some rules for it.

10 pm

I do not think there is a problem with pesticides. We had incidents in Wales; I think the noble Baroness, Lady Humphreys, will recall this in the National Assembly at the very early stage, when there was the question of GM crops. Exactly the same argument arose: what about the farmer with a farm straddling the Flintshire and Cheshire border? That question arose, but such things could be worked out. There was no great problem. The much greater problem is that there is a perceived unfairness there and no response to it. As the noble Lord, Lord Thomas, mentioned, the UK Government have given the impression that the Bill sometimes overrides the devolution settlements. That causes a reaction in Cardiff and Edinburgh that could have been avoided. There must be some attempt to negotiate some agreement by working together toward a consensus. The Government heralded Brexit as taking back power. The irony is that the settlement, in the light of the treatment of the devolved regimes, is seen by many people in Edinburgh and Cardiff in that context: powers are being taken back, but in the opposite direction.

The amendment gives the Government an opportunity to show in the Bill that they respect the devolved legislatures and, perhaps more importantly, to say how they will bring forward in due course their own amendments that will deal will this issue, which should never have boiled up to the level it is at now. It is the sort of thing that could have been resolved, but because of the lack of conversation and contact, it has become an issue that we are debating tonight.

Lord Wallace of Tankerness: My Lords, I note what the noble Lord, Lord Forsyth, said in response to my intervention. On the occasion to which I referred, the noble Lord, Lord Foulkes of Cumnock, actually supported him in trying to stop the Bill going forward to Committee stage.

I think that what my noble friend Lord Thomas of Gresford said about the sheer frustration that lies behind the amendment—and what the noble Lord, Lord Wigley, said about the lack of conversation—is absolutely true. That has coloured the background to these discussions. It is worth reminding ourselves about the root of some of this frustration. I think it was in October 2016 when, in a plenary session chaired by the Prime Minister, the Joint Ministerial Committee established the Joint Ministerial Committee on EU Negotiations, with the following terms of reference:

> "Working together in EU Negotiations … Through the JMC(EN) the governments will work collaboratively to: discuss each government's requirements of the future relationship with the EU; seek to agree a UK approach to, and objectives for, Article 50 negotiations; and … provide oversight of negotiations with the EU, to ensure, as far as possible, that outcomes agreed by all four governments are secured from these negotiations; and, discuss issues stemming from the negotiation process which may impact upon or have consequences for the UK Government, the Scottish Government, the Welsh Government or the Northern Ireland Executive".

The fact that, tomorrow, the Joint Ministerial Committee on EU Negotiations will meet for the second time in 12 months suggests that these terms of reference, agreed by the three devolved Administrations and the United Kingdom Government, have been more honoured in the breach than they have been in the actual implementation. That is at the source of much of the frustration that we have heard expressed. One hears it: when he was replying to the debate initiated on 25 January, the noble Lord, Lord Duncan of Springbank, said:

> "The important thing is to stress that it is not for want of effort on our part"—

that is, the United Kingdom Government's part—

> "to secure a form of words that would allow the two devolved Administrations and the UK Government to reach a consensus on that point".—[*Official Report*, 25/1/18; col. 1128.]

Yet, if you go to the devolved Administrations, they will say that they have had no communication. There is a lack of communication and there seems to be a complete mismatch with what has been said to us.

It would be interesting if the Minister could tell us yet whether the actual wording of any possible amendment to Clause 11—the Secretary of State for Scotland has accepted that Clause 11 has to be amended; he said that it would be done on Report in the House of Commons, but it was not—has been discussed at ministerial level between the United Kingdom Government and the devolved Administrations. If so, when was that discussed?

[Lord Wallace of Tankerness]
When the Scottish and Welsh Governments addressed a briefing of Peers in late January they indicated that there had been no exchange of wording.

What is even more frustrating is that it does not seem that the parties are terribly far apart. In September last year, the Scottish Government acknowledged in their legislative consent memorandum that there were areas in which there would have to be common UK frameworks. The communiqué issued after the last Joint Ministerial Committee on EU Negotiations in October also set out the areas in which UK common frameworks were necessary and desirable. Both sides have agreed that that has to be done. Why in the world is more progress not being made, or at least why are we not able to see what progress, if any, is being made?

Perhaps the biggest problem here is the fact that it is done behind closed doors. If there were more transparency, we would see who was playing to the gallery and who was trying genuinely to seek a resolution to these matters. There are issues, such as agriculture, fisheries and the environment, where everybody acknowledges that there will have to be some kind of common framework. Let us identify what progress has been made.

We were told this week in newspaper reports that the United Kingdom Government have done a complete reversal. They now say that they will bring forward an amendment that will devolve everything back to the devolved Administrations, but, as it said in the *Times* report from yesterday,

"UK ministers are also adamant they would need to retain a veto over the use of some of these powers until 'common frameworks' are agreed".

Again, in terms of public relations, it is like saying, "Here's one hand; we'll take away with the other". What is the position? If we are to have to make decisions when we come to debate Clause 11, it is important that we know what the relationship is and what each side in these negotiations is saying.

Lord Forsyth of Drumlean: The noble and learned Lord is very clever and experienced at negotiations with different political parties in government. Perhaps I am too stupid, but I cannot think of a way—and I agree with a lot of what he said—to word an amendment that would deliver the result that he suggests is needed. Can he help me? What would an amendment actually say that ensured that there was the kind of continuing co-operation that is needed?

Lord Wallace of Tankerness: My Lords, if the noble Lord will allow me, there is certainly one attached to Clause 11 that has my name on it, as well as the names of a number of other noble Lords. He will find that Amendment 303 sets out a basis for having common frameworks. Indeed, the noble and learned Lord, Lord Hope of Craighead, has one in very similar terms, Amendment 304, which certainly provides a basis for moving forward. We are in opposition. The onus is on the Government to come forward with this. Let us not kid ourselves. The noble Lord, Lord Forsyth, makes a fair point, but it is the Secretary of State for Scotland who promised amendments on Report in the House of Commons. He has made the commitment to amendments, so the onus is not on the Opposition to come forward with these amendments but on the Government.

I hope that when the Minister replies he will tell us what the colour of the Government's amendments will be. In the European Union negotiations, TF50 sets out where each of the parties is and gives us great transparency—where there is disagreement and where there are things that have to be clarified. This whole exercise would benefit from far greater transparency so that we can see what progress is or is not being made, who is holding things up and who is genuinely seeking to make progress. I appeal to the Minister to make a commitment when he replies that, following tomorrow's JMC on the European negotiations, that transparency will become a reality.

Lord Wallace of Saltaire (LD): My Lords, I hope that an Englishman, albeit one with a Scottish name, may be allowed to add something to this debate, because it is depressing for someone who lives in the north of England to hear a debate about how much of a privileged relationship the devolved Administrations should have with the United Kingdom Government, when the north of England is likely to suffer very much from leaving the European Union in terms of the loss of European development funds, and at the moment lacks any sort of forum for negotiation or consultation with the very centralised government of England in order to make its case. I am very conscious that the poorer parts of northern England were among those that voted most heavily to leave and that recent studies have suggested that they are also the regions that are likely to lose most from Brexit.

Amendment 227, when we come to it, addresses the question of how far a new mechanism will be needed for the central government in London to consult with English local authorities. My understanding is that the Local Government Association has been in conversation with the Government on that and that the Government have not yet come to an agreed view. I just wish to give notice that this is a very important point, politically and constitutionally, and when we come to it I hope that it will be given sufficient weight.

Lord Griffiths of Burry Port (Lab): My Lords, this has been a shorter debate than the previous one and I will try to honour the Minister's strictures earlier in the evening and limit my remarks to the Bill and to the issue before us, rather than wander into a premature debate on Clause 11 at this stage. At Second Reading, right at the beginning, while our attention was still good, the noble Baroness, Lady Evans, who introduced the debate, said that it was to be guided by two key principles, the first being the need for a functioning statute book on exit. I pause there to suggest that what I hear from Cardiff and Edinburgh is that there the devolved Governments too want a functioning statute book the day after exit, which is why we need some resolution of these matters, difficult as they may be. Secondly, she said there were to be,

"no new barriers to living in and doing business across the UK".

We have no difficulty there. She went on to say:

"We will shortly be publishing our initial framework analysis".

If the noble Lord, Lord Forsyth, has difficulty with the word "normal", I promise him that I have difficulty with the word "shortly", especially since, on 30 January, "shortly" suggested to me that we would have something before us now, but we have not. As the noble Lord, Lord Thomas, said, perhaps the amendment is born of frustration. All that time that went by without any consultation at all which could have produced something that we could be looking at, leads us to want to put in a caveat that if what has been promised does not materialise, it is serious enough for us to feel that we have to offer something quite drastic to shake people to their senses. It is in that spirit, I think especially at Second Reading, that we must look at this amendment.

The noble Baroness said:

"Noble Lords will be aware of the Government's commitment to bring forward amendments to Clause 11".

Those are her words, not mine. She said:

"This is a complex area"—

she would agree with the noble Lord, Lord Forsyth—

"that we need to get right, and I hope these amendments will put us on the best possible footing to achieve legislative consent"—

her words, which we echo, of course, in the amendment we are looking at—

"which remains our overarching objective".—[*Official Report*, 30/1/18; cols. 1374-75.]

When my noble friend Lady Smith rose to reply to that opening speech, she agreed with those objectives without hesitation and promised that from these Benches we would want to co-operate with the Bill in order to get those agreements in place in time. But where are the amendments? How can we proceed? When will promises be fulfilled? Is it not frustrating—and it is at several stages that I have found this to be happening—that here we are, at this hour of the night, debating this matter, when tomorrow the Joint Ministerial Committee will be meeting? Would it not be lovely if it had met yesterday and then perhaps we could have withdrawn the amendment? But it must stay there until we have a bit more satisfaction than we do.

10.15 pm

The Institute of Welsh Affairs made its own comment, saying that,

"in its current form, this Bill fails to respect the power already granted to the elected governments in Scotland and Wales, and to respect the democratic legislatures in Northern Ireland, Wales and Scotland".

We are all sorry that this debate takes place in a situation where it looks as if we are going to have to make decisions on behalf of Northern Ireland that the Northern Ireland Assembly has not been involved in making for itself. We must all regret that. Cardiff and Edinburgh must do the speaking for the moment. But there is the Institute of Welsh Affairs talking about the lack of respect for the democratic Governments that have been set up for. For 20 years these Governments have been doing their business in areas where now we are told the United Kingdom Government will take things to themselves before deciding how the division of spoils will take place. That just does not seem right. When my two sons were around 20, if I, as the United Kingdom Government, had told them to go back to wearing short trousers, I know what they would have said to me. They would have tabled an amendment exactly like the one we are considering now.

Then the House of Lords Select Committee on the Constitution added its voice, saying:

"The primary concern … is that the devolution settlements must not be undermined".

They are being undermined. The noble Lord, Lord Forsyth, shakes his head. I have seen heads nodding in Cardiff and Edinburgh—not just Scottish National Party heads either. The committee went on:

"While the Government has clarified aspects of how joint responsibility will operate, there remains significant uncertainty"—

if there is one thing I would want to say about all that we have been discussing today, it is the fact that uncertainty, like a bog, sucks us down into itself and is at the heart of the terrain we are trying to explore together—

"as to how and when these joint powers will be exercised. We are left only with assurances from the Government that it hopes to identify quickly … which powers can be transferred";

that is quickly, not shortly. Assurances from the Government are like the grin on the face of the Cheshire Cat and we must be careful that we do not simply bow to auntie—big government—but respect the adulthood, maturity and readiness to do business in the respective regions and countries of these islands, in a better way than we have done thus far.

The Bar Council weighed in, saying that,

"there is force in the concerns expressed by the First Ministers"—

to which the noble Lord, Lord Thomas, alluded—

"and that Parliament should consider carefully whether an appropriate balance is struck by the current proposals or whether it would not be more appropriate, and more consistent with the devolved legislation, to accept the proposed amendments".

Members of the Bar Council are not Members of the House of Lords so they probably do not count.

We come to the last strand of my development of an argument that is on the point, I hope the Minister will agree—he is smiling at me. That is nice; it is the first time I have seen him smiling all day, actually.

In its report, the Delegated Powers Committee said the following. We would not go this far, but it is worth listening to one of its summary proposals:

"The Government should bring forward separate Bills to confer on the devolved institutions competences repatriated",

from the European Union. It also judges that:

"The Order in Council powers in clause 11 and Schedule 3 are inappropriate and should be removed".

As has been alluded to by previous speakers, if we do not have either amendments or framework agreements, or evidence of the fruits of conversation, by the time scheduled for the discussion of Clause 11, I suggest that that discussion should not be taken in the place presently allotted to it but be delayed. When Clause 11 comes before us, I do not want to be saying, "The Joint Ministerial Council is meeting tomorrow". I hope the Minister will recognise that this is not an inappropriate request in the circumstances. With that, I shall simply wait, as will we all before we go to our beds and our Horlicks, for the Minister's response.

The Minister of State, Department for Exiting the European Union (Lord Callanan) (Con): I thank the noble Lord, Lord Griffiths, for his comments and I agree that this matter is totally within the scope of the Bill. I will do what I can to satisfy his requests,

[Lord Callanan]
but I will probably not be able to satisfy all Members of the House. I understand the frustration on this, but let me take the Committee through our position and where we hope to be when the Committee gets to discuss Clause 11.

We have sought legislative consent from the Scottish and Welsh Governments, and it remains our priority to make a positive case in favour of that legislative consent for this important legislation. That is why we committed to work with the devolved Administrations to find a way forward on Clause 11, and to bring forward an amendment in this House. We will debate Clause 11 fully in Committee, and we will table government amendments before then for noble Lords to consider. Although, without an Executive, there is no way to seek legislative consent in Northern Ireland, the Secretary of State for Northern Ireland is working hard to restore devolved government there as soon as possible. We are committed to working to ensure that Northern Irish interests are represented in the meantime. We have explicitly recognised the role of the Sewel convention in the Wales Act 2017 and the Scotland Act 2016. We also have a strong track record on devolution. I make it clear to noble Lords that we are committed to the devolution settlements and the conventions that have been established.

But these amendments go further than Sewel; as my noble friend Lord Forsyth pointed out, they would prevent this Parliament exercising its sovereignty. They would require this Parliament to seek consent to legislate in some cases that are not within devolved responsibility and do not affect devolved competence. We believe in the importance of this Bill, which is in the interests of the whole of the UK, and will work to deliver it together with the devolved institutions. But it is also not right that one part of the United Kingdom can hold a veto over the decision taken, in the referendum, by the whole of the United Kingdom and risk the certainty this Government are committed to providing.

Let me address directly some of the points that were raised. The noble Lord, Lord Foulkes, asked about progress on Clause 11 and the Joint Ministerial Committee. The Scottish and Welsh Governments asked us to work with them to amend Clause 11, and that is exactly what we have been doing. Officials have worked extensively on proposals and Ministers discussed these in their recent bilaterals in February. We have preserved the space to engage in meaningful discussion and sought to reach agreement with the devolved Administrations. We have not yet tabled an amendment precisely because those discussions still continue. Our proposed amendment will be discussed, as a number of noble Lords have pointed out, at the Joint Ministerial Committee on EU Negotiations tomorrow.

In response to the points made by the noble Lord, Lord Foulkes, but also by the noble Lord, Lord Thomas, and the noble and learned Lord, Lord Wallace, we are fully committed to the JMC process as well as to increasing our bilateral engagement between meetings to strengthen relations. Since the referendum, we have had six JMC meetings and, as I have already mentioned, it will meet again tomorrow. In addition, officials are meeting weekly in order to try to take forward the proposals.

Lord Wallace of Tankerness: The Minister said there have been six meetings since the referendum. Given that at the first meeting of the Joint Ministerial Committee on EU Negotiations the communiqué said that they would meet on a monthly basis and that was in November 2016, by my calculation there have been several more months than six since then. Can the Minister tell us how many official meetings took place between February and October 2017?

Lord Callanan: I do not have information about how many official meetings have taken place. I understand that officials are meeting extensively. They are in regular contact. I am told by my officials that contact with officials in the Scottish and Welsh Governments and discussions are extremely positive. That is not the same as getting political agreement, but we are endeavouring to do that. Proposals have been tabled, after extensive discussion, for the meeting tomorrow. We hope there will be agreement. I obviously cannot guarantee that, but we hope there will be. We remain committed to obtaining legislative consent Motions if possible, and we will continue that dialogue in an effort to do that. That is the responsible way to proceed, but I totally understand the frustration expressed from all parts of the Committee that we do not yet have that agreement. We want to get that agreement. We are endeavouring to get that agreement. We will do our best to get it, but we will table amendments for this Committee to consider before we get to Clause 11.

Lord Forsyth of Drumlean: Given the difficulties, which are understood, of getting agreement to one legislative consent Motion, can the Minister give us an assurance that whatever amendments he tables will not require us to have legislative consent to even more Motions?

Lord Callanan: I am not quite sure I understand that point. I do not think we can give that assurance at the moment. I will have to have a separate discussion with my noble friend on that point.

Lord Thomas of Gresford: What happens if there is no agreement tomorrow? Will the Government's amendment, the one that they are putting to the Joint Ministerial Committee tomorrow, be published so that we can look at it and so that informed opinion throughout the country, throughout Wales, throughout Scotland, can look at it and comment on it and so that we can see where the problem is? At the moment, it is all obscure. As my noble and learned friend said, there is no transparency whatever in this process. What happens if there is no agreement tomorrow?

Lord Callanan: As I said, we will be bringing forward the amendment at the same time that Members of this House have an opportunity to view it. The public at large will be able to comment on it and discuss it, and I am sure there will be extensive comment on it in the media at that time. The reason we have not published so far is that we want to preserve space for discussion and to try to have the discussions with our colleagues in Scotland and Wales and with officials in Northern Ireland in as confidential an atmosphere as possible. The discussions are positive and are proceeding apace.

I cannot guarantee that there will be agreement, but we want that agreement and are working to it. We have compromised on many aspects. As soon as we are able to, we will share it with this House. We will definitely be producing an amendment before Committee. I totally understand noble Lords' frustrations, but we are endeavouring to produce a solution to this difficult issue as quickly as possible.

Lord Elystan-Morgan: In order that the Joint Ministerial Committee should enjoy its full status, does the Minister accept that it would be desirable if minutes were kept of its meetings, if an agenda were to be published and if it were indeed to agree to meet at least monthly?

Lord Callanan: I understand the noble Lord's question. I am not a member of the committee; it is handled not by my department but by the Cabinet Office. I will write to the noble Lord giving him details of what agendas are published and whether they are shared with other departments. I do not know the exact format, but I will contact him with it.

With those assurances in mind—limited assurances, I fully accept—I would be grateful if the noble Lord, Lord Foulkes, agreed to withdraw his amendment.

10.30 pm

Lord Foulkes of Cumnock: My Lords, this has been a valuable debate—up until the reply. I have been in this House now for 13 years but I have never heard such an inadequate reply to a debate, and I have heard some pretty inadequate ones. I warn the Minister, my colleagues are outside now.

I was very grateful to my noble friend Lord Griffiths of Burry Port, bringing his eloquence and erudition that we normally hear on "Thought for the Day" to the Labour Front Bench, where it goes down equally well. The only thing I am having difficulty with is picturing Mike Russell in short trousers, but I will try to put that out of my mind.

To return to the Minister's reply, I am glad the Government Chief Whip is here. I ask him: why do we have a Minister, who is a nice enough man, replying when he does not know any of the answers? On three occasions he turned to the noble Lord, Lord Duncan, and the noble and learned Lord, Lord Keen, to get briefing. The noble Lord, Lord Duncan, is perfectly able to deal with this matter; he should be up at the Dispatch Box dealing with it. He knows what is happening; he is working at it on a day-to-day basis. He could have dealt with all the questions, as he has on previous debates. Even the noble and learned Lord, Lord Keen, would have done better than the noble Lord, Lord Callanan. [*Laughter.*] As we know, we are always obliged to the noble and learned Lord for his contributions to this House.

I say to the Government Chief Whip: please think about this. I know he does not always listen to me, but when we get to Clause 11 it would be much better to put a Minister up to reply who knows what is going on, sits in on these meetings and deals with this matter on a day-to-day basis. I hope it is a case of horses for courses. The Minister could not answer the question from the noble and learned Lord, Lord Wallace. He could not even answer the question from the noble Lord, Lord Forsyth. That is unusual—actually, no, it is not unusual on that side.

The debate has been very valuable for positive suggestions about the procedures to deal with this issue, and we have had some information about the amendments coming forward and how we deal with them. I am grateful to the noble and learned Lord, Lord Hope, the noble Lord, Lord Warner, and others for their suggestions. As the noble Lord, Lord Thomas, rightly identified, this amendment is born out of frustration. I share the frustration of the devolved Parliament. We saw it when they came down to give a very good briefing to Peers, and this amendment was born out of that.

The noble Lord, Lord Forsyth, paid me the greatest tribute that he has ever paid me: he likened me to himself. I must say that I was flattered. He understood what I am up to, and I know what he is up to. I know he is a real, committed Brexiteer and he knows I am not. I say to him that we would not have had all this debate about powers being transferred back from Brussels, and we need not have them if we stay in the EU. We can let the EU get on with doing what it is doing well on the environment, health and safety and a whole range of other things. That is what we are aiming for.

Lord Forsyth of Drumlean: Does the noble Lord not realise how absurd he looks, arguing that if these powers remained in Brussels then he would not have to make the case for Scotland having those powers to exercise domestically? We on this side want that, but done in such a way that we retain the single market. He has just admitted that he is using this as an argument to try to turn people against what the people of this country voted for and is not actually interested in those powers being exercised in Wales, Scotland and elsewhere by the assemblies and parliaments.

Lord Foulkes of Cumnock: If they are going to be transferred back to the UK, then I am; that is obviously the case. But it would be far easier to leave them where they are. That would be far better and more sensible, and would have more logic to it. Still, that is an argument for another day. I look forward to the debates when we come to the amendments to Clause 11, but I hope we will have Ministers who can answer the questions that are asked. In the meantime, I beg leave to withdraw the amendment.

Amendment 5 withdrawn.

Amendments 6 and 7 not moved.

Amendment 8

Moved by ***Lord Hunt of Kings Heath***

8: Clause 1, page 1, line 3, at end insert—

"( ) Regulations bringing into force subsection (1) may not be made until the Secretary of State has set out a strategy for seeking to remain a member of (or maintain equivalent participatory relations with) Euratom, in order to provide continuity with current arrangements

[Lord Hunt of Kings Heath]
for ensuring an effective nuclear safeguards regime and a secure and consistent supply of radioisotopes for a range of applications in medicine."

Lord Hunt of Kings Heath (Lab): Follow that, my Lords. If the theme of my noble friend's previous debate was frustration, the word on my mind is bewilderment. On the first group of amendments, which we spent many happy hours discussing, there was considerable debate about whether the public, in voting to leave the EU, were aware that the Government would interpret that as a decision also to leave the single market and customs union.

Whatever noble Lords' view on that is, I doubt very much that anyone who voted in that referendum understood that one of the most perverse outcomes of the Government's approach to negotiation would be summarily to announce that the UK was leaving Euratom. This body has enjoyed an excellent track record over many decades. It was established by the European Coal and Steel Community as far back as 1957, around the time of the first civilian nuclear reactors. It has provided secure access to nuclear materials and technology for peaceful purposes. It has provided research, including co-ordinating funding for world-leading nuclear fusion research, much of which takes place in the UK at Culham. It safeguards nuclear material to ensure that it is being used for civil purposes, in line with our non-proliferation responsibilities. It facilitates free and frictionless trade in nuclear goods, services and people, including regulating the supply of isotopes used in nuclear medicine.

Why is the UK leaving Euratom? This was formally outlined in the Explanatory Notes to the European Union (Notification of Withdrawal) Act 2017, but the reasons for leaving have not been specified. The most likely speculation is because it sits under the jurisdiction of the ECJ, although the ECJ has never, as far as I know, been called on to make any pronouncements in relation to Euratom.

What are the consequences of leaving? I would identify four, and refer noble Lords to the work of the Institute for Government. First, we will have more difficulty ensuring a long-term supply of nuclear fuel to the UK. Secondly, we risk an immediate shortage of medical isotopes. Thirdly, we may no longer enjoy access to research facilities and funding. Finally, the UK will have to establish its own regulator with regard to nuclear proliferation, which will be both costly and challenging.

Let me pick up just two points there: first, interruptions to the supply of medical isotopes. Leaving Euratom risks breaking a series of time-sensitive supply chains which supply isotopes used in nuclear medicine. This is causing a lot of concern to people in the health service. Currently, Euratom facilitates free trade of nuclear material across the EU. This gives a secure and consistent supply. It is used extensively in diagnosing particular diseases and in the relief of pain, particularly in palliative care, and biopic analysis in clinical pathology.

The UK does not have any reactors capable of producing these isotopes, and they decay rapidly, often within a matter of hours or days, so we rely on a continuous supply from reactors in France, Germany and the Netherlands. History suggests that crises in supply can occur. It happened last in 2008-10. That meant that hospitals across Europe had to delay or cancel hundreds of thousands of medical tests. In response, Euratom's supply agency was given a more prominent role in overseeing the supply chains and ensuring that the crisis did not occur again. Without the support of Euratom, the UK may find it harder to guarantee a supply of these materials to hospitals.

Pressed on this in the Second Reading of the Nuclear Safeguards Bill, which is a parallel piece of legislation that your Lordships are debating at the moment, and which will have its first day in Committee—oh, joy—tomorrow morning, the noble Lord, Lord Henley, who it is good to see in his place, said that,

"changes to our customs arrangements after our withdrawal from the European Union could ... affect the timely supply of medical radioisotopes",

that the Government were working to minimise that risk and that he was confident that,

"a future customs arrangement with the European Union that ensures cross-border trade in this area is as frictionless as possible".—[*Official Report*, 7/2/2018; cols. 2026-27.]

I think anyone who has heard this afternoon's debate would question the noble Lord's optimism. He is an eternal optimist, I know, but the reality is that, given the current state of negotiations, and the failure of the Government even to reach an agreement among themselves on what negotiation outcomes should be, this is a very risky prospect indeed.

The final point I want to make is that the Nuclear Safeguards Bill essentially enables the Office for Nuclear Regulation, one of our very own regulators, to take over Euratom's vital non-proliferation nuclear safeguarding responsibilities. However, because Euratom is doing such a good job, the Government want us to leave Euratom but to remain in total alignment with the standards set by Euratom, even though we are no longer a member. You could not make it up if you tried. But more than that, having said that they want to stick to Euratom standards, they cannot do it because of the precipitate date of March 2019, by which time the ONR has no chance whatever of recruiting enough inspectors to meet those Euratom standards. So what they have decided is that we will not be able to accord to Euratom standards; we are going to accord to the standards set by the International Atomic Energy Agency. According to evidence given by the ONR to the Public Bill Committee on the Nuclear Safeguards Bill a few weeks ago, that means that there is a lower standard and less frequency of inspections.

Everyone agrees that Euratom is a good agency and that its standards are high—higher than overall international standards. The Government themselves say that they want to stick to Euratom standards, although we cannot have any influence over them in future, but we cannot do that in 2019 so we will have to live with lower standards until we can actually recruit the number of inspectors that we need. That is plain daft. It is quite clear that we should stay in Euratom. If we cannot do it, we should make sure statutorily that we are as aligned as we possibly can be.

All of us noted Mrs May's comments on the European arrest warrant recently, where she accepted that there was a role for the ECJ. What I say to the Government is that Euratom works really well and that, for the sake of a theoretical involvement of ECJ, surely even at this late moment, it is time to accept that the wrong decision has been made and that it would be much better if we stayed within Euratom. I beg to move.

Lord Broers (CB): My Lords, I will be very brief. I did not speak at Second Reading because I thought that the decision to leave Euratom was tied irrevocably by law to our withdrawal from the European Union. I discovered, while participating at Second Reading of the Nuclear Safeguards Bill—as the noble Lord, Lord Hunt, has mentioned—that it was in fact a political decision. I still do not know who made the decision but I regard it as a very serious and damaging mistake, and that is why I wish to support this group of amendments. We should do everything we can to avoid the disastrous consequences of leaving Euratom.

10.45 pm

Not only does our departure unnecessarily place at risk our ability to ensure nuclear safeguards and the availability of medical radioisotopes—as the noble Lord, Lord Hunt, mentioned—it places in jeopardy the funding and the partnerships essential to remain competitive in nuclear R&D. In doing this, it undermines our ability to deliver the nuclear power needed to meet our carbon targets and makes a nonsense of our energy strategy.

This R&D includes our world-leading work on nuclear fusion in Culham, where we have built and continue to develop JET—the Joint European Torus—in which significant fusion was demonstrated for the first time in the world and where we are developing new spherical tokamaks that offer increased efficiency. It also includes our work as a senior partner on ITER, the world's largest fusion project, together with our partners, including the EU, the USA, Japan and others. I have been told that the Government will underwrite support for Culham through 2020, but what then? Why put all this unnecessarily at risk? Why not admit that we made a mistake and have changed our mind and ask if we can retain our membership of Euratom?

Lord Warner: My Lords, I rise as a co-signatory of Amendment 8, moved by the noble Lord, Lord Hunt. I do not want to repeat all that he has said; I want to talk about this from the point of view of the industry. The industry's legal opinion is that leaving the EU did not require the UK to leave Euratom. The noble Lord, Lord Hunt, has set out all the conflicting arguments that the Government have had over their attitude to the ECJ. I will not go over those this evening, though I will not be able to resist the temptation tomorrow morning to go over them again with the Minister.

The fundamental point that I wish to make is that the Government have set out on this reckless course without taking the nuclear industry with them and without allowing sufficient time to put an alternative nuclear safeguards regime in place. I want to quote a few extracts from the excellent briefing provided by EDF, which after all provides 20% of the electricity generated in this country and is the Government's preferred contractor for delivering new nuclear power stations, including Hinkley Point C. My first quote from the briefing is:

> "The best thing for the UK nuclear industry would be for the UK to remain within Euratom. However, if the UK exits Euratom, new arrangements must be in place before existing arrangements are terminated, and there must be a smooth and orderly transition to the new arrangements".

I have to say, from the Second Reading debate, you would not have been very confident about some of that.

My second quote is:

> "It is absolutely essential that following the UK's exit from Euratom and its EU wide safeguards regime, the nuclear sector in the UK is covered by a UK Safeguards regime. There can be no gap in coverage – the new regime must be ready for deployment on exit day, having already been reviewed and accredited by the IAEA, to ensure the UK can continue to fulfil its international obligations for nuclear non-proliferation".

It has just about a year to achieve that.

My third quote is:

> "An IAEA accredited nuclear Safeguards regime is a 'must have' – it is a pre-requisite for the movement of nuclear materials (including fuel) and for the agreement of NCAs"—

nuclear co-operation agreements with other countries outside the EU, such as the US, Japan, Canada and Australia. You would have to be one of life's great optimists to have listened to the debate so far on the Nuclear Safeguards Bill and be confident that all those objectives set out by EDF will be achieved.

My final point is that, on the evidence so far provided by the Government, it is almost a racing certainty that by 29 March 2019 the UK will not have in place a nuclear safeguards regime equivalent to that provided by Euratom. Perhaps more worryingly, there is no published plan with clear milestones showing how the UK will have in place by exit day a nuclear safeguards regime accredited by the International Atomic Energy Agency. This is absolutely essential, as EDF has made plain, if the UK is to have nuclear co-operation agreements with a wide range of other countries, as it has said. These agreements are absolutely essential for nuclear trade with these other countries once we leave Euratom. The agreements have to be reached in time for them to be ratified by the political and governmental processes in the various countries. In the case of the US, they have to be ratified by Congress and even, I am told, be approved by the White House—there is a thought for noble Lords.

We are travelling very dangerously in this area, not least because of the timescales that the Government have allowed for putting in place alternative arrangements to Euratom membership. I suggest that we have a duty to make amendments to the Bill and to the Nuclear Safeguards Bill to give the Government a chance to pause and think more carefully about what they are doing. The amendment of the noble Lord, Lord Hunt, is the very least we should do in the Bill. I suspect that we may well need something stronger on Report which reflects the outcomes of our consideration of the Nuclear Safeguards Bill.

Viscount Trenchard (Con): My Lords, this issue is not quite as simple as the noble Lord, Lord Hunt, claimed. I too was present at the briefing referred to

[Viscount Trenchard]
by the noble Lord, Lord Warner, given by the Nuclear Industry Association and EDF, which was very valuable.

The issue is not as simple as the noble Lord, Lord Hunt, said—namely, that Euratom is the most marvellous institution and we have to remain a member of it or continue to apply standards equivalent to those which have been developed by it. I recall that EDF explained that the international standards are set by the IAEA, and that it is absolutely necessary that before exit, other than by virtue of a transition or implementation period, which of course applies more generally to the EU, in order to exit from Euratom and continue to be able to trade in nuclear equipment and fuel, we need an IAEA-accredited—not Euratom—safeguards regime. We need nuclear co-operation agreements with four countries: the United States, Canada, Australia and Japan, a nuclear agreement with the European Union and an export licence regime. Euratom's nuclear safeguards regime concentrates heavily on verifications, whereas the IAEA places more emphasis on process, operations and compliance with international standards.

The noble Lord referred to isotopes. It is essential to ensure a secure and consistent supply of radioisotopes. Molybdenum-99, for example, has a half-life of 66 hours, similar to human organs, and therefore cannot afford to be delayed by customs at ports and airports. There can be no delay at all. We obtain about 60% of our radioisotopes for medical use from the EU, to which the noble Lord referred, but we obtain 40% of our isotopes from non-EU countries, principally South Africa, which the noble Lord did not refer to. I understand that the procedures for importing both those from the EU, which come through the Channel Tunnel without, obviously, any customs procedure, and those from South Africa, which come through Heathrow under a fast-track procedure, are virtually identical; there is no significant difference at all. Our membership of Euratom does not in any significant way influence our access to the world market in isotopes. Therefore, our leaving the EU does not make much difference to how we get in our medical isotopes.

However, we need to have this IAEA-accredited regime, and, obviously, there is not enough time for the four essential nuclear partners to get NCAs through their Parliaments before March next year. But given that the Government have committed to an implementation period, we should be able to agree with Euratom that we remain a member of that organisation and therefore we will be able to continue to operate under its standards for that period.

Lord Warner: I am sorry to interrupt the noble Viscount's flow, but does he remember that the Government voted down in the Commons an amendment which would have given him more time for a transition period on this issue? So the Government have turned their face away from allowing more time to a transition period to get things right. Whether one believes that the Government have taken the right course or not, they have committed themselves to do all this by 11 pm on 29 March next year. Does the noble Viscount accept that that is an impossible objective because at the moment the Government have not agreed to a transition period for the subject area?

Viscount Trenchard: I am not familiar with the amendment which was voted down in the Commons. I believe it is perfectly possible for the UK to develop its own IAEA-accredited safeguards regime within the next few months, and I understand that a lot of work is being done on that already. I understand that Euratom's treaties are mixed up with the EU treaties; therefore, is it not natural that, if there is an implementation period for putting into practice what comes afterward with the EU, the same will apply for Euratom?

Lord Teverson (LD): My Lords, I am also a signatory to this amendment, and I thank the noble Lord, Lord Hunt, for having brought it before the House today. There is another explanation about why this has happened. Soon after the referendum, I submitted a Written Question to the Government to ask whether it was intending to leave Euratom. The answer I got back, after a little bit of foreplay, was that the people of Britain voted to come out of the European Union. It was quite clear that the Government did not realise that Euratom was not part of the European Union. They had not even thought about it. That is the answer that came back. I had to go back and ask the question again, at which point the Government answered that they were still thinking about it. Indeed, during ministerial conversations, there was a full admission that we should be able to remain part of the Euratom organisation. However, at that point it was legally impossible, for some reason which I do not understand at all. Euratom has its own separate Article 50 system, Article 106a; it is an entirely separate treaty, which did not come together during the Maastricht process when the other treaties came together, partly because there was a concern that Austria and Germany, which were anti-nuclear nations at that time—Austria still very much is—would not agree for that treaty to be integrated into the rest of the system.

I think that the Government agree that it is a good organisation. Coming out of it will certainly cost taxpayers a lot more money in terms of safeguarding and, as the noble Lord, Lord Warner, said, we have a real problem regarding the timescale. As I understand it, it is the Government who are saying that they want Euratom standards. That is their position; it is not ours. It is one that I agree with but the Government's position is that we need Euratom standards, not purely International Atomic Energy Agency standards. We have a very difficult timetable here.

11 pm

I was in Brussels earlier today. I was with Mr Barnier, although we did not talk about Euratom. However, yesterday our group talked a little about Euratom with some of the other European institutions. I was trying to get an indication of whether it was even possible to have a transition period to roll over the Euratom acquis in the same way that we will be doing for what are essentially commercial and security areas in relation to the European Union treaties. I am far from sure that a transition period will work, because with Euratom we are dealing with non-EU players—that is, the International Atomic Energy Agency and all the countries with which we have nuclear co-operation agreements, none of which is in the EU.

Therefore, we might be able to have an agreement with Euratom but I am not aware—I would be interested to hear about this from the Minister—that we even know whether the International Atomic Energy Agency will agree to our subcontracting others to run these essential facilities and procedures on our behalf for an unspecified period of maybe two years or 21 months. I would be very interested to hear that from the Minister.

We are dealing here not only with our own nuclear security. This is a question not just of building Hinkley Point C, which is a part of it, but of whether we can sustain our nuclear power stations. At the moment our fleet provides 20% of what happens to be relatively clean energy. Can we sustain that? There is also the question of nuclear co-operation agreements. Mobility of labour is the other important area. We have a huge scarcity of skilled labour in this area and we rely on freedom of movement under the Euratom treaty. Will we really be able to fulfil those areas when we leave on 29 March next year?

We need recognition by the International Atomic Energy Agency in order to import parts, skilled people and power, whether uranium or any other fuels, into our country. We need a voluntary offer agreement with the International Atomic Energy Agency, and we need to replace the nuclear co-operation agreements in order to be able to trade in those areas. There are 12 of them, although some are less important than others. They include Australia, the United States, Korea, Japan, Canada, Kazakhstan, Ukraine, South Africa and Argentina, and I think that there are one or two others. We have to replace the agreements with those countries. I think that the noble Viscount is correct in that about four of them are absolutely critical to us. I see no reason why those countries should agree to continue the agreements as they are. Maybe they will but we do not have that guarantee. Certainly as regards the United States, there has to be agreement by Congress to continue that agreement.

Therefore, we are playing Russian roulette with our nuclear industry and our nuclear energy supply industry without being clear about a way forward or about what we can do, all because we have decided that Euratom is the same as the European Union, which it is not.

I now come to the radioisotopes. The biggest challenge in this area in terms of the day to day—the noble Viscount may be right; we shall have to see, but we do not know—is the customs arrangements with the European Union post Brexit. We do not know what those will be. Certainly the Port of Dover is not very sanguine about the issue, and we know the timescales are short.

However, we do know that back in 2008-10 there was an international crisis in the ability to purchase and get a supply of those materials into Europe, including the United Kingdom. As a result of that, after long consultations, as part of the Euratom Supply Agency an observatory was set up to make sure that those supply arrangements were not ever a problem again, by pooling the might of the Euratom community and by having contingency plans to ensure that the supplies were actually available. That crisis happened, and it will happen again, because those supplies are not as stable or as rigorous in terms of their origin as many other areas. By coming out of the Euratom Supply Agency and its observatory, we are taking ourselves out of that emergency crisis procedure that might well be needed at some time in the near future.

That is why it seems to me that, as other noble Lords have said, the sensible way forward is that at best we should seek to withdraw our Article 106a notification. If we cannot do that, we should not in any circumstances leave Euratom until we have the voluntary offer agreement, recognition by the IAEA and our nuclear co-operation agreements with the key nations. If we have those we might be okay, but I see the decision that we have made as pretty reckless and pretty unnecessary. We still have time to repair it, and I hope we will.

Lord Carlile of Berriew (CB): I agree entirely with what has been said already by the noble Lords, Lord Hunt, Lord Warner and Lord Teverson, so I shall try to reduce the length of my remarks. I am puzzled about why we are here, and why we are here today at all. As to why we are here, we do not have to leave Euratom when we leave the European Union. There is absolutely no evidence that Euratom has performed other than well. It may well be that the Court of Justice of the European Union is the shibboleth, because it is related to Euratom and has jurisdiction over it, and our Government feel that because there is that connection our membership can be no more. But there are no cases about Euratom in the European Court of Justice, so Euratom has operated incredibly well.

I am puzzled as to why we are here today because there is another Bill before Parliament, the Nuclear Safeguards Bill, and, as has already been said, the first Committee day on it is tomorrow. I had assumed that we would be able to debate these issues as part of that Bill. After a three or four-day negotiation with the Public Bill Office I had to accept that that was not the case—so here we are today discussing Euratom, but not in the Nuclear Safeguards Bill, which deals with the nuclear safeguards relating to the products dealt with by Euratom. Alice could not have invented this situation.

I drafted Amendment 221, which is part of this group. There is nothing particular about the new clause in that amendment; it tries to do the same as all the other amendments and new clauses now being debated. It is clear that medical nuclear and radionuclear devices and products are extremely important. They save lives. For example, in University College Hospital and the Royal Free Hospital in London—I cite them because I have witnessed the process in those hospitals—every day of the week consideration is given to using these products to save the lives of patients suffering from cancer. All the arrangements for bringing those products into the United Kingdom are carried out under the umbrella of Euratom. It was not absolutely necessary for that to be done under the umbrella of Euratom, but it is what has happened. The noble Lord, Lord Teverson, mentioned the European Observatory on the Supply of Medical Radioisotopes. That is the umbrella organisation that supervises all these arrangements.

The noble Lord, Lord Henley, has been extremely helpful. As I have said in other debates, I am the patron of the Society for Radiological Protection,

[Lord Carlile of Berriew]
which contains more than 2,000 professionals who are engaged in various activities, including the use and safety of radioisotopes in the health service. The noble Lord, Lord Henley, as Minister, has answered many questions and had the courtesy to see the two senior members of the Society for Radiological Protection last week. He very kindly produced for me a list of questions with the Government's original commentary and their additional commentary. It contains some gems, such as:

"We agree that continued engagement with ICRP"—

that is the International Commission on Radiological Protection—

"and IAEA will be important following UK exit from the EU and EURATOM".

The trouble is that nothing has been done to ensure that that importance is translated into a process. The Government have said in one of these answers that they,

"will seek to maintain close and effective cooperation with Euratom on nuclear safety. This should include future discussions concerning development of Article 34 policy and cooperative structures".

Well, hope springs eternal. Nothing has been done about that. I was told that,

"the Government is committed to ensuring that the UK regulatory regime covering radiation safety remains effective post-exit and can be updated in the future, including to take account of international best practice".

Amen to that. Indeed, the Government are, "considering available options"—this year, next year. This is the flavour of the responses.

Then we have:

"The UK Government is seeking a bold and ambitious Economic Partnership with the EU that is of greater scope and ambition than any such existing agreement".

It is Euratom plus, plus. The document continues:

"We want to have the greatest possible tariff- and barrier-free trade with our European neighbours".

Noble Lords could have fooled me after the earlier debates this evening. It continues:

"The Government's ambition is to maintain as many of these benefits as possible through a close and effective association with Euratom in the future".

I mark that tomorrow and tomorrow and tomorrow. So the document goes on.

"The Government is seeking a bold and ambitious Economic Partnership with the EU that is of greater scope and ambition than any such existing agreement. We want to have the greatest possible tariff- and barrier-free trade with our European neighbours".

I mark that as to boldly go where none has been before. There is only a little more, but it is instructive. This is about standards:

"HMG are working with BSI to ensure that our future relationship with the European Standards Organisations continues to support a productive, open and competitive business environment in the UK and for the continued benefit of UK patients".

I mark that as "where angels fear to tread". Finally:

"There will be regulatory systems in place for both medicines and medical devices after the UK has left the EU".

Then we come to the important part:

"The future arrangements are a matter for the negotiations and it would not be appropriate to prejudge the outcome".

That sounds a little bit like those kids' films I used to see on Saturday mornings which ended with the words, "That's all, folks", but no real conclusion.

What has happened is that, despite the great attempts at co-operation by Ministers, we have absolutely no system in place, in draft or even in vision for the efficient importation and export of radiopharmaceutical products. We should not allow this legislation to go forward unless we know what plans the Government have, and unless we know that those plans have been discussed, negotiated and are the subject of agreement. Otherwise, there is only one option: let us stay in Euratom, which works very well.

11.15 pm

Lord Adonis: Could the noble Lord address the issue raised by the noble Lord, Lord Teverson, about the notice of withdrawal under Article 106a? As a distinguished lawyer, is he of the opinion that Her Majesty's Government could withdraw that notice unilaterally, which could be an issue of some moment if the Minister who is open to persuasive arguments were to form the view that the right course for the Government now is simply to withdraw the notice of withdrawal and seek to stay in Euratom?

Lord Carlile of Berriew: If I could be allowed an ad majorem argument, I would recommend to noble Lords an article written on the Monckton Chambers website by the distinguished competition lawyer, George Peretz QC, which—as I understand it because I am not an expert on European law—provides the answer yes to the question put by the noble Lord, Lord Adonis.

Lord Whitty (Lab): My Lords, I have two amendments which are grouped with Amendment 8. I am afraid that they probably should not have been included, but like the noble Lord, Lord Teverson, and my noble friend Lord Liddle, I was in Brussels today and did not have a chance to argue the groupings, so I am afraid that noble Lords are going to have to hear me speak on this issue tonight. My Amendment 114 makes a rather important cross-reference to Euratom.

The amendment seeks essentially to add a clause to the Bill after Clause 7, with an accompanying schedule. Before we understand what is happening to our whole regulatory system and therefore pass this Bill, and certainly before we leave the European Union, we need to know from the Government what their view is on future relationships with the EU executive agencies. The schedule lists those agencies which include two Euratom agencies. It lists the supply agency to which the noble Lord, Lord Teverson, referred. Its observatory plays a key role in dealing with supply chains of extraordinarily sensitive and potentially dangerous material. It lists also the Fusion for Energy agency which deals with some of the aspects to which the noble Lord, Lord Broers, referred in terms of the development of fusion as a new source of energy and the high-level, European-wide research programme at Culham and elsewhere. They are very important agencies. At this point we do not know what future UK participation, arrangements, observer status or links with those agencies are going to be.

In addition to those two Euratom agencies, there are 34 executive agencies of the European Union. I have noticed the time and I will therefore not go through the role and remit of them all, as well as the importance of knowing where we are, but they include a number of agencies of great importance to the lives of our citizens, to our industry and to our environment. There are agencies which deal with safety at work, food safety, environmental safety generally, and of course there is the EU Medicines Agency, which regrettably is moving away from Britain, dealing with medical safety. There is a whole range dealing with police and judicial procedures.

These agencies are not law-making bodies, but they are operationally very important to the sectors to which they apply. The UK has engaged very effectively with most of those agencies, to the benefit of our citizens, industries, sciences and judicial system. I have asked a number of Written Questions as to what the future arrangements are, with the standard reply being: "This will all be sorted out in the negotiations". However, the negotiations are going on at the same time as we are dealing with the Bill. We need to know, in relation to the Bill, how those agencies will interact with the regulations newly transposed into UK law and the way in which we operate in those industries and systems.

My visit to Brussels in the last couple of days has underlined the urgency of the situation of knowing where we are with such agencies. For the first time, I carefully read the EU's proposition on how we deal with transition periods. That document says that the UK will not only no longer participate in the institutions of the European Union but also,

"no longer participate in … the decision-making or the governance of the Union bodies, offices and agencies".

In other words, in approximately one year and 34 days, we will no longer participate in any of these vital agencies. It is possible, if the Government put their mind to it, to establish in that period new relationships. In some of these agencies, non-EU bodies are either observers or participants. At the moment, we have not a clue how the Government are approaching the future in all of these important areas. It is an urgent decision that we cannot delay until the end of the transition period, because unless the Government persuade the EU otherwise in the next few weeks and months, from the date of exit we will no longer participate. This will change the way in which we operate in a range of safety, environmental, scientific, judicial and police areas—including security and defence.

That issue arises for a whole number of areas well beyond Euratom. On Euratom, I agree very much with what virtually everybody else has said: it is unnecessary to come out of Euratom. It is still possible to distinguish our approach to Euratom and effectively rescind our resignation from it without changing our position on the EU. Indeed, all the arguments—from industry, science and environmentalists—indicate that we should do that. At the same time, I urge your Lordships, and the Government in particular, that before we get very far in the process on the Bill, we should get a clear indication, not only on the Euratom agencies, but on the rest of the agencies set out in Amendment 263 proposing a new schedule, so that we will know, well in advance of leaving the European Union and its agencies and well in advance of the beginning of the transition period, quite how we will operate with them in future. I ask the Minister to take seriously the list I have given him and, perhaps in writing or on Report, to indicate to us how the Government intend to deal with this very important tissue.

The Earl of Selborne (Con): My Lords, I think it is important on these Benches to put in a word of support for the amendment of the noble Lord, Lord Hunt. We all recognise that Euratom is a good brand; no one, on any side, is disputing that Euratom has achieved what a good brand should do. It has given confidence to the British and European public on a matter of critical importance, not least in handling medical isotopes with a very short half-life.

It is quite clear to my mind that if we leave for reasons that are obscure to me but probably are concerned only with the notional theory that the European Court of Justice might be able to exert some malign influence on Euratom—that seems to be the only reason that has ever been advanced as to why we should leave Euratom—then that plays second order to how we ensure, in the words of the amendment, which I very much support, that we "maintain equivalent participatory relations" with Euratom. It is essential that we continue to command the confidence of the users of isotopes and other nuclear material and of practitioners. It is not clear to me that the regulation we will have to put in place will be ready in time. In fact, I am absolutely certain that it cannot be. The amendment is a very sensible and modest proposal that I fully support.

Lord Liddle (Lab): My Lords, I support what the noble Earl, Lord Selborne, said, and the other speakers who called for the Government to reconsider this question. I speak as a member of Cumbria County Council. Cumbria is very excited by the prospect of nuclear renaissance in this country, but how we are proposing to achieve it is interesting. First, to build a new nuclear power station we hand it over to the French. We are reliant on French leadership at Hinkley Point. Is it not paradoxical that we are not building up a native British industry, but saying to the French, "Please come and we'll pay you lots of money to do it", while at the same time saying that, for purely ideological reasons, we will not have anything to do with Euratom? The Government's policy is contradictory.

Secondly, the Government put nuclear revival as one of the priorities for their industrial strategy. That is one of the things highlighted in the *Industrial Strategy* White Paper. That requires investment in science and the kind of European co-operation in science that we have seen so successfully with JET and nuclear fusion. Yet what do they want to do for ideological reasons on the other Benches? They want to throw spanners in the works of that co-operation by withdrawing from Euratom. What conceivable sense does this make?

Will the Minister produce a clear statement of reasons as to why this policy is being pursued? What are the reasons for it? Secondly, within what timescale are the many problems that withdrawal from Euratom will cause be addressed and by whom? Do the Government not have a duty to do that? Thirdly, what will the cost

[Lord Liddle]
be of having our own separate national arrangements? The Government ought to know that by now. This issue was first raised in this House on the Article 50 Bill. What has happened in the succeeding months? What have the Government actually done since then to address these concerns?

Finally, I will make a point about the handling of the Bill in the House. I see this as an extremely important issue of national importance and we are debating it after 11 o'clock at night. Does that make sense? Is that not the duty that we owe people—to provide proper scrutiny? Should we not be allowing proper time for this debate? This is an example of an issue that should have been debated in prime time in this House. It should have been the subject of a vote in Committee. Because of the hour that is clearly not possible, but the fact is that we have failed in our duty to the people on this question.

11.30 pm

Baroness Altmann (Con): My Lords, I support these amendments and echo the words of the noble Lords, Lord Hunt, Lord Warner, Lord Teverson and Lord Carlile, from these Benches. This has nothing to do with the referendum: this is not the will of the people. We do not legally need to leave Euratom, as we have heard so many times this evening, if we leave the EU. It is not as though we asked the British people, "Do you want to leave Euratom; do you want to spend millions of pounds of taxpayers' money to put ourselves back in precisely the position we are now, we hope; to basically reinvent the wheel; to incur huge costs and take huge risks in undermining our world-leading position in nuclear research?"

We may not be able to do this in time: we may not be able to find enough skilled people. Indeed, when we spoke with figures in the nuclear industry a few months ago, they informed us that the first they heard of the Government having decided to leave Euratom was when they read the announcement: there was no consultation with the industry on an issue of such monumental importance. What is the cost and what benefit will be achieved for incurring those costs? I urge my noble friend the Minister to relay to his department the tone of the House—that many of us on these Benches would welcome an admission that this decision is unnecessary. It risks our energy security, safety and public health and we do not need to take this risk. Let us withdraw our notification to leave Euratom.

Lord Judd (Lab): My Lords, like my noble friend Lord Liddle I live in Cumbria and these issues are central for the people of Cumbria. In the wider context of all these things we are discussing, we are not expressly taking the point that it is not just in our political lifetime that the consequences will be felt. That is the gravity of the situation. The implications could reach for hundreds or thousands of years ahead. It is impossible to overstress the significance of the issues with which we are dealing. My noble friend was absolutely right to talk about the irresponsibility of discussing them at this time of night instead of at prime time in the parliamentary timetable. We ought to be ashamed of ourselves: how on earth can we convince people that we are properly scrutinising if we are pushing things through late at night?

In his amendments, with which I am associated, my noble friend Lord Whitty is bringing out very clearly yet again the cavalier, ill-prepared position of the Government as we race towards the conclusion of the negotiations. We have had reference to it in various discussions today. How on earth can all the points that have been raised by my noble friend's amendments be met in the time available?

There is another crucial point. As my noble friend Lord Liddle said, we will be going ahead with our next generation of nuclear energy only with expertise from abroad. Can the Minister explain to us, very specifically, how we will have the people qualified to undertake inspections of the standard of Euratom if we have not got that kind of expertise available within British society for the development of our next phase of nuclear energy? How can we be lacking in that when it comes to the task itself and then say we can somehow inspect the task? Where are these people with the right qualifications going to come from? We need specific reassurances from the Government on that point.

Lord Adonis: My Lords, there are 101 reasons why people voted for or against leaving the European Union. As the great Lord Salisbury, the last Prime Minister to serve in this House, famously said after a general election, the problem is:

> "When the great oracle speaks, we are never quite certain what the great oracle said".

However, I have not yet met a single person in any walk of life anywhere who told me that they voted to leave the European Union so that they could leave Euratom. Indeed, I imagine that there were not many people outside the confines of your Lordships' House and the nuclear industry who were even aware that there was this organisation called Euratom, where the final court of appeal was—wait for it—the European Court of Justice.

There is always a problem about loss of face. I have sat on that Bench, too. I know that Ministers do not like having to change their mind. But I do not think the Minister will have any problem with any loss of face with anyone, including those who have been so keen to see that we leave the European Union because of the instruction from the British people, if he were to announce that the Government intend to withdraw the notice under Article 106a of the Euratom treaty and put this complete nonsense behind them. I do not mind what hour of the night he announces it. I would be perfectly happy for him to announce it at 2.30 am if that ensures that it gets less coverage.

The Minister will have noticed that there has been no support at all from behind him. The noble Earl, who is not given to criticising the Government, made a devastating speech. Although the noble Viscount said that he thought the consequences might not be as bad as people had said, I did not detect him saying there would be any positive advantages from leaving Euratom. The noble Baroness gave an equally devastating speech.

Viscount Trenchard: I certainly said that Euratom was not the marvellous organisation that it is made out to be. I actually think it would be very good if we

can find a way to continue the current arrangements until such time as we put in place the necessary independent arrangements with IAEA accreditation. But I did not say that I thought Euratom was marvellous. I know of one senior officer in the nuclear industry who thinks we should remain in the EU but leave Euratom.

Lord Adonis: My Lords, it is not part of the human condition to think that institutions are marvellous. They can always be improved. But I did not take the noble Viscount's clarification to be raising the banner for abolishing Euratom because there were going to be such great advantages to the public from us—in the words of the noble Lord, Lord Bridges, to the House a few weeks ago—walking the "gangplank into thin air".

However, I have a specific question for the Minister. Can he confirm to the Committee that Her Majesty's Government can withdraw the notice of withdrawal from Euratom under Article 106a of the Euratom treaty and that they can do that unilaterally? As he knows, I am slightly persistent in these matters. I always thought that part of the argument from those who were in favour of Brexit was that we were going to restore the sovereignty of Parliament. It is not too much to expect that Parliament should be able to see and study the legal advice on which Ministers make decisions. I ask him yet again whether he will make available to the House before Report the legal advice which his department has on the legal basis on which the Government can act in withdrawing the notice of withdrawal under Article 106a of the Euratom treaty.

Lord Callanan: My Lords, once again I thank noble Lords for an excellent debate on this important issue. I will respond to the point raised by most people who spoke—certainly the noble Lords, Lord Hunt, Lord Warner, Lord Teverson, Lord Carlile, Lord Liddle and Lord Adonis—about the reasons for leaving Euratom.

The Euratom treaty is legally distinct from the European Union treaty but it has the same membership, which includes all 28 member states, and makes use of the same institutions. There are no precedents for a non-European Union member state being a member of Euratom.

Noble Lords will recall that the decision to leave Euratom formed part of both Houses' consideration of the European Union (Notification of Withdrawal) Bill, which is now of course an Act. Noble Lords spoke at that time about the unique nature of the relationship between the separate treaties of the European Union and Euratom. As the European Union and Euratom are uniquely legally joined, when we formally notified our intention to leave the European Union we also commenced the process for leaving Euratom.

Lord Liddle: The Minister mentioned that it was a parallel European institution. Before we gave that notice, did we actually ask other members whether we could remain in Euratom as a non-EU member?

Lord Callanan: It is not a matter of getting a political opinion on this. It is the legal position, as I have set out. When we formally notified our intention to leave—

Lord Liddle: When you say it is the legal position, what is the evidence for that? Can we have a look at that legal position? What you are saying as the Minister is that a decision was taken on advice that you are not prepared to show us, with no consultation with our partners, for no good reason.

Lord Elton (Con): My Lords, I hope the noble Lord will remember that we address the House and not individuals. It avoids getting very angry with each other individually and it is much better to address your Lordships collectively.

Lord Warner: Before the Minister resumes, can I pursue this issue? The industry is very clear in its legal views, which it is prepared to put in the public arena, that we do not have to leave Euratom if we leave the EU. Have the Government discussed that issue with the industry and what the reasons are for its difference of legal view from the Government's legal view?

Lord Callanan: My Lords, there has been extensive discussion and liaison between ourselves and industry. I will come on to discuss that shortly but we remain of the opinion, as I said, that when we formally notified our intention to leave the European Union we also commenced the process for leaving Euratom. Having said that, we are determined to continue to have a constructive, collaborative relationship with Euratom. The UK is a great supporter of Euratom and will continue to be so. I am grateful to the noble Lord, Lord Adonis, for his efforts to help me save face—even at 2.30 am—but I regret that I will not be able to give him what he requires this evening.

Let me go on to discuss the details of Euratom and our other plans. I will go into it in some detail, if that is okay with noble Lords, despite the late hour. As the Government have made clear, the UK's future relationship with EU agencies, including those under the Euratom treaty, is a matter for negotiations. I will come on to the point of the noble Lord, Lord Whitty, later. Requiring the Government to publish a report in advance of negotiations concluding would be neither helpful to Parliament nor in the national interest. As soon as negotiations have concluded, the Government have committed to hold a vote on the final deal in Parliament. This vote will cover both the withdrawal agreement and the terms of our future relationship, and provide Parliament with the opportunity to scrutinise the outcome of negotiations at the appropriate juncture.

In the interests of transparency and providing as much certainty as possible, we took steps during the Commons passage of this Bill and the Nuclear Safeguards Bill to set out our strategy in a Written Statement on 11 January. That Statement made it absolutely clear that the UK will seek a close and effective association with Euratom in the future, and that we are putting in place all measures to ensure that the UK can operate as an independent and responsible nuclear state from day one. This is vital to ensure continuity for industry, whatever the outcome of the negotiations. As noble Lords will be fully aware, the nature of our future relationship with Euratom is part of the next phase of negotiations that has yet to start.

[Lord Callanan]

The Statement set out the principles on which our strategy is based: to aim for continuity with current relevant Euratom arrangements; to ensure that the UK maintains its leading role in European nuclear research; and to ensure that the nuclear industry in the UK has the necessary skilled workforce. We will be seeking a close association with Euratom's research and training programme, including the Joint European Torus and the International Thermonuclear Experimental Reactor projects. We will also seek continuity of trade arrangements to ensure that the nuclear industry can continue to trade across EU borders. Finally, we will seek to maintain close and effective co-operation with Euratom on nuclear safety.

While we have made clear that we will indeed be seeking such an association, it is also essential that we have our own safeguards regime ready to come into place when Euratom arrangements no longer apply in the UK, whatever the outcome of the next phase of EU negotiations on our future relationship. It may be helpful to explain the meaning of nuclear safeguards to inform our discussion of this important but rather technical issue. Nuclear safeguards are non-proliferation reporting and verification processes which states use to demonstrate to the international community that civil nuclear material is not diverted into military or weapons programmes. The UK applies nuclear safeguards because it is a responsible nuclear power. Nuclear safeguards are different from nuclear safety and nuclear security. Civil nuclear safeguards reporting, by assuring the international community about the proper use of certain nuclear materials, underpins international civil nuclear trade.

11.45 pm

As a result of the decision to leave Euratom, the Government have been taking forward steps to ensure certainty for industry for day one of exit. We have held several rounds of discussions with the European Union in the first phase of negotiations and there has been good progress on Euratom issues. Negotiations with the International Atomic Energy Agency on future voluntary agreements for the application of civil nuclear safeguards in the UK to replace the current agreements which include Euratom have been constructive and fruitful. Progress has also been made in negotiations to put in place new bilateral nuclear co-operation agreements. In particular, constructive progress has already been made in discussions with key partners such as the United States, Canada, Australia and Japan.

It is clear that we need continuity and must work to avoid any break in our civil nuclear safeguards regime if we wish to support the UK's nuclear industry and its nuclear research community. A civil nuclear safeguards regime and safeguards agreements with the IAEA are critical for the continued operation of our civil nuclear industry. We have been working closely with the Office for Nuclear Regulation to ensure that it can be ready to take on new responsibilities for a domestic safeguards regime in place of Euratom's current regime.

We have continued to be transparent throughout the negotiations. We have shared our position paper on nuclear materials and safeguards issues and have published further technical notes on some specific issues, such as the status of existing Euratom approvals for supply contracts, in order to give clarity and transparency to our position. It is in that spirit of transparency that in the January Statement we committed to report back to Parliament every three months about our progress on negotiations in respect of Euratom matters. These reports will cover not just the negotiations but the whole strategy set out in that Statement.

The proposed amendments would delay and prevent the critical work required for effective withdrawal from Euratom. They would tie our hands in negotiations, delay us in initiating any co-operation and therefore jeopardise long-term relationships with the EU, other trade partners and the International Atomic Energy Agency. This would threaten the continuity of our nuclear industry and would send the wrong message to the industry and the public. The consequences of inhibiting our ability to secure the right outcome in negotiations could be damaging to the UK's civil nuclear industry and for the UK's energy consumers, and I am sure that no noble Lord would want that to happen.

We are determined to avoid any disruption to our civil nuclear regime. Not only are we determined to ensure continuity, but we remain absolutely committed to the highest standards of nuclear safety, security and safeguards. The nuclear industry remains of key strategic importance to the UK, and the Government are committed to delivering a world-leading nuclear sector in close collaboration with Euratom and our international partners.

I will now address an issue that I know is of great concern to many noble Lords—it was mentioned by my noble friend Lord Trenchard—the supply of medical radioisotopes. First, I assure noble Lords that the supply of medical radioisotopes is a high priority for the Government, as we share their concern about the well-being of patients receiving such treatment.

My colleagues in the Department of Health and Social Care and the Department for Business, Energy and Industrial Strategy wrote to the Home Affairs Sub-Committee of the House of Lords EU Select Committee on 18 January making this very clear. The letter outlined the Government's position and approach to ensuring continuity of supply of medical radioisotopes. I will briefly summarise it for noble Lords. It is true that, as radioactive material, medical radioisotopes are captured by the Euratom framework; however, we have made clear that Euratom currently places no restrictions on the export of medical radioisotopes to countries outside the EU. Medical radioisotopes are not classed as special fissile material or subject to international safeguards regimes, nor are they subject to the approval of the Euratom Supply Agency, which governs the supply of special fissile materials. Neither the import nor export of medical radioisotopes is currently subject to any Euratom licensing requirements.

The Euratom Supply Agency has a link with medical isotopes through its participation in the European Observatory on the Supply of Medical Radioisotopes, which aims to support decision-makers by promoting information sharing on the security of supply of isotopes, commissioning research and co-ordinating reactor shutdowns within the EU. However, the observatory does not have a decision-making role and does not govern the supply of medical radioisotopes.

The UK is a world leader in nuclear research and development, and the Government are committed to maintaining and building on our lead in this important field. We fully recognise the importance of international collaboration and the UK's key role in medical and nuclear research. As such, we are seeking an ambitious science and innovation agreement with the EU that will support and promote science and innovation across Europe both now and in the future. As mentioned earlier, that also means maintaining a close association with Euratom's research and training programme.

The Government have been listening to and working with stakeholders and recognise the concern that changes to customs processes as a result of withdrawal from the EU could affect the timely supply of medical radioisotopes. However, I assure noble Lords, particularly the noble Lord, Lord Teverson, that the Government are committed to minimising any impacts. A cross-departmental effort with stakeholder engagement is already under way with relevant departments to ensure continuity of supply for medical radioisotopes after our withdrawal from the EU.

The Government are on course to have a functioning customs service on day one after our withdrawal from the EU, with suitable plans in place to ensure that supplies of priority goods such as medical radioisotopes are not compromised. There is already a two-hour clearance commitment for urgent goods. In respect of non-EU import controls, medical radioisotopes are already prioritised in recognition of their urgent nature. This ensures that their arrival to the UK is expedited rapidly. This topic will continue to be a priority for the Government in our domestic preparations as well as in our negotiations on our future relationship with the EU.

Before I conclude, I shall address the amendments from the noble Lord, Lord Whitty.

Lord Carlile of Berriew: I am grateful to the Minister for the explanation that he has given on the issue of medical isotopes. Can he give us one further piece of information? How many meetings have actually taken place so far in an attempt to negotiate with the EU the continuity of the system of importing and exporting medical isotopes from the UK and from the EU?

Lord Callanan: I am afraid I do not have those figures to hand. I cannot tell him how many meetings there have been.

Lord Carlile of Berriew: Have there been any?

Lord Callanan: I can say that there has been extensive dialogue and discussion with both our EU partners and international partners at official and ministerial level. I can write to him with the exact number, which I can discover.

Lord Warner: Could the Minister respond to a question before he moves on to the important amendment by the noble Lord, Lord Whitty? I stopped believing in Father Christmas and in the tooth fairy some years ago. Can he explain why he thinks there will be a warm working relationship between Euratom and a country that has abruptly and unilaterally withdrawn one-quarter of its budget?

Lord Callanan: I am sorry that the noble Lord no longer believes in Father Christmas. I think there will be a warm relationship for the same reason that we will have a good trading relationship with the EU: because it is manifestly in the interests of both sides to do that.

The amendments from the noble Lord, Lord Whitty, would require the Government to publish a report on how we will engage with a number of EU and Euratom agencies before negotiations had concluded. We believe this would be neither helpful to Parliament nor in the national interest. I can tell him that as soon as negotiations have concluded, we are committed to holding a vote on the final deal in Parliament, and this vote will cover both the withdrawal agreement and the terms of our future relationship, including of course our relationship with various EU agencies.

I hope that I have addressed noble Lords' concerns expressed through the amendments and that the noble Lord will therefore feel able to withdraw the amendment.

Lord Adonis: My Lords, with respect, the Minister has not answered either of the two questions I put to him. He has not answered the question whether or not the Government are of the opinion that they can withdraw the notice of withdrawal under Article 106a of the Euratom treaty, and he has not told me whether or not the Government will publish or make available to the House in some abbreviated form the legal advice they have on this matter.

Lord Callanan: I can tell him that we are not going to withdraw our notification.

Lord Adonis: My Lords, with respect, that is not the question I asked him. I asked him what is the Government's legal advice on their power to withdraw, which is a very different question.

Lord Callanan: I have given the noble Lord the answer he is going to get on that subject.

Lord Adonis: My Lords, with respect, that is not a good enough answer. When we return to this at Report, I fear that that it will simply be grist to the mill for all those noble Lords who feel that this is a colossal error that the Government will not even tell the House what power they possess to rectify the error which they have already committed.

Lord Hunt of Kings Heath: My Lords, even at this late hour, we have had a good go at the issue. Seeing so many noble Lords here taking such an interest, I invite them to join us tomorrow morning, when we come to debate the Nuclear Safeguards Bill. I thank all noble Lords who have taken part in this debate.

I thank the Minister for his lengthy response, but the reasons he gave for leaving Euratom are simply not credible. He said that we have two distinct treaties.

[Lord Hunt of Kings Heath]
As far as I can see, the only substantive reason he gave why we could not remain a member of Euratom is that all the other members are members of the EU. Presumably the Government's view is that if we continue to be a member of Euratom with members of the EU, we would in some way be contaminated by having to sit round the table with the countries with which, according to the Q&A which the noble Lord, Lord Carlile, has obtained, we wish to have a very close and fruitful relationship in future. We will see.

The Government's position is inane. They have decided that we are going to leave Euratom, but we must maintain the same standards as Euratom and keep a close and warm relationship with the agency. The problem that we face, which is very serious indeed, is the issue of confidence, as the noble Earl, Lord Selborne, said.

I am a passionate believer in the contribution that nuclear energy can make to this country. We were the first country to develop civil nuclear energy. We completely screwed it up. We failed to take advantage of that lead. We have made foolish decisions on nuclear two or three times since then. My fear is that this will come to be seen as another very foolish decision, putting at risk this industry, which we have a chance—even given that we are relying on the French and on Chinese finance to do it—to restart with new nuclear, develop a supply chain and use the incredible skills we still have in nuclear engineering. The risk is that by doing what the Government are doing, alongside some of the financial uncertainties, we will put at risk the development of new nuclear. That would be an absolute tragedy.

The Minister basically says that all will be well, everything will be done to ensure continuity and, essentially, we can maintain the same processes and standards as we have had in the past. But the problem is—and it is why the noble Viscount, Lord Trenchard, suggested earlier that we need to remain a member of Euratom, at least in the interim—that the ONR, in which I have a great deal of confidence, has clearly stated publicly to the Commons Bill Committee that there is no way that it can recruit and train the number of inspectors that it needs to be able to maintain Euratom standards by March 2019. Alongside that, with the amount of work that would have to be done in negotiating new treaties and understandings with a series of countries, there is simply not the capacity to do it. We are greatly at risk in terms of public confidence in nuclear safeguards, which in turn undermines public confidence in the development of new nuclear.

I am grateful to all noble Lords who have spoken. We really have to come back to this as a substantive issue on Report. In the meantime, I beg leave to withdraw my amendment.

Amendment 8 withdrawn.

House resumed.

House adjourned at 12.01 am.