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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
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
Lab Co-op	Labour and Co-operative Party
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 30 October 2019

3 pm

Prayers—read by the Lord Bishop of Durham.

Farm Subsidies

Question

3.07 pm

Asked by ***Baroness Jones of Whitchurch***

To ask Her Majesty's Government what is their policy on farm subsidies after 2020.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con): My Lords, I declare my farming interests, as set out in the register. Continuity for farmers is important and 2020 direct payments will be paid in the same way as they are now. From 2021, there will be a seven-year transition to our new policy supporting farmers for the public goods they provide, in particular through their stewardship of the farmed environment. We will phase out direct payments, with the reduction starting in 2021. Financial support for farmers to increase their productivity and enhanced animal welfare will also be available.

Baroness Jones of Whitchurch (Lab): I thank the Minister for that reply. I am sure he agrees that farming has a huge potential to reverse declines in biodiversity and to take carbon out of the atmosphere. But farmers are not clear about what will be expected of them and how a new payment system will work after 2020. The Government had previously pledged the same cash total in funds for farm support until the end of this Parliament, which was originally expected to be 2022. Given that the end of the Parliament is being brought forward, does that guarantee still stand? Is the operative date for full continuation of the payments now 2022 or 2025?

Lord Gardiner of Kimble: My Lords, clearly there will be a new Parliament. It will be for whoever is successful in the election to take this forward. This Government are very clear that farmers deserve support. The noble Baroness is right: with 70% of the land in this country farmed, the farming community is essential if we are to enhance the environment. Our intention is clearly to continue with the transition period. There will be tests and trials, and—this is important—we will be working with farmers to ensure a scheme that is straightforward and creates results.

Lord Cunningham of Felling (Lab): My Lords, if what the Minister has just said is true, why do the Government intend to allow the import of eggs produced to lower husbandry and hygiene standards and likely to undermine the massive advances we have made in this country thanks to egg producers the length and breadth of the United Kingdom? The very future of the industry will be put at risk if the Government allow that to happen.

Lord Gardiner of Kimble: I have said from this Dispatch Box, with what I hope noble Lords will understand is every sincerity, that we have no intention of changing environmental and animal welfare standards. It is absolutely the case that we have taken on to our statute book every single protection there is already through our membership of the EU and that is where we are going to proceed from. I have also said that under the new arrangements, we will support farmers to enhance animal welfare. We do not propose to preside over a reduction in animal welfare.

Baroness McIntosh of Pickering (Con): My Lords, will my noble friend rule out any importation of battery hens or eggs that are produced in battery cages? Will he also consider extremely carefully the implications for pig farmers of banning farrowing crates, bearing in mind that many of them went out of business in the 1990s when a previous Conservative Government introduced the sow stall and tether ban? Further, will he make a commitment to livestock producers that we will keep under close review the future of the live trade in farm animals?

Lord Gardiner of Kimble: My Lords, there has always been a tradition of transporting live animals for breeding and other matters that we have done with our great stock over many years, but we are concerned about transport arrangements and about moving animals for slaughter away from our shores. These are matters that we will be attending to. We will be working with the Farm Animal Welfare Committee, as well as industry, retailers and welfare groups, to develop proposals on enhancing farm welfare standards because we think that the British farmer has a very good reputation that we wish to enhance.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, while it is extremely important for British farmers to help restore the balance between the use of the land and introducing wildflower meadows to ensure the return of insects and birds, this must be balanced with food production. There will be a cut to direct payments, which the Minister has already referred to, that is to come in in 2021, and the payments will have been eradicated by 2027. Farmers previously receiving £30,000 will see a 5% cut in the first year, while those receiving payments of up to £150,000 will see a 25% cut. Does the Minister agree that those who nurture the land for biodiversity as well as for producing food should be rewarded for doing so?

Lord Gardiner of Kimble: My Lords, as I have said, we will be testing and trialling the environmental land management scheme that is to come in in 2024. We will also bring forward a countryside stewardship agreement between now and 2024. We believe that in the future, farmers will be well placed through their participation in the new ELM scheme. However, the noble Baroness is right to say that there is a balance to

[Lord Gardiner of Kimble]
be struck; we require our excellent food to be grown for home consumption and for export, and we need to do that within the prism of enhancing the environment.

Lord Morris of Aberavon (Lab): My Lords, will the totality of the net payments to the whole of the agricultural industry be maintained during the transition period and afterwards?

Lord Gardiner of Kimble: My Lords, that is clearly for the Treasury and whoever is in the new Government, so at this stage I cannot say that to the noble and learned Lord. It will be for whichever Government are in office to decide on their spending commitments. What I am absolutely clear on is that this Government continue to support farmers in the way I have described and, if re-elected, that is the system which we will bring forward.

Lord Berkeley (Lab): My Lords, what support will there be for hill farmers, who I believe will suffer a 25% duty on lamb that is exported to the continent? Is the reimbursement of that 25%, or whatever it is, part of this support package?

Lord Gardiner of Kimble: We think that there is a great future for British livestock farming. We will support the work of hill farmers, because of the enhancement to the environment in beautiful areas where pastoral farming has been so essential. We will support that sector, as I have said. As for the point about a loss, in securing the deal that we have, we will also then embark on a free trade arrangement with our EU friends and partners. I do not think that what the noble Lord has described will obtain.

Plastics Recycling

Question

3.15 pm

Asked by ***Baroness Neville-Rolfe***

To ask Her Majesty's Government what plans they have to introduce a single national system for recycling plastics in England to maximise efficiency and encourage participation.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con): My Lords, the Government are committed to increasing recycling rates. The Environment Bill introduces legislation that will allow us to ensure that local authorities collect a core set of recyclable materials, including plastics, from households from 2023. We will also introduce measures to encourage producers to use plastic packaging that can be recycled. Together with the plastic packaging tax, these measures will reduce difficult to recycle packaging and promote the use of recyclable plastic.

Baroness Neville-Rolfe (Con): My Lords, while I am delighted that the establishment of an England-wide recycling system is now government policy, I am dismayed by the proposed delay until 2023. Does the Minister agree that, as soon as the powers in the Environment Bill are through, we should make an order setting out a single new system that could apply more or less immediately to most local authorities? That could include everything from plastic bottles to plastic pots, tubs and trays, as in the White Paper. Does he also agree that we need clear labelling of what can be recycled and, I suggest, an imaginative information campaign, so that frustrated housewives like myself, businesses and children in our schools know what to recycle?

Lord Gardiner of Kimble: My Lords, I am as keen for action as my noble friend is and have asked similar questions myself. However, waste managers and local authorities will need time to install the necessary facilities and infrastructure, hence the start date, in its totality, of 2023. Currently, 100% of local authorities in England collect plastic bottles, and 78% collect plastic pots, tubs and trays. We can make progress already. We also agree that clear labelling is essential, and we will consult next year on final proposals because clearly, we must help to inform consumers better.

Baroness Jones of Whitchurch (Lab): My Lords, may I push the Minister on this? The year 2023 seems a very long way away. It is not as though this is a new idea; it has been trialled and talked about considerably over the last couple of years. We need action on this now. There is huge public demand for action on tackling plastics, so why are the Government not able to move this agenda along more quickly? This is a really important issue that the Great British public care about.

Lord Gardiner of Kimble: I absolutely agree with the noble Baroness that we need to make progress on this issue. We have been stalling on recycling and need to do much better. But think of the materials that will be in this core set: plastics, glass, metal, paper, food waste and garden waste. For certain local authorities—one thinks of Newham, which, at 14%, has the lowest recycling rate in the country—we will have to ensure that they change their systems absolutely. I said that this will be comprehensive in 2023, but many local authorities are already undertaking good work on this.

Lord St John of Bletso (CB): My Lords, is the Minister aware of the initiative to introduce plastic parks, which will use revolutionary British technology to convert unrecyclable plastics into hydrogen, as a fuel source, as well as to generate electricity?

Lord Gardiner of Kimble: The noble Lord refers to the really important work that needs to proceed: research into how we move from a wasteful economy to a circular one. I absolutely endorse that we need to be working more on research. For instance, we are undertaking work on biodegradable and bio-based plastics and BEIS is considering those proposals. There are issues, however, and we do not want unintended consequences.

Baroness Parminter (LD): My Lords, given the vast amount of plastic film used in food packaging, what are the Government doing to increase the amount available for recycling?

Lord Gardiner of Kimble: Again, here, industry has a number of pressure points. One is the packaging tax—a new tax on plastic packaging—which will take effect from April 2022 and will apply to plastic packaging with less than 30% recycled content. There are a number of others, such as extending producer responsibility. We must not always knock industry because there are many examples of it seeking an alternative, such as plastic-free aisles and different sorts of packaging. I agree that one of the most frustrating things is that we cannot currently put plastic film in our recycling bins.

Viscount Trenchard (Con): I declare an interest as a director of Lotte Chemical UK, which is the principal manufacturer of polyethylene terephthalate, or PET. I was surprised to hear the Minister say that many councils are now collecting used material and providing it for recycling, because Lotte Chemical is able to obtain only enough recycled material to form 10% of our finished products. We wish to increase that to about 28%. Does the Minister agree that the Government should concentrate on establishing a standardised recycling policy across the whole country rather than encourage the use of substitute materials, which can have more negative consequences?

Lord Gardiner of Kimble: We sometimes need to be careful about unintended consequences, which is why we have considered biodegradable and bio-based plastics. Some 13.5 billion plastic bottles are used in the UK each year; the current household recycling rate for them is 70%. Thirty per cent is not good, but I will take back what my noble friend has said because that is quite a lot of bottles to recycle.

Lord Swinfen (Con): What is being done to clear up the large number of plastic bottles and other containers that are discarded alongside rural roads?

Lord Gardiner of Kimble: My Lords, it is a question of education and awareness. How do we discourage the one in five people in our great country who actually admit that they drop litter? I understand the pressures on local authorities and volunteers who, like me, pick up litter, but this situation is unacceptable. The truth is that we will crack this thoroughly only when everyone in the country, starting from the next generation, thinks that it is not acceptable to drop litter.

National Health Service: Pensions Tax

Question

3.22 pm

Asked by ***Lord Balfe***

To ask Her Majesty's Government what assessment they have made of the impact on patients of doctors having to curtail their hours because of the rates of tax they would incur due to the pensions regime in the National Health Service.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Baroness Blackwood of North Oxford) (Con): My Lords, the Government recognise that pension tax may contribute to decisions by doctors to limit their NHS commitments. The NHS continues to work tirelessly to ensure that patients receive timely and appropriate care, so we are consulting on proposals to make the NHS pension scheme more flexible, so that doctors can continue to conduct vital NHS work while tailoring their pensions growth. The Treasury is also reviewing how the tapered annual allowance supports the delivery of public services such as the NHS.

Lord Balfe (Con): I thank the Minister for her reply and draw attention to my interests in the register. This problem goes back to 2016 but, as of this week, the BMA, the doctors trade union, revealed that a recent survey showed that 42% of GPs have already reduced their hours spent caring for patients and 30% of hospital consultants have already reduced their hours. There have been similar figures from the Royal College of Physicians. Doctors are attracting massive tax bills as a result of working harder to care for their patients; indeed, half are now retiring younger. I am afraid that the appearance is of a dilatory Government where infighting between HM Treasury and the Department of Health is taking precedence over urgent action to deal with this problem. Will the Minister encourage the Government to get a move on and get this sorted out before even more patient time is lost?

Baroness Blackwood of North Oxford: I thank my noble friend for that very direct question. Our estimate is slightly different—that around one-third of GPs and consultants have earnings high enough to potentially be affected by the tapering of the annual allowance for tax-free pension savings. Not all clinicians are affected—it depends on the personal circumstances—but we accept that there is a need for urgent action in this area. That is why NHS employers have published guidance for short-term approaches that could have a mitigating effect on pension tax for the workforce this year and throughout the winter. We have also opened our consultation, which will close this Friday. We have already had 750 responses to it, and stakeholders are broadly supportive of the additional flexibility that has been proposed. We intend that flexibility to be available by April.

Lord Patel (CB): My Lords, I apologise for asking another direct question. The results of a recent survey carried out by the Royal College of Surgeons of nearly 1,900 surgeons were that 68% of consultant surgeons are considering early retirement because of the pension tax situation, 64% have been advised to work fewer hours in the NHS and 69% have reduced the amount of time they spend working in the NHS. What effect does the Minister think that might have on surgical care?

Baroness Blackwood of North Oxford: The noble Lord is exactly right to raise this issue and we have taken it very seriously. I have met the president of the Royal College of Surgeons to take on board his concerns.

[Baroness Blackwood of North Oxford]
It is exactly why we have brought forward this consultation as a matter of urgency and why the department is making strenuous representations to the Treasury, which is reviewing the operation of the annual tapered allowance, and it is why we will continue to make those representations. However, it is also why we are taking other actions around elective surgery so as to reduce the pressure on surgeons up and down the country.

Lord Anderson of Swansea (Lab): My Lords, can urgent action be taken in respect of the doctors' scheme without having an effect on other schemes of a similar nature?

Baroness Blackwood of North Oxford: The noble Lord is quite right. We must make sure that we do not undermine the important benefits of the tax relief on contributions. It is one of the most expensive reliefs in the tax system, costing around £50 billion, around 60% of which was claimed by higher and additional-rate taxpayers. We will expect any review that comes forward from the Treasury to be targeted. An evidence-based approach will be adopted where there is evidence that any problems with the pension tax are affecting the delivery of front-line services, as we have found with the specific group of high-paying clinicians.

Baroness Jolly (LD): My Lords, the noble Baroness will be aware that the royal colleges are all sounding alarm bells, and she is probably also aware that all our doctors serving in the Armed Forces are affected by exactly the same tax hits. The whole NHS workforce is in crisis and we really cannot afford to lose highly trained clinicians. The problem has been known to the department for some considerable time. Can she tell us exactly when the Government expect there to be a sensible, workable solution?

Baroness Blackwood of North Oxford: As I said in an earlier answer, we are expecting the consultation proposals to be implemented in April. However, I reassure the noble Baroness that these proposals would also apply to clinicians working in the Armed Forces and in medical schools, provided they are in the NHS pension scheme. I hope she finds that encouraging.

Lord Forsyth of Drumlean (Con): My Lords, this is not just a problem for the NHS; it applies across the public sector—to senior people in the police, the fire service, the Army and elsewhere. It is a problem of the Government's making. It was the Government who put a limit on the size of people's pension pots and this is the unintended consequence. We are losing the most experienced, dedicated people. It is a false economy. My noble friend answers for the Government as a whole, not just on the health service, and it is not good enough to say that the Treasury is considering this matter. It has been brought up time and again, and it is time for the Treasury to admit that it made a mistake that is costing the public service dear.

Baroness Blackwood of North Oxford: As usual, my noble friend speaks with alacrity and force. It has been made quite clear by the Treasury that it will look at the impact on front-line services across the system and not just in the NHS. I am of course speaking for the Department of Health and Social Care, but where sensible evidence is brought forward by other services, it will be looked at by the Treasury in its review.

Baroness Symons of Vernham Dean (Lab): My Lords, is the Minister not aware that when she speaks from that Front Bench she speaks for the entire Government, not just for the department for which she works? Anybody speaking in this House as a Minister speaks for the whole Government. The noble Lord, Lord Forsyth, is entirely right: the idea that, although we know what the problem is, there will be no implementation until the spring is unacceptable. This has to be done much sooner than that.

Baroness Blackwood of North Oxford: I apologise if I gave the noble Baroness the impression that there will be no action before the spring. NHS Employers has already published guidance for employers that would mitigate the effect of pension tax on their workforce in this tax year. In addition, consultation is under way to allow measures to come into place in April. The Treasury is also looking at the effect of the allowance and taking further action with effect not just for NHS workers but for those who work across the public sector where there is evidence of an impact on front-line workers. I hope that that reassures the noble Baroness and the entire House.

Yemen

Question

3.30 pm

Tabled by ***The Lord Bishop of St Albans***

To ask Her Majesty's Government what assessment they have made of the deal brokered by the government of Saudi Arabia in Yemen and the prospects for lasting peace there.

The Lord Bishop of Durham: My Lords, I beg leave to ask the Question standing in the name of the right reverend Prelate the Bishop of St Albans, who apologises for the fact that he cannot be in his place today.

The Earl of Courtown (Con): My Lords, the UK welcomes signs of progress through the Saudi-led talks to bring together the Government of Yemen and the Southern Transitional Council to reach a peaceful settlement following the clashes in Aden in August. This has further demonstrated the need for inclusive political talks through the UN-led peace process. The UK urges all parties to engage constructively with the UN special envoy, Martin Griffiths, to broker a sustainable peace for all of Yemen.

The Lord Bishop of Durham: My Lords, I thank the Minister for his response and I share his support for any initiative that brings peace to Yemen, but this deal brokered by the KSA brings only limited opportunities for a peaceful future in the region. After four years

and seven months, almost 100,000 people have died—84,000 children from starvation, and 2,500 from cholera. What pressure are Her Majesty's Government putting on Saudi and Emirati opposites to secure an immediate cessation to the wider war in Yemen?

The Earl of Courtown: My Lords, the right reverend Prelate makes good points about the situation in Yemen. He mentioned cholera: 670,000 suspected cases were recorded in the past year. We must be clear that, from the outset, the only solution to the crisis in Yemen is a political one. A political settlement is the only way to bring long-term stability to Yemen and address the worsening humanitarian crisis. We continually put pressure on our colleagues and the various people involved in the conflict to agree and stand by the UN Security Council special envoy Martin Griffiths, who is currently discussing with the parties the timing and details of the next round of peace talks. In the meantime, it is vital that all parties abide by agreements made in Stockholm and work with the special envoy to continue to build confidence and make progress on the political situation.

Lord Collins of Highbury (Lab): My Lords, the Minister is absolutely right: we seek peace for the whole of Yemen. We also know that to bring about a political solution we have to exercise some leverage. One of the problems we have is that British arms are being used by the Saudis in this war, in which many children and families have suffered. Despite the arms embargo, there have been three breaches of licences to the Saudis, so will the Minister ensure that the Government uphold a strong forceful position on arms to Saudi Arabia?

The Earl of Courtown: My Lords, I am glad that the noble Lord has brought up the subject of arms sales to Saudi Arabia. My right honourable friend the International Trade Secretary commissioned a full and urgent investigation as soon as the breach was discovered and has apologised to the court. As the noble Lord and the House are also aware, the key test is in criterion 2c of the consolidated EU and national arms export licensing criteria, which considers whether there is a clear risk that the items to be exported might be used in the commission of a serious violation of international humanitarian law. In addition, while we are considering the implications of the judgment for decision-making on arms sales, we will not grant any new licence for exports to Saudi Arabia and other members of the coalition for items that might be used in the conflict in Yemen. The existing arms licences are under review.

Baroness Warsi (Con): My Lords, following on from the question from the Benches opposite, could my noble friend outline the detail and the value of all arms sales to Saudi Arabia since the Court of Appeal decision in June this year that deemed many of those sales unlawful? If he does not have that information to hand today, which he may not, will he commit to writing to me and putting a copy of that letter in the Library?

The Earl of Courtown: My Lords, my noble friend asks me a question about the value of arms sales to which I do not have the answer. I will write to her and place a copy in the Library. As I said before, though, the important issue is that these arms are not used against international humanitarian law. The fact is that we do this by studying them and making sure that they comply with criterion 2c.

Lord Campbell of Pittenweem (LD): My Lords, notwithstanding the agreement that has been referred to so far, the fact is that the conflict between the coalition and the Houthis remains deadlocked but there have been some reports that the Houthis have offered to desist from aerial attacks into Saudi Arabia. Is the Minister aware of such reports? Has he any understanding as to whether or not they are accurate? If so, what is his assessment of the capacity of that to help to bring about a comprehensive ceasefire?

The Earl of Courtown: My Lords, the noble Lord, Lord Campbell, mentioned attacks from inside Yemen into Saudi Arabia. Responsibility for these attacks was claimed by the Houthis. It is understood that they most probably do not actually have the ability to launch such attacks. The fact is that what we have to look at is the arms supply coming out of Iran to the Houthis. Iran must comply with the UN Security Council in banning all imports of arms to the Houthis in Yemen.

Modern Slavery (Victim Support) Bill [HL]

First Reading

3.37 pm

A Bill to make provision about supporting victims of modern slavery.

The Bill was introduced by Lord McColl of Dulwich, read a first time and ordered to be printed.

Right to Die at Home Bill [HL]

First Reading

3.38 pm

A Bill to create a right to die at home.

The Bill was introduced by Lord Warner, read a first time and ordered to be printed.

Certificate of Loss Bill [HL]

First Reading

3.38 pm

A Bill to make provision for a certificate to be issued to mothers in respect of miscarried and still-born children not eligible for registration under the Births and Deaths Registration Act 1953; to establish a database for archiving the certificate and recording information about the miscarriage or still-birth; and for connected purposes.

The Bill was introduced by Baroness Benjamin, read a first time and ordered to be printed.

Automated Facial Recognition Technology (Moratorium and Review) Bill [HL]

First Reading

3.39 pm

A Bill to prohibit the use of automated facial recognition technology in public places and to provide for a review of its use.

The Bill was introduced by Lord Clement-Jones, read a first time and ordered to be printed.

Pensions (Amendment) Bill [HL]

First Reading

3.39 pm

A Bill to amend the Pensions Act 2004 and the Companies Act 2006 to remove the cap on compensation payments under the Pension Protection Fund and to require the approval of pension scheme trustees and the Pensions Regulator for the distribution of dividends.

The Bill was introduced by Lord Balfe, read a first time and ordered to be printed.

Business of the House

Motion on Standing Orders

3.40 pm

Moved by ***Lord Ashton of Hyde***

That Standing Orders 46 (No two stages of a Bill to be taken on one day) and 48 (Amendments on Third Reading) be dispensed with today to allow the Early Parliamentary General Election Bill to be taken through its remaining stages and to allow manuscript amendments to be tabled and moved on Third Reading.

Lord Ashton of Hyde (Con): My Lords, on behalf of my noble friend the Leader of the House, I beg to move the first Business of the House Motion standing in her name on the Order Paper. It will not have escaped the House's attention that last night the House of Commons completed all stages of a short Bill to provide for an early general election. The Bill had its First Reading in this House last night and we will take all its remaining stages today. The Bill's Second Reading will start immediately after these procedural Motions. A speakers' list has been printed and there is an advisory speaking time of five minutes. The Legislation Office will now accept amendments for Committee. It will stop accepting them 30 minutes after the conclusion of Second Reading. The timings for Committee and the remaining stages will be confirmed via the annunciator. A revised *Today's List* will be issued with any amendments and groupings. I beg to move.

Motion agreed.

Business of the House

Motion on Standing Orders

3.41 pm

Moved by ***Lord Ashton of Hyde***

That Standing Order 40(4) and (5) (Arrangement of the Order Paper) be dispensed with on Thursday 31 October so far as it is necessary to enable notices and orders relating to Public Bills and Affirmative Instruments to have precedence over other notices and orders that day; and that, in the event of the Northern Ireland Budget Bill being brought from the House of Commons and read a first time, Standing Order 46 (No two stages of a Bill to be taken on one day) be dispensed with to allow that Bill to be taken through its remaining stages that day.

Lord Ashton of Hyde (Con): My Lords, on behalf of my noble friend the Leader of the House, I beg to move the second Business of the House Motion standing in her name on the Order Paper. The second Motion relates to tomorrow. It will allow us to pass the Northern Ireland Budget Bill, which is likely to be certified as a money Bill, in one day and adjust the order in which other business is taken. A speakers' list for the Northern Ireland Budget Bill's Second Reading is now open. Noble Lords will have until 6 pm this evening to add their names. The important debate on the Phase 1 report from the Grenfell inquiry will be taken in the Chamber after the Northern Ireland Budget Bill and debates on two statutory instruments. The debate on international development will not take place tomorrow. This Business of the House Motion ensures that essential legislation on public expenditure in Northern Ireland can reach the statute book before the Dissolution of Parliament. I beg to move.

Amendment to the Motion

Moved by ***Lord Hain***

To leave out the words "to be taken through its remaining stages that day" and replace with the words "and the Historical Institutional Abuse (Northern Ireland) Bill [HL] to be both taken through their remaining stages that day".

Lord Hain (Lab): My Lords, this manuscript amendment concerns historical institutional abuse involving hundreds or maybe thousands of children and going back decades. This Bill received its Second Reading with unanimity on Monday. It went through the House in an hour less than was originally allocated—half the time—and had cross-party support. There is no argument about the principle of it. I spoke to the Secretary of State this morning. He supports it and wants to see it go through before Parliament is dissolved. I know that the noble Lord, Lord Duncan, who is an excellent Northern Ireland Minister, wants the same thing. This is supported right across the House; we want to see this concluded.

An inquiry reported on this in 2012—seven years ago. Three years ago, a final report recommended levels of compensation and the basis for the Bill. That was three years ago and it was logjammed by the failure of the Northern Ireland Assembly to sit since then. This House should take the lead in taking the Bill through its remaining stages and it should then go back to the Commons to complete its remaining stages and receive Royal Assent before Parliament is dissolved. The victims of historical institutional abuse—terrible child abuse, sexual abuse and violence—need redress. There is no argument about the principle.

The business managers have not so far found space to do this. We have to help them do so by passing this manuscript amendment. I hope I do not have to divide the House, but if I have to, I am afraid I will, because this is crucial. I am told that there is no time because MPs want to go back to their constituencies. I was an MP for a quarter of a century. I understand that but, frankly, tough. They should stay on, either well into the night tomorrow, sit on Friday morning, or come back as originally envisaged on Monday or Tuesday to complete this. These remaining stages could go through in less than an hour tomorrow. The same would be true in the House of Commons. I have also spoken to the shadow Secretary of State, Tony Lloyd. He says that there is complete support for it there as well. We should do this now and it should go back to the Commons if necessary. I was Leader of the Commons for two years. A Business Motion could go down in the Commons to say that at least the First Reading could be taken tomorrow after we had completed all the stages here expeditiously. It could then go into the wash-up and the victims of historical abuse in Northern Ireland could get the redress they have waited for decades for. I beg to move.

3.45 pm

Lord Empey (UUP): My Lords, I strongly support the amendment in the name of the noble Lord, Lord Hain. We had the Second Reading of the Historical Institutional Abuse (Northern Ireland) Bill in this House on Monday. There was unanimity in this House, and there is unanimity among every party in Northern Ireland.

There is a humanitarian issue. I said during my remarks on Monday how cruel it would be, having got to this stage, yet again to steal away another opportunity to do justice to these people who have suffered an enormous amount of abuse. The inquiry covered 1922 to 1995. Anyone who has read any of it knows that it is a horror story of horror stories. Since the report came out, more than 30 of these victims have died through natural causes. These victims are being hit again and again. How can it possibly be that, due to some procedural minutiae, we thwart the delivery of this compensation, which everyone—here and in Northern Ireland—agrees should be given? I see this as a humanitarian, not a political, issue. There is no politics in this because everybody agrees.

I appeal to the business managers to revisit this. I spoke to the Secretary of State for Northern Ireland yesterday. He is obviously sympathetic, but he is in the hands of the business managers, as we all are in this situation. I appeal to noble Lords: surely to goodness, on the basis of helping these people after what they have suffered, we can put ourselves out a little, since they have suffered for decades. I strongly support the noble Lord, Lord Hain, and if the House divides I shall be in the Lobby along with him.

Lord Bruce of Bennachie (LD): My Lords, these Benches also support the manuscript amendment from the noble Lord, Lord Hain. I repeat that there is unanimity in this House and complete agreement across all the Northern Ireland parties. This can be done very quickly. It would be a travesty for a procedural block to be put on something positive that the Westminster Parliament can do in agreement with the politicians of Northern Ireland together. The plea really is preferably not to have a Division, but I look to what the Lord Privy Seal says. The business managers really should be able to find time for this. If there is a Division, these Benches will support the noble Lord, Lord Hain.

Lord Cormack (Con): My Lords, we had this debate on Monday, when everybody spoke in support. It would be a very good idea if this not most glorious of Parliaments ended on a note of constructive compassion towards those who have suffered for so long in Northern Ireland. There is absolutely no reason why this Parliament should not sit on Monday and Tuesday of next week. It would take very little time to get this through. Dates have become too sacred recently, and cannot always be met, but this is something that can be met. I hope that there will be no need for any Division, and that my noble friend will indicate that time will be found. When he spoke on Monday, very movingly, my noble friend Lord Duncan of Springbank, an exemplary Minister in every way, made it plain that he would like the Bill on the statute book before the end of this Parliament. Of course, he did not know that we were going to have such accelerated progress yesterday, but there is no just cause or impediment that means this should not be put on the statute book before this Parliament is dissolved. I hope my noble friend will be able to respond positively to the point made by the noble Lord, Lord Hain, and supported by many others.

Lord McAvoy (Lab): My Lords, we are deeply sympathetic to the aim of getting the Bill on to the statute book. However, although I am in danger of sounding like a heartless bureaucrat, the usual channels in this House work very well, and it is very much against the established traditions of the House to support Back-Bench or other non-government Motions that are on government time, and this Motion may not help.

Having said that, let me make it clear that the Bill in question is vital for those who have suffered historical institutional abuse in Northern Ireland to get compensation. If the Bill does not pass, it will cause great anguish in Northern Ireland. It is vital that it is done as soon as possible, because many of those affected are old. Many have already passed away, so every week counts. We are aware of all those in Northern Ireland waiting for it to become law. We want to see it become law as soon as possible. I know that my noble friend Lord Murphy, whose record on Northern Ireland stands second to none, was clear about our support for the Bill from these Benches at Second Reading, and that it should pass quickly, as there was cross-party support. Like others, I pay tribute to the noble Lord, Lord Duncan, who has made superhuman efforts on this issue and, unfortunately, has not so far succeeded. We want to see the Bill become law as soon as possible.

There is great uncertainty around. We are aware of rumours that Parliament may finish for the general election as early as tomorrow evening, yet the uncertainty continues. I do not like to bring a note of contention

[LORD MCAVOY]
into it but, given its cross-party support, the finger of blame for not passing the Bill will lie squarely with the Prime Minister. It can still be done.

I am asking my colleagues to abstain on the amendment in the name of my noble friend Lord Hain, purely as a matter of process.

Noble Lords: Oh!

Lord McAvoy: Difficult things have to be said. It is not for us to support such non-government Motions in government time. However, I agree with the sentiments of the Motion, as we all do on these Benches. We are willing to work with the Chief Whip and have further discussions, as we have had all week, to find creative ways to get the Bill to the Commons as early as possible. Is the Chief Whip willing to meet me, and my noble friends Lord Murphy and Lord Hain, to investigate any method by which we can get the Bill through? Can the noble Lord provide the House with any more information about Parliament rising for the election?

Lord Hay of Ballyore (DUP): Certainly, on this issue there is, as the noble Lord, Lord Empey, has said, total unity of purpose among all the political parties in getting this Bill on to the statute book. It is not easy, in Northern Ireland, to get all the parties to agree to anything, but they are in total unity about getting Royal Assent for this Bill. We heard late last Monday that all stages of this Bill would be done: that is certainly my belief and that of some of my colleagues. If this Bill falls because of a general election there will be great hurt out there among the victims. They have waited many years for justice and at the last second it will be taken away from them. That is absolutely wrong.

We have a mind to support the Motion from the noble Lord, Lord Hain, this afternoon. We do not want to divide the House; we would rather find a mechanism that gets the Bill over the line. I understand that the noble Lord, Lord Duncan, has been talking to the business managers and has excelled himself in trying to find a way through all this, but that he has found it very difficult. If a mechanism is not found we may be left with no choice, this afternoon certainly, but to divide the House and support the Motion from the noble Lord, Lord Hain.

Lord McAvoy: I am sorry to intervene yet again, but it has just been confirmed that Parliament will sit next Monday and Tuesday. Does that not give us all the opportunity to get the Bill done?

Lord Ashton of Hyde: My Lords, I am very grateful to the noble Lord, the Opposition Chief Whip, who confirmed that the usual channels are working well. I am always happy to talk to him—as we have done in the past few days.

The amendment from the noble Lord, Lord Hain, would raise the possibility of taking the remaining stages of the historical institutional abuse Bill tomorrow as well. I acknowledge the comments from around the House and the way the noble Lord, Lord Hain, set out his manuscript amendment. I assure the House that the Government take seriously the issues that the Bill addresses and are fully committed to delivering the compensation scheme. The importance that we attach to it is demonstrated by the fact that it was one of the first Bills introduced after the Queen's Speech, and the Second Reading was on Monday.

As a consequence of the decision by the House of Commons to have an early general election, however, parliamentary time is now very limited. Unfortunately, there is simply not enough time for the Bill to pass through both Houses before Dissolution on 6 November. The Bill has only had its Second Reading in this House, and even if it were to go through all three remaining stages in this House it would still have to be considered by the House of Commons. Although I agree with the noble Lord, Lord Hain, that this Bill has cross-party support, I am sorry that, on the grounds of practicality, I cannot agree to the noble Lord's request. I ask him, therefore, to withdraw his amendment.

Lord Harris of Haringey (Lab): Before the noble Lord sits down, my noble friend the Opposition Chief Whip has said that the news from the other end has changed, and we are now not going to prorogue on Thursday night, in which case there is a lot more time at the other end than was previously thought. Will the noble Lord, the Chief Whip, tell us, therefore, what the situation is with regard to Dissolution and the time available to deal with this legislation?

Lord Ashton of Hyde: One thing I have found since I started this job very recently is that it is a full-time task keeping up with the business of this House, let alone that of the House of Commons: that is not in my gift. If it is true, however—I have not been informed about it yet—then the House of Commons has more time than if we had adjourned on Thursday, so more time for this Bill is certainly a possibility. I cannot, however, make decisions about House of Commons timing while on my feet at the Dispatch Box. I am perfectly happy to talk to the usual channels, as I did before, but this is not the time and place to accept the noble Lord's amendment.

4 pm

Lord McAvoy: My Lords, I am sorry for once again intervening, but in view of that, we now have the time. The Government say that it is a priority. To quote someone else, let us get the job done. I now change the whipping on this side of the House.

Noble Lords: Oh!

Lord McAvoy: We will support my noble friend Lord Hain's amendment.

Lord Ashton of Hyde: Nobody can accuse the noble Lord of not being able to think on his feet. I would like to be able to support the amendment, but, at the moment, we would like to leave it so that I am able to talk. The issue is not whether the Bill has time to get through this House; it is whether it has time to get

through the House of Commons. I am not in a position to agree that they—having, for example, elected a Speaker—will have time. If they do not have time, which was the position when I came into this Chamber—

Lord Naseby (Con): My Lords—

Lord Ashton of Hyde: I have not finished yet.

If the House of Commons has time and we are told that the situation has changed, of course I am open to discussions on that, but I cannot do it without confirmation from the House of Commons.

Lord Naseby: My Lords—

Baroness McIntosh of Hudnall (Lab): My Lords—

Baroness Hayman (CB): My Lords, I quite understand the difficulties that the Government Chief Whip has in making commitments for the House of Commons, but we are not asking him today to make commitments for the other place; we are asking him to allow us to have time to do our job as the House of Lords. What then happens is in the decision-making capabilities of the other place. We should not be constrained by making other people's decisions for them. I think that the feeling of the House on all sides is very strong. We all recognise that the Government Chief Whip cannot speak for the House of Commons; he can speak for this House, and this House wants the time to do this work.

Viscount Waverley (CB): My Lords, I have just taken the initiative of calling the House of Commons to see what their situation is. I can only tell your Lordships what I have been informed, which is that a decision has not as yet been made, and that Monday and Tuesday are still a possibility. That may be helpful.

Lord Ashton of Hyde: My Lords, I have accepted that there is widespread feeling in the House on this. As I said, a lot depends on the House of Commons. It would be silly to spend a lot of time on this if we knew that it would not get through the House of Commons. If the noble Lord will withdraw his amendment, I will agree to talk to the usual channels and, if necessary, he could bring back his amendment tomorrow—or we may not even need an amendment. Is he happy to accept that?

Lord Hain: My Lords, I appreciate the dilemma and predicament that the Chief Whip is in; I am not having an argument with him. There is no argument across this House about the principle. I would hope that in pressing the amendment to a vote, as I intend to do, I would be helping him and the whole House provide leadership on this matter. The House of Commons needs to follow suit and support the victims concerned.

Lord Ashton of Hyde: I am grateful for the noble Lord's suggested help. It is better if we follow the normal procedure, which is to agree these things between the usual channels. We have understood. I have agreed to talk to the usual channels tomorrow. I leave it up to him whether he will accept that and press his amendment or not.

Lord Hain: My Lords, I wish to press this to a Division.

The Lord Speaker decided on a show of voices that the amendment in the name of Lord Hain was agreed.

Motion, as amended, agreed.

High Speed Rail (West Midlands-Crewe) Bill

Membership Motion

4.04 pm

Moved by ***The Senior Deputy Speaker***

That, as proposed by the Committee of Selection, the following members be appointed to the Select Committee:

Flight, L, Jones of Cheltenham, L, Haselhurst, L, Liddle, L, Porter of Spalding, L, Snape, L, Walker of Gestingthorpe, L. (Chair)

That the quorum of the Committee be four;

That the Committee have power to adjourn from place to place;

That the evidence taken by the Committee be published, if the Committee so wishes;

That the Report of the Committee be printed, regardless of any adjournment of the House;

That the order of appointment of the Committee remain in force notwithstanding the prorogation of Parliament.

Motion agreed.

Early Parliamentary General Election Bill

Second Reading

4.05 pm

Moved by ***Baroness Evans of Bowes Park***

That the Bill be now read a second time.

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, I am pleased to open the Second Reading debate. While this Government did not want an election, this Parliament has not been able to agree a way forward on the major political issue facing the country. The purpose of this Bill is to allow the public to have their say and to give the other place the mandate to resolve this deadlock.

Earlier this year, the other place voted three times on the withdrawal agreement negotiated by my right honourable friend Theresa May and, on each occasion, rejected it. Subsequent cross-party talks to seek a compromise also failed to agree a way forward. My

[Baroness Evans of Bowes Park]
right honourable friend the Prime Minister negotiated a new Brexit deal, which did win the support of a majority in the other place at Second Reading. However, MPs were unable to agree a timetable for the passage of the withdrawal Bill so, once again, this has meant that the other place has been unable to progress the required legislation.

I share the frustration of many around this House. We have sat and watched over the past few months while the House of Commons has repeatedly been unable to achieve consensus on a way forward. However, a December election has now been supported by the leadership of all major parties in the other place. This presents a chance to resolve the impasse that this country has endured for too long. The Government have tabled this short Bill to set 12 December as the date of the next general election. If it passes, this Parliament will dissolve 25 working days before the date of the poll. The Bill sets the date of the election in law and removes the discretion to set the polling day which otherwise exists under the early elections provisions in the Fixed-term Parliaments Act. The date of 12 December allows time for the Northern Ireland budget to pass before Dissolution, which is necessary so that the Northern Ireland Civil Service can access the funding it needs to deliver public services. The date also maintains the convention that general elections are held on a Thursday, which this country has followed since the early 1930s.

As noble Lords will be aware, only one amendment to the Bill was passed in the other place yesterday. The Government tabled an amendment to address the concern raised by the Scottish National Party, which was to ensure that the registration deadline for the election in Scotland was the same as that of the rest of the country. The effect of the amendment is to remove the St Andrew's Day bank holiday from the calculation of time in relation to the deadline for registering to vote. It will instead be classed as a normal working day, but only for this election and only for limited purposes in relation to the electoral register. This will allow for a comprehensive UK-wide communications campaign by the Electoral Commission to advertise the deadline and ensure that all those in the UK who are eligible to register can do so within the same time period.

This Bill passed Third Reading in the other place by a majority of 418, and I think we can agree that the level of cross-party support for it there at this time was significant. Having an election will allow us all to put our case to the public, to give them the opportunity to decide how they want to move forward, and to ensure that the new Government have time to act before 31 January 2020.

Lord Butler of Brockwell (CB): My Lords, if the Bill is passed and the election takes place on that date, what is the earliest date on which Parliament can be reopened?

Baroness Evans of Bowes Park: I may ask my noble friend to cover that point in his wind-up speech. I know that a number of conversations have been had, and I think that the Prime Minister has said something, but I do not want to put words in his mouth that are not accurate.

Noble Lords: He is here!

Baroness Evans of Bowes Park: Oh dear. This might be the last time you see me here anyway, after that. But we will respond to the noble Lord.

I hope that noble Lords will reflect, in their usual measured and considered way, on the manner in which this Bill was passed yesterday in the other place and replicate that in your Lordships' House today. I beg to move.

4.11 pm

Baroness Smith of Basildon (Lab): My Lords, when the Prime Minister was standing for election as leader of his party—and, therefore, Prime Minister—I asked an esteemed Conservative Minister and parliamentarian of some integrity whom he was voting for. I was surprised when he said Boris Johnson. I suspect he had his misgivings, but his reason was that he thought he was a winner. I countered that Boris Johnson would see Parliament as an inconvenience, and I regret that I am being proved right.

First, we had the unlawful Prorogation, when the Prime Minister attempted to shut down Parliament for five weeks. Then, last week, having gained parliamentary support for the Second Reading of his withdrawal Bill, he pulled the Bill only because MPs would not agree to an unreasonable programme Motion—not, as the noble Baroness said, to any kind of timetable; they would indeed have agreed to a timetable, just not that timetable. All that was being sought on that occasion was the normal and reasonable process of consideration and scrutiny. Then, having won the vote on his Government's programme for the forthcoming year, he demanded a general election—thus again trying to avoid the normal and reasonable process of scrutiny of his legislation. Then, having failed to get a two-thirds majority for an election at a time of his choosing under the Fixed-term Parliaments Act, he was obviously relieved and delighted when the Liberal Democrats and the SNP threw him a lifeline and offered to support an election. The noble Lord, Lord Dobbs, joked during the Queen's Speech debate that these days fact is certainly more unbelievable than fiction; he is right. This is a book that nobody would have dared write.

When the Fixed-term Parliaments Act was introduced by the coalition Government, we were told that it would create strong and stable government, even from a minority Government. The noble and learned Lord, Lord Wallace of Tankerness, who introduced the Bill for the Government, said that this would ensure that election dates would no longer be picked for a narrow, partisan, political advantage. We were given lots of high-minded, constitutional reasons why it was so important, yet our own Constitution Committee admitted to some scepticism, recognising that the Bill's origins and content,

"owe more to short-term considerations than to a mature assessment of enduring constitutional principles or sustained public demand".

Basically, the Conservative-led coalition Government sought to bind Parliament to give it a five-year term in power. Having succeeded in that, neither party now sees any further use for the legislation.

Lord Wallace of Tankerness (LD): I am grateful to the noble Baroness for giving way. What benefits did she think would accrue from a fixed-term Parliament, given that the Labour Party included a commitment to it in its 2010 election manifesto?

Baroness Smith of Basildon: I think the noble and learned Lord will find that, at the time, we proposed several amendments to the Bill that the noble and learned Lord rejected. Even in my wildest dreams, I did not suggest that it would be strong and stable government. I think the contradiction is that, at the time that the noble and learned Lord was taking the legislation through, he said that it would stop the politicisation of elections—nobody would call an election for political advantage. What do we think is happening at the moment?

Lord Forsyth of Drumlean (Con): Will the noble Baroness give way?

Baroness Smith of Basildon: I will, because I think the noble Lord recognises the comment I made earlier in my speech.

Lord Forsyth of Drumlean: I need to confess that I was the Member that the noble Baroness referred to, and I was right about Boris Johnson—he is a winner, as she is about to discover. She is making a very devastating criticism of the Fixed-term Parliaments Act, so can we assume that in the Labour Party's manifesto there will be a commitment to repeal it at the earliest opportunity?

Baroness Smith of Basildon: The noble Lord tempts me, and I have to say I would argue that case. Whether my party would fully accept everything I want in the manifesto is another matter, but I would certainly argue for it, because what is happening at the moment is that every time the Fixed-term Parliaments Act becomes inconvenient, the Government and their supporters could bring forward a Bill such as this in order to do away with it. Already, the Act has become nonsense.

During the Queen's Speech debate, I joked that the first Bill in the Government's programme would be a "Fixed-term Parliaments (Repeal) Bill". I thought I was being clever—I have to say that my grandmother would have said I was being "too clever by half". It was a joke, but I think it would have been a lot more honourable and honest to bring forward that kind of legislation. Perhaps the noble Lord and I could have a conversation afterwards, because if he wants to bring a Private Member's Bill, I think it would find a fair amount of support in the House.

In that speech, I also joked about not having had a Queen's Speech or Prorogation for more than two years, and then expecting two or even three in quick succession. I really was only joking, but some might now suspect I have a crystal ball in my office. The programme for government that we heard less than three weeks ago was, as we said at the time, a test run for the Conservative Party election manifesto rather than a serious programme for the coming year, but even we did not imagine that the election would be quite so blatantly soon. I have to say that the Tory party's enthusiasm for a general election every time it changes leader is proving to be rather expensive for the taxpayer. With a general election, a new Parliament and yet another Queen's Speech all within a matter a months, perhaps the normally Conservative-supporting TaxPayers' Alliance, with its diligent examination of public spending, will be sending an invoice to the Tory Party for the October event. If not, I might just be tempted to do so myself.

So much seems to have changed since 19 October. As we sat on a Saturday to consider the Government's Brexit deal, I reflected that time and patience was running out for everybody: the public, the politicians and the EU. A situation without resolution was unacceptable to everybody. The bungling of Brexit has fractured our nation and divided friends, families and our politics. If MPs were unable to reach a conclusion on the slightly revamped but inferior deal, I conceded that the way forward would have to be to ask the public to consider the issue. The stalemate in Parliament has made me think again about a confirmatory referendum. A bit like in *The Case-book of Sherlock Holmes*,

"when you have eliminated the impossible, whatever remains, however improbable, must be the truth".

As I said then, if this was the best Brexit, one that a Brexit-supporting Prime Minister said was "a great deal", then we should all have the confidence to ask the public if they agree. At the time, the noble Lord, Lord Newby, speaking for his party, agreed with me. He said—and I am sure that he will not mind me quoting him—that his party was,

"absolutely sure that an early general election would deliver it many more seats. The same cannot be said for the Conservatives or Labour"—

we will see about that—

"yet we do not believe it is in the national interest to have one".—[*Official Report*, 19/10/19; col. 289.]

As my hero, Harold Wilson, would have said: "A week is a long time in politics".

I said that my party will not stand in the way of this election: our doubts have been only about the timing, rather than the event itself, which we have been calling for and planning for for so long. I was sorry that our amendment in the other place for an earlier date was rejected. I wonder how tolerant a politics-weary electorate will be about interrupting their Christmas preparations to consider party manifestos. I hope that no party will be tempted to dress their leader in Santa costumes.

Let us be clear, first, that a general election is not just about Boris Johnson's pledge to "do or die" or "Get Brexit done". Those soundbites are about as meaningless as Theresa May's "Brexit means Brexit". A referendum would have been about the single issue of Brexit, but a general election is about so much more. It is about a vision for the direction of this

[Baroness Smith of Basildon]
country, and the Conservative Party will have to stand on its record. By contrast, we have an offer that will make a real difference for the people of this country in health, education, the environment, with a new generation of affordable homes and renters' rights, free personal care for our loved ones who are most in need and a genuine transformative vision to support our economy and workers in creating the green future that we need. Inevitably, it will also be about the damage that a Johnson Brexit or a crash-out Brexit would do to our country.

Secondly, I make a plea for decency and integrity in campaigning. To hear a Conservative MP say that the country needs an election to "drain the swamp", and other such inflammatory and disgraceful comments, is both sickening and dangerous. A general election based on the denigration of MPs from any party or all parties, who have been charged with the most difficult decisions and negotiations for a generation, would further undermine any public confidence in our politics. We expect our candidates and leaders to behave with the dignity that office demands, and we must pledge to do all we can to uphold that. If this election is truly to resolve the divisions largely caused by the bungling of Brexit, all parties must seek to heal as well as to win.

4.21 pm

Lord Newby (LD): My Lords, I have probably made more speeches than any other Peer arguing in favour of a referendum rather than a general election to reach a resolution on Brexit, so I am sure that many noble Lords find it rather perverse that I and my colleagues are supporting the Bill today. I last spoke in favour of a referendum, as opposed to a general election, as recently as 19 October, as the noble Baroness helpfully reminded the House. I did so in the belief that securing a referendum before the passage of the withdrawal Bill was possible. I was being assured by Members in the Commons from across the parties that that was so and that, by being patient, a pro-referendum majority would emerge.

However, to secure such a Commons majority, at least two out of three things would have to happen and, by the end of last week, it was crystal clear that none of them would. First, the DUP could have supported a referendum. It made it clear that it did not. All experience shows that when the DUP has adopted a firm position, it does not easily shift from it. Secondly, the bulk of the 21 Conservative rebels, who had at that stage had the whip withdrawn, could have supported a referendum. Instead, with barely a handful of exceptions, they swung firmly behind the Bill. Many of them have now had their reward by getting the whip back. Thirdly, Labour could have united behind a referendum. It did not. From my conversations with Labour Back-Benchers, it became clear that people were so dug into their positions that they could not find a way to justify changing tack, even if they were minded to, which they were not.

By the weekend, it was clear to me that my long-held hopes and expectation that, at the last minute, there would be a majority in the Commons for a referendum, had been dashed. This view was shared by my colleagues in the Commons and by all serious commentators, and it was time to face that reality. If a referendum was off the table, only two courses of events were then possible. First, the Government could have secured an amended timetable Motion for the Bill and sought to get it through the Commons and the Lords in coming weeks. I believe that, had the Government pursued this course, they would have prevailed and a substantially unamended Bill would have passed. We would have been out of the EU by Christmas.

Secondly, we could indeed have an election that, imperfect as it might be, at least gives the people the chance to express a view on Brexit, as well as who is best fitted to lead the country. To me and my colleagues in the Commons and your Lordships' House, this is by far the better of these two evils. It is why we gave the Bill our support at Second Reading in the Commons yesterday. There are undoubtedly ways in which it might be improved, whether relating to the exact date of the election, the franchise or detailed election rules. There are also broader issues about the future of the Fixed-term Parliaments Act, to which I am sure Parliament will wish to return after the election. However, I believe it would be a mistake to seek to delay the Bill today. The Commons has given it overwhelming support as it stands. Now that a decision in principle to have the election has been made, we should simply get on with it. I suspect the rest of the country shares that view.

Lord Steel of Aikwood (LD): Will my noble friend make clear that it would still be open to a Government, after the election, to hold a confirmatory referendum?

Lord Newby: It is indeed open to a Government to do that. In the unlikely event of there not being a majority Liberal Democrat Government, I heartily hope that that happens.

This will be the 10th general election in which I have been closely involved, since the formation of the SDP in 1981. In virtually every case, politicians argued at the start of the campaign that it was the most important election in decades. Of course, it was not and, in some cases, the election simply took the form of a rather fractious procession, but this election could be the most important in my political life.

At the end of each of the last nine elections and many more, the framework of party politics emerged fundamentally unscathed, but Brexit has been like a seismic shock to the system. This was most obviously seen in the European Parliament elections, where both Labour and Conservative did so badly. The conventional wisdom is that voters revert to type in a general election and, like a holiday fling, their infidelity in June will be forgotten under the harsh winds of December. But I am not so sure. The million people who marched 10 days ago in London, in opposition to Brexit, and the millions of others who could not make the journey, but shared their views, rightly see Brexit as the defining issue of the age and it will define their votes. Behind their determination to vote to stop Brexit lies a broader view of the kind of society they want: one that sees the positive value of working together to deal with the huge challenges facing humanity, be they climate change, migration and human trafficking or how to harness the potential of artificial intelligence; and one that

embraces the future, rather than recoils from it. It is to those millions that the Liberal Democrats will direct our appeal over the coming six weeks, and it is a prospect that we relish.

4.28 pm

Lord Judge (CB): My Lords, at last this depressing saga is coming to an end—this very depressing failure of the parliamentary system to address a major political crisis.

"even the weariest river
Winds somewhere safe to sea".

I wish that I had written that myself, but I did not. It was written by a Victorian poet who presumably had no idea that there is a river that does not run somewhere safely to sea, and that is the Okavango. We have been in our Okavango time. Parliamentary processes have dried up in the middle of a political desert, so at last I can strongly support this Bill and we should get on with it.

However, I am going to add something else. We should get on with it unamended in any way, shape or form. But I want to express one reservation that goes back to something I go on and on about: let us be honest with ourselves and not be blind to the reality. We have once again tinkered with constitutional principles. There is a perfectly clear and unequivocal Act of Parliament that is extant and in force as I speak—the five-year Fixed Term Parliaments Act 2011. What we have done is to find a creative political device to get around it, but we are leaving it in force. The Act will remain in force whatever we may do with this Bill.

We have spent all the time we have spent because of the existence of the 2011 Act. There should have been a general election when Mrs May lost the major plank of her electoral process when she invited the House of Commons to agree her deal, and she had a humiliating failure. She was turned down flat by the House of Commons, so there should then have been a general election. That is how our constitution is supposed to work, instead of which, we and the other place have been sitting in paralysed impotence doing nothing except arguing about whether we should argue again. Using constitutional devices in this way can, as I have said to the House before, come back to bite us. I know that of course all noble Lords cheer for their sides and that I am lucky not to have a side. I will not even have a vote in the next election any more than will any other noble Lord. But who in this House can honestly say that at the end of this election, we will not end up with a minority Government? That is a very serious possibility.

If it is a possibility, that paralysed Parliament will be governed by the five-year Fixed-term Parliaments Act and we will have the same Parliament until December 2024. There will be a way around it because we will find another device or we will repeat the device we have used this time, provided the minority Government can get a few people on side to push a majority through the House so that, at some stage which is convenient, it may come to an end. That is not the right way to legislate because it is wrong in principle. We should address the five-year Fixed-term Parliaments Act by amending it, repealing it or by doing something to it which means that it will not be in force until 2024. For me, this is a very serious reservation. We have found a way to tinker with the constitution. I welcome that because this shambles has to come to an end, but I do not welcome the fact that we have had to achieve it in this way.

4.32 pm

The Lord Bishop of Durham: My Lords, it is an honour to follow the noble and learned Lord, Lord Judge, but it is always slightly daunting as well. I believe that the House should expedite this business as simply and as quickly as it can. While I have much sympathy with giving the vote to 16 and 17 year-olds, that should be done with full due consideration and process at another time. Perhaps such a Bill could be introduced by the next Government. I also have sympathy with giving EU nationals the vote, but since that would be an example of the UK offering fuller and better rights than any current EU nation, it too would require proper scrutiny. Rushing it now would be inappropriate.

Whether a general election is the best way to take us out of our current impasse is certainly debatable. Whether doing so in December is good timing is, likewise, an interesting question. Will it tie us to another election in five years' time? That question can surely be handled by the review of the Fixed-term Parliaments Act in 2020 or, in view of the comments already made, rather more quickly. However, it is the way that has been decided by the elected Members of the other place and I am sure that it is not our place to stand in the way of such a decision.

We all recognise that there is an impasse; a way forward has to be found. I hope and pray that, somehow, an election will break this impasse. If, however, the outcome were a House of Commons without a clear majority for a way forward, those newly elected MPs will have to consider very carefully how they handle such a situation differently from the history of these past months. They must not repeat it, if that is what occurs. We cannot afford a repeat of such a period.

I hope we will pass the Bill as it stands today. I trust that there will then be a campaign from all sides that is about seeking the best for the nation and is conducted with care, thoughtfulness, kindness, respect and generosity, and not with vitriol or false representation of the other. Then, once we have a new Government, let us all look to rebuilding trust, relationships and harmony beyond the general election.

As we pray at the outset of every day in this place the prayer displayed in the corridor on the other side of the Chamber, I hope that,

"the result of all our counsels may be … the publick wealth, peace and tranquillity of the Realm, and the uniting and knitting together of the hearts of all persons and estates within the same, in true Christian Love and Charity one towards another".

4.36 pm

Lord Cormack (Con): My Lords, I think we should all say "Amen" to that, in our hearts as well as with our lips, as we do every day.

I strongly agree with those who have already said that the Bill, having been passed in another place by a huge majority, should go very quickly through this

[Lord Cormack]
place with no attempt to amend it. We are the unelected House and the elected House has expressed itself emphatically in favour; we should go along with that.

Having said that, I agree most strongly with the noble and learned Lord, Lord Judge, in what he said about the Fixed-term Parliaments Act. We had quinquennial Parliaments before the Act came about, but we were able to shorten them in a number of circumstances, such as a defeat on the Queen's Speech or the passing of a Motion of no confidence. We should go back to that condition. I hope that, whoever are in government after 12 December, they will make that an early priority and put it in the next Queen's Speech. It would be serving Parliament to do so.

Like my noble friend the Leader of the House, I wish we were not here at the moment. I was one who supported the Theresa May deal from the word go, and I would have supported the Boris Johnson deal, even though, in some respects, I do not think it quite as good. I wish that, after the Second Reading vote and the majority of 30 last week, we could have allocated more time. We could have then gone to the country after Brexit had been done—some time towards the end of November, I suspect—and had an early spring election. Things would have been much smoother. On a party point, I say to colleagues on this side of the House that we would have also put our party in a much stronger position had we done so. But we have not, and we have this Bill.

There is one thing I really hope we will do, and it builds on the remarks made by the right reverend Prelate the Bishop of Durham. Our country has been torn apart; families and communities have been divided. We have to seek to come together and it would be no bad thing if the Conservative Party took a lead in this. Some of the servants of our party, who have collectively given decades of service, have had the Whip restored—they should all have had the Whip restored. I felt very sorry this morning when I learned that Amber Rudd, who announced that she would not seek re-election, had requested the Whip and had her request turned down. That is not acting in the spirit of generosity or magnanimity and I urge my noble and right honourable friends in the Government to think again. These are people who have given long and distinguished service. We owe them a great deal.

I fought my first election in 1964 in the neighbouring constituency to the Father of the House, Kenneth Clarke. He has rendered long, loyal, conspicuous service and that should be properly recognised. It is deeply unfortunate that it has not yet been so recognised. I very much hope that it will be.

I end with another plea to the Government. The last time that we had a general election, in 2017, we had the longest, most turgid manifesto in our party's history. I think it was worse than the longest suicide note in history, which the party on the other side produced. Can we please all have, as a collective Christmas present, a short, emphatic manifesto, preferably on two sides of A4, but certainly not running to more than a couple of thousand words? That would also help the healing process. May it now begin.

4.41 pm

Lord Puttnam (Lab): My Lords, rather like the noble Lord, Lord Cormack, I think that the most important issue in front of us is the restoration of trust between us and the electorate. I first declare an interest as chair of this House's Democracy and Digital Technologies Committee. As such, with the date of the general election seemingly in place, it seems only right to ask the Minister how prepared he feels the country really is to hold a free and fair ballot. Surely this House will agree that nothing could be worse than a contested election result.

For a number of years, it has been clear that our election laws have failed to keep pace with technological change. As we are all aware as a result of the Cambridge Analytica scandal—and it was a scandal—messages can be placed online with no information about who paid for them, which candidate they support and why. It has become increasingly easy for campaigns to use microtargeted messages to fan the prejudices of individuals, safe in the knowledge that the wider electorate will not be aware of them.

The Government have promised that they will introduce proposals for imprints on all online political advertising, as is the case offline. The Government launched a consultation in July 2018, but have as yet failed to put forward any proposals. Earlier this year, they also committed to hold a consultation on measures to protect electoral integrity, including measures to increase transparency in political advertising. However, that also is yet to appear.

When the Democracy and Digital Technologies Committee questioned civil servants on when this consultation would take place, we were told that the decision was still sitting with Ministers. The sense of government inaction is incredibly worrying. The Electoral Commission put forward perfectly sensible recommendations for updating electoral law almost a year and a half ago, and the Government have yet to respond to them. The written submissions to our committee are all but unanimous in agreeing with the Electoral Commission's suggestions that all political advertising should, first, come with an imprint, and secondly, be recorded in real time on publicly available databases so that the electorate can see the nature of claims being targeted at different audiences. There must be greater transparency. This failure to act risks undermining voters' faith in democracy as a whole.

There is a real danger that, following the coming election, the losing side could plausibly claim the result to be illegitimate due to dark messaging having been used to subvert the democratic process. That in turn would undermine the legitimacy of whoever was elected—precisely the goal of every malign foreign actor wishing to influence the outcome of our elections.

The objective of dictators across the world is to spread the idea that democracy is a chaotic process that fails to lead to stable government. Government inaction in allowing this election to go ahead without the minimum recommendations of the Electoral Commission being in place can only help those foreign actors achieve their aims. There are enormous and unresolved questions over how digital technology should

be regulated to ensure that, over time, it can support rather than undermine our form of representative democracy.

The immediate changes that need to be made are obvious, and have been for a good while. For too long the Government have failed to act, to a point at which there are entirely legitimate questions to be asked—and indeed answered. We cannot go into this election without the degree of transparency that the public deserve if we are to maintain trust in our democratic system. In "getting Brexit done", we could all too easily inadvertently destroy long-term trust in British democracy itself.

4.45 pm

Lord Tyler (LD): My Lords, I shall follow the points that the noble Lord, Lord Puttnam, has just made in a moment but, first, I want to deal with the specific timing of this election.

In the winter election of 1974, polling day was on 28 February. I paid my morning visit to the polling station for the scattered parish of Temple, in the wilds of Bodmin Moor, with snow and bitter winds developing. I asked the staff about turnout. They told me that 17 of the 18 on the electoral register had already voted. I asked whether I should collect the final voter. They said, "No, Mr Tyler. That would be difficult because he's dead". However, as he was still on the register, they had to stay there until 10 o'clock at night and could not go home, because that was how the law applied then.

The point I want to make is that even that very bad weather and the short amount of daylight produced an 83% turnout in that constituency, because the wise electors knew that it was going to be very close, and they were right. I had a majority of just nine votes, and the Liberals scored a post-war record of 19.8% of the GB share of the poll. The point is that it is not the weather or the time of year that is important; it is whether people feel that their votes will be important, valued and matter.

Indeed, the great reforming Liberal/Whig Government of Lord Grey were elected on 10 December 1832, so there is a good precedent.

Such is the present uncertainty and volatility of public opinion that there will clearly be very unpredictable local contests, and, as Professor Curtice has pointed out, there is a strong likelihood that no party will have a majority. It may be that our political system is at last catching up with public opinion. It is several decades since a majority of the electorate supported one political party, and they have long since departed from the bipolar, bilateral choice between the old parties. Therefore, every vote should count and should matter far more than in recent elections.

As my noble friend Lord Newby has already said, we would have preferred a people's vote confirmatory referendum. Our MPs have urged this on no less than 17 occasions but they were thwarted by the vacillation and indecision of the Labour leadership.

Members of your Lordships' House may recall that I convened a group comprised of colleagues from all parts of the House—cross-party and non-party—to supervise the drafting of legislation for a new referendum. We could have passed that legislation relatively quickly if we had used the very brief paving Bill that we drafted. That would have made it possible for the other, fuller Bill to correct the defects in the 2015-16 legislation without holding it up, and meanwhile the Electoral Commission could have undertaken the consultations that were required.

However, it was not to be. Both the then Conservative Ministers and the Labour leadership chose to ignore the growing clamour for the public to be given the final say, and the time wasted after January contributed to the collapse in support for their parties in May.

I and my Liberal Democrat colleagues would have preferred the public to complete this process, since they began it in 2016. We believe that it would have seemed more logical and more clear-cut, but we are realistic. As I have said before, there should have been a political will; then there surely could have been a parliamentary way. However, I accept the inevitability of this Bill and this election timetable.

As the noble Lord, Lord Puttnam, has just emphasised, Ministers have also said in recent months—to me and to others—that our electoral laws are not fit for purpose. The fallout from the Supreme Court judgment last year has not yet been properly addressed because the Electoral Commission's excellent codes of practice have not been approved by Parliament. Similarly, the lack of effective regulation, reporting requirements and transparency of funding for online political messaging remains a potentially damaging omission. In our debate last Wednesday the noble Earl, Lord Howe, gave me specific assurances on this. Where are those assurances now?

Meanwhile, whatever the Prime Minister may now promise, this election is very unlikely to "get Brexit done". With his deal there will still be many months, if not years, of complicated and significant negotiation. The public do not understand that; they have a nasty experience to look forward to. The only way to bring this to a halt is to stop Brexit— and that is what we Liberal Democrats will be inviting the public to vote for.

4.50 pm

The Earl of Kinnoull (Non-Afl): My Lords, it is a pleasure to follow the noble Lord, Lord Tyler, who spoke with his usual energy—and colour; I say that while noting his tie. I will make only one substantive point, and that is about the speed of reappointment of all committees following the election. The European Union Committee is now scrutinising the withdrawal agreement, the political declaration and the EU (Withdrawal Agreement) Bill. Indeed, we have had two recent evidence sessions on those, and we are expecting to produce two outputs to inform the debate on the Bill, assuming that that will take place after the election.

The first output, the report on the withdrawal agreement and the political declaration, is an update on our report of December last year, which was 60 pages long—and it is, I think, full of interesting stuff that the House would want to have. The second output I expect to be a letter that I shall write to the Leader of the House tomorrow about aspects of the withdrawal Bill concerning scrutiny.

[The Earl of Kinnoull]

Many other committees of the House are working hard on Brexit-related matters. I note that the Constitution Committee and the Delegated Powers and Regulatory Reform Committee are working particularly hard. All this work will pause on Dissolution. In 2010, after the election, it took seven weeks to reappoint the European Union Committee, and that was four weeks after the Queen's Speech. In 2015 it took only five weeks to reappoint that committee. In 2017, admittedly, it took 19 days—but time is exceptionally short here, with the Christmas period and the necessity of including the processes for ratification in the European Parliament.

The issue of the speed of the reappointment of committees is common to all committees of this House. In the light of that, may I ask the Minister what comfort, speaking both as a Minister and as the Deputy Leader of the House, he can provide that there will be an expedited reappointment of all committees after the election, so that we can resume our work as soon as possible and continue apace?

4.52 pm

Lord Taylor of Holbeach (Con): My Lords, for many of your Lordships there will be a "Brenda from Bristol" moment as we receive this Bill. However, I welcome it as a method of breaking the logjam. It gives the Prime Minister the opportunity to do what has until now been denied by Parliament both to him and to his predecessor, Theresa May, and to provide a means of delivering Brexit. Politics is a learning process, and recent history contains many useful lessons to us all, on whichever Benches we sit.

Despite Parliament's best intentions, the referendum result pitted the people's vote against many parliamentarians. Devised to unite Parliament and country, it ended up dividing them. It divided parties and it still does. This was the background against which I conducted my previous role in this House—a role in which I found myself trying to deal with the consequences of the Government's rightful commitment to respect the leave vote in the referendum and deliver Brexit. Only to a degree was I successful but it became clear that, although this House learned to live with its differences of view, we failed to influence events in the other place. Regrettably, for a number of reasons, the House of Commons failed to provide the necessary forum where conflicts of views and interests are reconciled by debate and accommodation.

Some noble Lords may think me hopelessly idealistic about the parliamentary process, but we all come to this place driven by ideas and wish to get things done. I turn to the Spiritual Bench and am sorry that the right reverend Prelate the Bishop of Durham has gone, because I too went into the Not-Content Lobby and read the prayer that we have every day. In addition to the quotation that he read, I add the part that asks that we,

"lay aside all private interests, prejudices and partial affections".

The ethos of Parliament lies in those words. If Parliament, and the House of Commons in particular, is to achieve its commitment to honour the referendum, it is surely right to accept that in passing this Bill the electorate have a right to be represented by a Commons that can get Brexit done. This Bill is part of that process.

The uncertainty over Brexit has meant that millions of families and businesses cannot plan for the future. This paralysis and stagnation cannot continue. It is not in the national interest. If we do not have an election, this Parliament will continue to delay and we will not be able to concentrate on the other things that matter to people. An election will return to Parliament a fresh mandate and the ability to deliver on things like the NHS, police numbers and increased funding into schools.

Meanwhile, despite successfully hindering the Government's agreements, never in the hours of discussion has the House of Commons as it stands been able to agree on what it wants on Brexit. Do we remember those indicative votes? Now, however, after last week's abortive attempts to pass agreements under the Fixed-term Parliaments Act, it has passed this short Bill without amendment. We should do likewise.

4.57 pm

Baroness Quin (Lab): My Lords, it is a pleasure to follow the noble Lord, Lord Taylor, who has been such a popular and respected member of the Government and of your Lordships' House. I also commend the words spoken by my noble friend Lord Puttnam, who raised a lot of important issues that I hope the Government and Parliament will fully consider.

I fully accept that when the House of Commons decides on an election, the unelected second Chamber cannot oppose or prevent that, although I was interested to look again at the work of Walter Bagehot, the great Victorian constitutionalist, who said:

"I answer that the House of Lords must yield whenever the opinion of the Commons is also the opinion of the nation".

I am not sure that people out there are as keen on a pre-Christmas election as the Conservatives and Liberal Democrats seem to be. However, I assure my Whips that I am not advocating our blocking the Bill in this House, although I am sure that if I were still a Member of the Commons then I would have voted against Third Reading, as a number of Labour colleagues did yesterday.

I do not believe that an election is the best way to decide Brexit. There is a strong risk that we may well be back here after the election with further protracted proceedings as to the way forward. In that sense, I am very sorry that the Liberal Democrats and the Scottish National Party came to the Prime Minister's aid and gave way over this election.

Along with my noble friend Lady Smith of Basildon, I am appalled at the Prime Minister's conduct of business since he took office. We had the illegal Prorogation and the charade of the Queen's Speech, which I felt was close to a constitutional outrage, with a Government well short of a majority really embarking on an election broadcast rather than a realistic programme of government. Then, although the deal the Prime Minister had negotiated got through at Second Reading, the Government refused to allow it further consideration. That seems absolutely crazy. I pay tribute to those Members of Parliament, many of whom are my honourable friends, who have been trying honestly to do the best for their constituents and the country in this extremely difficult situation.

Like the noble and learned Lord, Lord Judge, I was amazed that the Fixed-term Parliaments Act could be overturned in such a speedy and cavalier way. The Liberal Democrats seem to be subverting an Act which I thought they were attached to, although it has to be said that it has not been very successful in recent years. Despite its existence, we are now facing the third general election in four years. None the less, I hope that constitutional experts in this House and the other place can assure me that this is not a precedent for lots of substantial legislation being overturned hastily at record speed. This would be particularly bad news for your Lordships' House, whose undoubted strength lies in careful, detailed scrutiny.

I do not like referendums, but have come round to the view that if this process began with a referendum, then logically it should be completed with one. It seems very sad that, at the point that my own party made substantial movement in that direction, we now face an election rather than a confirmatory vote. It is also a great irony that, after all this time, my party seems to be the only one supporting such a referendum.

Elections are about a whole range of issues facing us and this Government may become painfully aware of this as the election campaign proceeds. My party has a number of policies that could prove very popular with those people who are reeling from austerity and inequality. We may well see that as the campaign progresses, just as we did in 2017. There was a turning point—I remember it well, campaigning on doorsteps—particularly after the then Prime Minister had announced her policy on social care. People suddenly became much more focused on domestic issues and she lost her majority as a result. We have had great difficulties ever since.

Finally, putting forward the idea of a confirmatory referendum on a deal versus remain, as Labour is doing, is actually the best way forward. I hope it will resolve the Brexit issue, which has sadly dominated our politics for far too long.

5.03 pm

Baroness Ludford (LD): My Lords, it is a pleasure to follow the noble Baroness, Lady Quin. With her experience and expertise, she has been a pleasure to work with on a cross-party basis in the last three years, although I cannot fully agree with all her remarks just now. I endorse her warm comments on the noble Lord, Lord Taylor of Holbeach, and thank him publicly for a kind note he recently sent me.

This general election will decide the future of our country for generations. It is an opportunity to build a fair, inclusive, liberal and internationalist Britain that will flourish inside the European Union, compared to an obsession with delivering a Brexit that will impose a huge hit on our economy and therefore jobs, and will affect the country in so many other ways. That this Conservative Government want to deliberately deliver a knock-out blow to our prosperity is dismaying, to put it mildly. As my party leader Jo Swinson said yesterday in the other place, people's identities of remain or leave run deep, because this is about not only whether we remain in or leave the EU but who we are as a country. It is about our values and whether we are open, inclusive and internationalist in our outlook, facing the future, or closed and insular, wanting to pull up the drawbridge and look to the past. That is the key question that we as a country need to resolve.

The UK is in a mess and needs to be rescued. The Prime Minister, Boris Johnson, failed to meet his 31 October do or die, die in a ditch deadline to wrench the UK out of the EU. There was no early prospect of a referendum. The Prime Minister paused the withdrawal agreement Bill and there was still a risk that he would try cunningly to effect a crash out no deal, given his form since July and, indeed, for much longer.

The Liberal Democrats, with SNP support, decided that we had to take the initiative. I am proud of our role in unlocking this gridlock, in Parliament and over the Article 50 extension. Several commentators have confirmed that the Lib Dem/SNP initiative for an early election unblocked the hesitation in Brussels, and specifically in Paris, about an extension to 31 January. We would not have chosen to start from the 2016 referendum result, nor to arrive where we have, but there was an absence of full support from other parties for a people's vote with the option to remain in the EU. The numbers for that in the Commons are simply not there.

I realise that some of our friends were taken aback. I was a bit myself, but the more I saw what was happening, or not happening, in the other place and with Brussels watching and waiting, the more I realised that our leader, Jo Swinson, had done exactly the right thing.

I could never get bored of listening to my leader, my noble friend Lord Newby, or to other colleagues, but it is true that he has made many speeches on Brexit, all of which contained a call for a people's vote. That bears repeating often. Liberal Democrats want to stop Brexit, to get Brexit gone, so if we form a majority Government—anything could happen—we will have a mandate to revoke Article 50. If not, we will continue to campaign and press for a people's vote, working across party, as we have since 2016, and with even greater intensity in recent months.

Many MPs, especially women, have been subject to hate speech, bullying, intimidation and worse. We all remember Jo Cox. The parties, of course, have to ensure that their own houses are in order. Ours is talking to the Parliamentary Commissioner for Standards and to the Jo Cox Foundation about how best to do that, but could the Minister tell us what the Government and the police will do to give protective security to MPs and candidates?

Lastly, I thank the outgoing European Council President, Donald Tusk, for his friendship and support for the UK, and Michel Barnier for fairly and honourably conducting the Article 50 negotiations. It is not the fault of the European Commission or the EU 27 that we are in a gridlocked mess, but they, as well as we, will be glad to get out of it.

5.07 pm

Baroness Noakes (Con): My Lords, I shall not be following the noble Baroness, Lady Ludford, with partisan remarks about Brexit. I will concentrate on

[Baroness Noakes]
the Bill before us. I shall not detain the House long because I am keen that the Bill should make rapid progress to the statute book.

We must rejoice that the other place has spoken in favour of something with a clarity not seen from that place for some considerable time. It voted overwhelmingly for the Bill at Third Reading yesterday and this House should be wary of disturbing that happy alignment. While your Lordships' House has the power and the right to amend any Bill other than a money Bill, I hope noble Lords will not be tempted to break the spell and ask the other place to think again about any aspect of it. We will not enhance the standing of your Lordships' House if we are seen to intervene in the calling of a general election that is desired, and indeed much needed, by the other place.

The Bill has a very narrow purpose. It is to allow a general election to take place on 12 December, and nothing else. It is not about wider issues, such as the definition of the franchise. I hope noble Lords will respect the Long Title and not seek to introduce amendments that go beyond the scope of the Bill. If they do, I hope that the excellent clerks in the Bill Office will be robust with them.

Lastly, I appeal to all noble Lords to be brief and efficient at all stages of this Bill. We should return it to the other place unchanged and as rapidly as possible. We must then let the country decide who should govern us, and thereby determine the future of Brexit.

5.09 pm

Viscount Waverley (CB): My Lords, our image externally has not been enhanced, with some bemusement over how we have reached this point. Other noble Lords have underlined what is needed: reaching out, being magnanimous and healing wounds with those of differing Brexit persuasion. Mending differences and closing divides should be the order of the day.

I rise briefly with one or two personal reflections on what has been a traumatic process that has certainly taken its toll. I commend the noble Lord, Lord Callanan, who is not in his place, together with the respective shadow Front-Benchers who collectively have advocated their positions with effectiveness and good humour.

The debate in the UK has been domestic in nature. However, the EU side has, understandably, also stuck to its core principles, and I suspect has, on occasion, accommodated the United Kingdom. Future decision makers might wish to reflect on such contributions, remembering that Brexit should not be a winner-takes-all circumstance. This election will give the electorate the opportunity to express their preferences, but this is where I register my personal regret that the political class has been unable to deliver on Brexit. I accept that the Government have had no choice but to call the election, but it would have been preferable to determine the real will of the electorate in isolation from unrelated grievances.

Finally, there is one point that I wish to belabour. Amid all the talk of extending the franchise to 16 and 17 year-olds and EU citizens, there has not been sufficient consideration of UK citizens living in the EU, who lose the right to vote in general elections after 15 years outside the UK. This group, among the most adversely affected by Brexit, will be anguished not to be able to vote in December, and that includes many thousands in Portugal, where I am resident, and elsewhere on the continent. That said, if I were to offer any suggestion to UK citizens living on the continent, it would be, "Go register with your local immigration authorities in order to spare yourself angst post Brexit".

5.12 pm

Lord Whitty (Lab): My Lords, I cannot but agree with the noble Viscount about the failure of the political class over the past two years to resolve this issue. Nevertheless, I have severe reservations about the Bill and the context in which it is being put forward. I was hoping to follow the noble Lord, Lord Dobbs, which would have been interesting, as I have a couple of points on casting in political plays. Boris Johnson likes to portray himself as Winston Churchill but acts more like Oliver Cromwell, who noble Lords will recall was the last person to try to prorogue Parliament against its will. He needed an army to do it. I also recall Cromwell's words in relation to the rump Parliament—

Lord Dobbs (Con): I beg the noble Lord's pardon for not being able—as he can hear—to precede him this afternoon. However, I remind him that outside Parliament there is a big statue to Oliver Cromwell. Is he implying that there will soon be statues to Boris as well?

Lord Whitty: I would be surprised if our successors agreed to that, but stranger things have happened. There might be a statue to the noble Lord, Lord Dobbs, before there is one to Boris Johnson.

My reservations are partly constitutional and partly concern the effectiveness of this election on Brexit. My first constitutional point has largely been covered by my noble friend Lord Puttnam. There is a real danger of our political process being corrupted by nefarious forces engaging in digital intervention. We know of various groups who intend to do so, and I have not even spoken to Moscow yet. There is a danger, therefore, of this being the first really seriously disputed election because of unlawful intervention.

My second constitutional point is the more profound one also made by the noble and learned Lord, Lord Judge. I always had my doubts about the Fixed-term Parliaments Act but, in the end, I went along with it. Since then, however, we have had two elections within two years, and a more honest description of the Bill would be "Delete the title 'Fixed-term Parliaments Act' and substitute 'Two-yearly Elections Act'". That is where we are. When Oliver Cromwell spoke to the rump Parliament, it had been there a decade, if not more. This Parliament has sat for precisely one Session. It is not a precedent that I hope we follow. The House of Lords has a reputation for being the guardian of our constitution, and we should at least put down a marker that this should not be seen as a precedent for future Governments and Houses of Commons. We should look, perhaps in a broader constitutional convention, at the length of our parliamentary Sessions.

My political point relates to the designation of this election as a Brexit election, and the slogan that the Prime Minister is apparently likely to use: "Let's get Brexit done". We all know that it will do nothing of

the sort. Even this stage of Brexit is not clear. Parliament has not yet fully debated the withdrawal agreement arrangements or the Northern Ireland protocol, or indeed the political declaration. The issues raised by businesses and citizens around the country about our future relationship, trading and security arrangements with Europe will not be resolved by this election; they will not be resolved by 31 January; and they stand a good chance of not being resolved at the end of the transition period. If the public are expecting Brexit to be resolved by this general election, or by returning Boris Johnson and his manifesto, they will be very sadly disappointed. That will not resolve the conflicts in our country—it will make them worse.

I am not sure of the best way to resolve them. My preferred solution—which, I recall, the noble Lord, Lord Cormack, also proposed a few weeks ago—is to have a referendum and a general election on the same day. We would then know where the parties and individual candidates stood and, at the end of the election, you would know where the public stood. We are, however, not going down that road. We will be none the wiser about what Brexit will really bring us on the important issues that matter to citizens and businesses in this country on 12 or 13 December than we are today—or have been at any time in the past year.

I recognise that the Bill will go through. I regret that. I regret much of the past two years. I have a terrible foreboding that, if we are not careful, we will move into yet another area where statesmanship and leadership are absent from our Parliament. I shall deeply regret that.

5.18 pm

Lord Wigley (PC): My Lords, I am truly delighted to follow the noble Lord, Lord Whitty, on the very points that he underlined in his concluding remarks, which I will address shortly.

I make three brief points. First, my party, Plaid Cymru, does not believe that a general election is an appropriate mechanism for resolving the problems that the Government apparently see in delivering their Brexit policy. We do not quite understand why the Government abandoned the Brexit Bill, for which they secured a Second Reading only earlier this month and which could easily have been on the statute book by 31 January. If the Government at long last recognise what many of us have steadfastly argued, that the Brexit issue has to revert to the people before it is implemented, a confirmatory referendum is the appropriate device for that purpose, not a general election. As it is, all the other vital issues that should dominate a general election campaign—pensions, jobs, the health service, police and crime, education and taxation—will now be subservient to the blasted Brexit demands that will dominate the coming election and are throttling all the other matters that people have a right to expect all potential Governments to address comprehensively during the campaign.

Secondly, this leads me to ask whether the Government have some devious purpose in having an early general election. I believe that is the case. If we were to stick to the Fixed-term Parliaments Act, we would have the next general election in June 2022, five years since the last one. I believe that it has dawned on the Government that the Brexit issue is, as the noble Lord, Lord Whitty, underlined, not going to go away. It is not going to disappear, and it is not going to be a quiet, tidy end, with the UK leaving the EU on the basis of the Government's recent agreement with the European Union. All through 2020, the Brexit arguments will persist through the transition period. The Government will argue their case for a free trade agreement, but there is next to no chance of that being agreed by late 2020, so we will again in 12 months' time be facing the danger of crashing out of the transition phase into a no-deal scenario. Even if transition is extended, the invidious search for a free trade area agreement could run into 2021 and even 2022—in other words, into the 2022 general election. That is what the Government recognise as the timebomb awaiting them just down the road and it is why they are cutting their losses and going for an election now. This is not fantasy scaremongering. The experience of Canada, whose free trade negotiations with the EU went on for year after year, is a warning to us all. That scenario for the next general election in 2022 is one that it is clear the Government just cannot countenance.

However, for whatever devious reason, we are having an election. My party, Plaid Cymru, will campaign unequivocally on a revoke mandate and will co-operate with other parties and candidates in Wales who are also committed to a revoke referendum to maximise the anti-Brexit presence in the next Parliament.

I remind this House that I was first elected for Plaid Cymru in the Caernarfon constituency in our last mid-winter election, in February 1974. Yes, it was dark; yes, it was wet; and, yes, it was very cold, but when the good people of Caernarfon saw dozens of young people committed to a cause, knocking three or even four times on their doors, they realised how much it meant to them and they swung to our cause. Let no one believe that today's young generation is not equally committed. They will walk through rain, snow and darkness to turn every stone to achieve a Parliament which will, with the people's consent, retrieve for Wales and for Britain a rightful place as part of Europe. That faith in the good sense of the younger generation to kick out this disastrous Government and seek a new relationship in these islands is what allows me to accept the challenge of an election on 12 December and to turn every stone to secure an outstanding outcome for Plaid Cymru, for Wales and for Britain.

5.23 pm

Lord Framlingham (Con): My Lords, the remarks of the noble Lord, Lord Wigley, illustrate how deeply entrenched views are and how three and a half years' debate has not made the slightest difference to them. I think that the country is just weary of this—nobody, I suspect, more so than the noble Lord, Lord Callanan, who has done a fantastic job throughout the proceedings on these Bills.

Until recently, I did not want an election; I thought that we should deal with Brexit before moving on to other, more serious national matters, but recent events, the obduracy and intransigence of some of the parties to the Brexit arrangements, have made it inevitable.

[Lord Framlingham]
We must have a new House of Commons. The nation is weary of it and it has become deeply damaging in so many ways; we simply must start again.

I feel sure that your Lordships' House will not stand in the way of this Bill and the general election. Having served in both Houses of Parliament, I am well aware of the delicate balance between the two. It is our job to revise and not to block. The Bill carried in the other place by 438 to 20 could not be clearer. During these many debates, I have warned that by blocking Brexit in this House we were not just damaging the nation's future but putting in jeopardy our reputation and the future of your Lordships' House. It remains to be seen just what the different party manifestos say about our future now.

The time has come to resolve so many issues and for each one of us to stand up and be counted. My personal belief is that, in Boris Johnson, we have someone who, in a few short weeks, has transformed the atmosphere in the country and shown his ability to be a truly great Prime Minister for the whole of the United Kingdom. He has my total support in the enormous task that lies ahead to carry out the will of the people and lead the nation to a confident and bright future.

5.25 pm

Lord Dannatt (CB): My Lords, like many noble Lords, I have sat through, or read the report of, many lengthy debates in your Lordships' House about whether we remain in or leave the European Union. Hitherto, I have not made a direct intervention in the Chamber but, like many Members of this House and the British public at large, I have been utterly depressed by the inability of Members of the other place to provide the leadership, clarity of thought and good governance required to guide this country of ours through the turbulent times created by the outcome of the referendum in 2016. Worse than that, I have been further embarrassed by friends and colleagues in Europe and elsewhere who completely fail to see why a mature democracy such as ours has totally failed to meet the challenges that we set ourselves in June 2016. Therefore, if it is to be an early general election on 12 December that presents the opportunity to end this period of drift and embarrassment, I am totally in support of this Motion and hope that it passes through your Lordships' House speedily and without further amendment.

As a Cross-Bench Member of this House, I quite properly express no public view on who should win the election, who should be Prime Minister after the election, nor indeed which party or parties should form the next Government, but I can properly state that my overriding priority for the next Government is that everything possible is done to preserve the unity of the United Kingdom and Northern Ireland. Fifty years ago, I joined the British Army and swore an oath of allegiance to Her Majesty the Queen, as the crowned head of the United Kingdom and Northern Ireland. Much of my active service was spent combating those who sought to take Northern Ireland away from the United Kingdom by force. On Remembrance Sunday, which is coming up shortly, I will once again reflect on friends and comrades who gave their lives for that cause. When you have carried the remains of your company commander in a plastic bag away from a field in south Armagh, you do not change your opinion lightly. More recently in 2015, I campaigned publicly to keep Scotland within the union, attracting most welcome criticism on the Radio 4 "Today" programme from Alex Salmond himself. As for Wales, I am a quarter Welsh, so that speaks for itself.

We need this election and, in the popular vernacular, we need it now. We need it to resolve the Brexit issue and to restore good governance to this country but, above all, we need a Government totally committed to preserving the integrity of this United Kingdom and Northern Ireland. Brexit may be important, but the territorial and constitutional integrity of this country is vital. In the language of military campaign planning, the maintenance of the integrity of this country is the centre of gravity. If we lose sight of that, we lose our identity, our purpose and our strength, and we risk diminishing ourselves at home and abroad.

5.28 pm

Lord Lea of Crondall (Lab): My Lords, the point has been made, but I would like to put it in a slightly different way: I think it is scandalous that something called the Fixed-term Parliaments Act can be used in this way, where we have a Bill with a clause that more or less says that, notwithstanding the Fixed-term Parliaments Act, we will have an election right now and, by the way, does not say in Clause 2 "and hereby repeal the Fixed-term Parliaments Act". That makes no sense. It was said right at the start of this debate by the noble and learned Lord, Lord Judge, that this was an extraordinary way to proceed.

Secondly, I would like to reflect on the same point that was made by my noble friend Lord Whitty. Unless one believes in miracles—most people do not—the idea that a general election will now help bridge the divide between the two halves of our split country is not credible. To bridge the divide, something substantive would need to be on the table: for example, that we would leave the EU but stay in the single market with an arrangement, which is not impossible because some of the EFTA countries do exactly that under the EEA; that we would carry on with the free movement of workers, perhaps with some change to the boundaries of that; and that we would keep to the dynamics of regulatory alignment for technical standards, which we need because Europe is the biggest economy in the world—bigger than the United States and bigger than China—and it is a single factory floor. Those of us who worked in the trade union movement and people in the Labour Party at the moment often make this point and are generally solidly, certainly in the private sector, in favour of staying in the EU. How can that come over in a general election when the big lie, in the era of Trump, not only will not bring the people together but increase the amount of anger.

Something has to change fundamentally. I think the man in the moon—or the woman in the moon—would say, "You have to find some substantive agreement in the middle, or this will lead to more and more cynicism". This will already be an election based on doubling the level of cynicism of any previous one. There are the

two money trees. One side says, "We will spend £500 billion on this"; no, we will not. The other side then says, "We will spend £600 billion on this"; well, jolly good. I know that in Brazil and Argentina elections are always like that, but since when are our elections like that? The best are being driven out in this way, in which the electorate are treated as lacking in intelligence. This destroys public trust and confidence. Those people who believe what is being said along these lines have to get up and keep on saying it.

By the way, with reference to the statue of Oliver Cromwell, I am one of those campaigning for a statue of Jo Cox to be put outside on College Green. Very few women are represented in the stonework around the Palace. As she was in campaigning mode—as I am now, as it were—she was murdered for doing that. Of course, she was very firmly committed to our staying in Europe, but it could have happened to either side. We need more recognition that this is how British politics should be. We should not be tearing ourselves apart, so we have to look to that outcome.

Finally, I would like to reflect on the approach of the noble Lord, Lord Taylor of Holbeach. On this side, I add my thanks to him for his courtesy—not deserved by some of us—in the course of his time as Chief Whip. We should build on that sort of good will, as was called for by the right reverend Prelate the Bishop of Durham.

5.34 pm

Lord Sherbourne of Didsbury (Con): My Lords, I strongly support the Bill. Parliament is currently deadlocked; we need to break free from this political paralysis. The country—and above all, business—needs stability and certainty. By the way, to echo the words of the noble and learned Lord, Lord Judge, I hope that the Bill sounds the death knell for the Fixed-term Parliaments Act. Above all, and this is the main point I want to make this afternoon, I hope that this election will restore confidence in representative parliamentary democracy. We had a Scottish referendum in 2014, a general election in 2015, a European referendum in 2016 and another general election in 2017. And the result? Paralysis, uncertainty and at times a very toxic political atmosphere. I see this election as a real opportunity to clear the air.

We have to understand that this election will not be a single-issue election. No election ever is or can be. It is voters who decide what an election is about, not the politicians. All of us who have trodden the streets and knocked on doors know that there are a thousand reasons and more why people vote for a particular party or candidate. For example, there will no doubt be some natural Labour supporters who will vote Lib Dem or Conservative just to keep Jeremy Corbyn out of Downing Street—there may be quite a lot of them. There may also be strong remainers who will, in the end, vote Conservative because they want Boris Johnson to be Prime Minister. Only the voter knows why he or she voted the way they did; nobody else really does, and we should not pretend to know.

I say this because occasionally some noble Lords try to reinterpret an election result by saying, "I know that's how people voted, but you know, they didn't really vote for this to happen, or that to happen". The only evidence of what people voted for will be the election result itself and the MPs who are elected. It is then the job of each Member of Parliament to honour their election promises and to represent the interests of their constituents: the voters will have delegated to their MP the responsibility for taking these complicated decisions. This is how effective parliamentary representative government works, and if that is what we want—and I believe it is—then it is goodbye to referendums. Please, no more referendums.

5.37 pm

Lord Balfe (Con): My Lords, five minutes is not a long time to speak, so I will not give a long history lesson, but I must observe that the history of winter elections is not very bright. The last one fought in December was fought by Stanley Baldwin, who lost. The last election fought on the question of who governs Britain was fought by Edward Heath and the answer was, "Well, we're not sure, but definitely not you". So the precedents are not that good. Even in 1910, the January and December elections produced stalemate; they did not move anything forward. None the less, I live in hope that this election will get it done, because we need to break the logjam.

In the referendum three-and-a-half years ago, it was argued that people did not know what they were voting for. That could be right: a lot was said and a lot passed under the bridge, but this time, no one can say that. Although I strongly believe in remain, I think the fact that Boris Johnson has made his position very clear is a good thing, because it means that when the result comes in, if he has won, he has a clear mandate for Brexit. I will not be arguing any longer for a referendum; I will say, he has put the matter to the people and he has won a majority for what he wanted to do. I call on all my colleagues to respect that. Similarly, if we get what I am going to call a coalition Government, they must be committed, in some way or another, to a confirmatory referendum. There has been a little too much point-scoring between the Lib Dems, the Labour Party and the SNP. They have to reach a common position, and part of that common position has to be what they will put back to the people and how long before it is done.

As many noble Lords will know, I have a dual role, doing some jobs in Brussels. The frustration there is about the inability of the political class in Britain to decide what it wants. If a coalition Government went back and said, "Look, we're going to have a referendum", it would have to be a referendum that led not to months of wrangling but to a clear decision. Either we are staying on the terms we had before, or we are leaving on the basis negotiated. We cannot carry on and on with this division.

I make one reflection. We hear a lot about stable government. For a long time, I have advocated proportional representation. I was always told that it would end stable government. My answer has always been that if you had PR, you would not have Jeremy Corbyn leading the Labour Party and you might have a different leader of the Conservative Party. Yes, we would have to put up with the equivalent of Die Linke,

[Lord Balfe]
the left in Germany, and the equivalent of the AfD. I remind your Lordships that the Norwegian first party and the Finnish now party, as right-wing parties, have played a more constructive role in government than they would have done as outliers within the main parties. I put it to your Lordships that part of the solution might still lie in a reformed electoral system.

Finally, picking up on something that my good friend, my noble friend Lord Cormack said—I first knew him when I was dealing with the trade unions—I deeply regret the treatment of, in particular, Ken Clarke, with whom I worked closely when the Conservatives were in opposition; even more so David Lidington, who became a personal friend and was, to my mind, probably our best Minister for Europe, widely respected and liked there and able to put an often difficult case across without alienating people; and finally, Patrick McLoughlin, one of the few working men who got on to the Conservative Front Bench and who played a distinctive role in keeping the party's feet on the ground. They have been treated disgracefully, and it does our party no credit not to readmit them and put them up for membership of this House, which they have all justly earned through their service.

5.42 pm

Baroness Bennett of Manor Castle (GP): My Lords, I am delighted to follow the noble Lord's celebration of proportional representation. I note his comments on German politics, although he did not note that the German Greens are currently in pole position to provide the next Chancellor—one impact of proportional representation.

I do not plan to use this speech as a party-political broadcast. Your Lordships' House can judge who might or might not have chosen to use their speech for that purpose. I shall tell you why, were this to come to a vote—it is fairly clear that it will not—the Green group in this House would be voting against the Bill as it stands.

We would do that not because we think that this unelected House should not block the Bill. That is not the reason for our choice. It is interesting that so many of your Lordships have referred to that fact as a reason to support the Bill. That is a powerful argument for a modern, functional constitution with an elected upper House, for us to be in a position to make stronger judgments. Were this House to be sitting for longer, your Lordships could have seen the Bill that I tabled for that purpose.

I am not saying that we would vote against the Bill because, as Caroline Lucas said in the other place, a general election is just that—on general subjects. The sensible, logical, democratic way to solve the Brexit chaos is to give the people the final say, even though that is obviously a fact.

The reason we would vote against the Bill, were there to be a vote, is the huge number of barriers to a free and fair election on 12 December. The noble Lord, Lord Puttnam, made many references to the huge problems that we have with technological change and how our electoral laws have failed to keep pace with them. Lots of the things to which he referred would require complex legislation and changes, and we do not have time for that, but the Green group, following Caroline Lucas in the other place, proposed a small amendment to the Bill. We were told by the Public Bill Office that this would be out of scope of this Bill, but I will now read this on to the record, so noble Lords can see how simple, quick and easy it would have been.

The title is "unlimited fines for electoral offences". It reads:

"The Political Parties, Elections and Referendums (Civil Sanctions) Order 2010 is amended as follows: schedule 1, paragraph 5, leave out '£20,000' and insert 'unlimited'".

The Explanatory Statement says:

"The new clause would allow the Electoral Commission to impose unlimited fines for electoral offences".

That reflects a request from the Electoral Commission, the independent arbiter, that was made to the Government in May 2018, 18 months ago. This would be a simple change. As the noble Lord, Lord Hain, showed earlier, this House can act very rapidly and show its direction to the other place. It is a grave pity that we have not had the chance to do this here, now, with this proposed amendment.

The current £20,000 maximum fine is peanuts to many of the people who are able to buy the rest of the politics that we all get. An unlimited fine, which would allow the Electoral Commission to act in proportion to the level of the offence, is a simple change and would make the coming election, on 12 December, free and fair—a little freer and fairer anyway.

Finally, I will reflect on just how broken our politics is and how I fear this election is incapable of fixing it. On Christmas Day, it will be five months since Boris Johnson became Prime Minister, should he still be Prime Minister then. Over that period, the House will have sat for less than one in five days. In those five months, the Prime Minister will have attended Prime Minister's Questions three times. That record is unmatched by any Prime Minister in history and we all hope it will not be matched by any future Prime Minister. The noble and learned Lord, Lord Judge, suggested that the next election will be in December 2024. That is very optimistic, under the circumstances. Our current politics is broken; we need far more changes. Let us all work towards them together.

5.48 pm

Baroness Seccombe (Con): My Lords, I have not spoken on anything to do with Brexit before, but I have listened to interminable speeches from Peers on all sides of the argument. I feel I know how noble Lords think. Yesterday, the elected House passed the Bill to this House, so I believe it is now the duty of all noble Lords in this unelected House to pass the Bill in its current form. Failure to do so would be intolerable and do long-term damage to this House.

5.49 pm

Lord Elton (Con): My Lords, we need to learn from our experience. It seems to me self-evident that a House of Commons which has lost not only the respect but the confidence of the nation is something that needs to be replaced. I think that a House of Commons in which the Government no longer actually control the business is something that needs to be

displaced. It is also self-evident, although I have no knowledge of the dynamics of what goes on in this House of Commons, that in any House of Commons the difficulty of securing a majority for a Dissolution, if a majority is required, increases with the number of people in that body who are likely to lose their jobs and their places. So when there is an urgent need to refresh the House of Commons and it is faced with a Bill which dramatically increases the majority needed until it cannot be reached, the only conclusion I can reach is the same as that of the noble Lord, Lord Lea of Crondall, who I caught as I was going out, and certainly that of the noble and learned Lord, Lord Judge, which is that the Fixed-term Parliaments Act is actually an anti-democratic piece of legislation and should be repealed swiftly. I am speaking now only in order to put on the record that I, and I think many others, would urge the incoming House of Commons to address this problem as quickly as possible.

5.51 pm

Lord Wallace of Saltaire (LD): My Lords, there has been a remarkable consensus around the House in this debate. My party would prefer a confirmatory referendum. Indeed, the Liberal Democrats in the Commons put down 17 amendments for a people's vote and voted seven times on amendments to promote it. As my noble friend Lord Newby said earlier, we have come to the conclusion that the Commons lacks a majority for that. The noble Baroness, Lady Quin, said that the Labour Party is moving towards a confirmatory referendum, but there is a deadline—the third deadline. After two extensions, now to the end of next January, the member Governments of the European Union are beginning to lose patience with us and the question of whether we should have a further extension has been raised by several of them. Sadly, we cannot wait for the Labour Party's position gradually and slowly to evolve further.

We would also have preferred the extension of the franchise to 16 year-olds and to EU citizens who are settled in this country, but we recognise that our electoral law is a collection of imperial and historical anomalies. Irish and Commonwealth citizens resident in this country have the vote, while American and EU citizens who are long-term residents do not. These are important issues that we need to address, but in the next Parliament.

There has also been some discussion about the extent to which we are facing a constitutional crisis. A number of noble Lords do not like the Fixed-term Parliaments Act, but underneath that there are some large questions about the relationship between the Executive and Parliament. I note that our current Prime Minister, that wonderful democrat who was vigorously campaigning three years ago to restore parliamentary sovereignty from subjection, as he put it, to the European Union, was last week quoted as calling for the people—by which I think he meant himself as the proclaimed representative of the people—to be freed from their subjection to Parliament. That sort of language is part of our problem, as he follows the path of Cromwell from great parliamentarian to great authoritarian.

We have an unwritten constitution, which depended on honourable men accepting its conventions. I recall that the noble Lord, Lord Young of Cookham, when answering a Question on the resignation of the then Foreign Secretary, Boris Johnson, on his ability to ignore the Ministerial Code in three different places by announcing, two days after resigning, that he was to become once again a highly paid columnist with the *Daily Telegraph*, said that, "There are no penalties for breaking the Ministerial Code. It depends upon honour". Unfortunately, that is of course part of what we have been losing in our political life.

We have a crisis of our political system. We are supposed to have a two-party system in which, when the Government weaken, the Opposition are in a fit state to take over and become the Government instead. But what we now have are two entrenched parties, both deeply divided. We have suffered a long crisis of conservatism in the last 20 years, between one-nation conservatism and the libertarian free market right, with a Prime Minister now who pretends that he can somehow straddle the gap, as he uses inflammatory nationalist language at one point and then talks about the need for one-nation conservatism at another. The Labour Party is similarly split, between the centre left and radical socialism. We now know that single-party government does not provide strong and stable government. We perhaps need to begin adjust to a much more diverse electorate—in attitude and origin—and to multi-party politics and a stronger Parliament.

We need also to talk about the language and practice of politics. I ask the noble Earl, Lord Howe, when replying, to give us some assurances on this. The extent to which violent language has come into our politics in recent years is deeply damaging and one explanation why so many Members of Parliament are not standing again at the end of this Parliament. We know that our Prime Minister himself and the right-wing media have used inflammatory language. I find the demonisation of Dominic Grieve and Philip Hammond, for example, by senior official sources in No. 10 as well as by the right-wing media, to be deeply shocking. Here are senior members of the governing party being demonised by the person some now call "Demonic Cummings". I hope the noble Earl will say that there are those within the Government who are very concerned to make sure that, in an election campaign, dialogue and respect for alternative opinions are maintained. What the noble Lord, Lord Taylor, called the "ethos of Parliament" also needs to be the ethos of democratic debate.

A number of noble Lords talked about digital campaigning and spending. We know that our electoral law is in much need of reform, but we are not going to get it. I therefore hope that the noble Earl will be able to say something about the care with which the Government will encourage the Electoral Commission to monitor behaviour throughout the coming campaign.

Responsible politicians are needed on all sides if we are to regain popular trust. I remind noble Lords that, if we come to a result in this election in which a number of parties are elected to Parliament and none

[Lord Wallace of Saltaire]
has an overall majority, that will also require responsible behaviour after the election—co-operation among parties and politicians, and respect for those of different opinions.

5.57 pm

Baroness Hayter of Kentish Town (Lab): My Lords, this is an unusual procedure for a Bill. A whole Bill, with far bigger consequences than the Benn Bill—which required only the sending of a letter—is to be taken in one day, at one sitting. And it has been done without a murmur from those—I am looking not just at the noble Lord, Lord True—who found the Benn Bill's passage so very outrageous. By comparison, the Fixed-term Parliaments Act had one day at Second Reading, three days in Committee, two days on Report and a tiny 10-minute day at Third Reading: 29 hours in all.

Today's Bill was conceived by the Liberal Democrats and then taken over by the Conservatives—the two parties that pushed through the very Fixed-term Parliaments Act that the Bill now upends for what they see as their own electoral advantages. The Act that they wanted, to prevent a Prime Minister calling an election whenever he or she felt like it, is to be cast aside so that this Prime Minister can call an election at a time of his choosing. Indeed, the Lib Dem Minister who took that Act through this House, resisted attempts to include a sunset clause, which, ironically, would have saved Mr Johnson a lot of trouble, as he could then simply have called the election whenever he wanted. That Minister also ignored the sage advice of our Constitution Committee, which, while unpersuaded of the need to overturn,

"an established constitutional practice and moving to fixed-term Parliaments",

thought that there should be,

"some form of safety valve",

to allow an early election.

I had hoped that the noble and learned Lord, Lord Wallace of Tankerness, might have spoken today to explain his volte face, because this Bill drives a coach and horses through the Fixed-term Parliaments Act, bypassing both the required supermajority as well as the unpleasantness of a no-confidence vote—"a political device", in the words of noble and learned Lord, Lord Judge, or "cavalier", according to my noble friend Lady Quin.

Essentially, in 48 hours, between the two Houses, the Bill repeals the Act, with no forethought, debate or any of the consideration we would normally give to a major legislative and constitutional change. As the noble and learned Lord, Lord Judge, urged, we should undertake such a task in a proper and thoughtful way.

However, I guess this unconventional route is only one of the Liberal Democrats' embarrassments, given that they have, in the words of an arch remainer, "thrown the referendum campaign under a bus", having triggered the Bill before trying to add a referendum to the withdrawal agreement Bill. Indeed, they have promised that they will use any influence they have after the election to revoke without a second referendum. Those who slogged so long for a referendum must rue the day that they trusted the Liberal Democrats.

But that is not all. We and the Liberal Democrats had prioritised removing any chance of a no-deal exit from the EU. They have now handed this possibility to the Prime Minister. He may not get the WAB through Parliament before 31 January, given that we will now lose six weeks of legislative time with the election, swearing in, the Queen's Speech and its debate—and I look forward to the answer from the noble Earl when he replies to the question asked by the noble Lord, Lord Butler, about the earliest date of our return. We now risk a crash-out at the end of January or at the end of next year, if the Prime Minister takes us out at the end of the transition period without an agreement. Well done, Liberal Democrats; I bet a glass is being raised to you in No. 10. As it happens, we are confident that there will be no such outcome, that it is Labour who will have the keys to No. 10, and we will put an end to a no-deal exit.

As for the Government—in case noble Lords thought that this was all about the Liberal Democrats—we know why they want an election. National debt is rising; the true figures of their preferred deal are appearing—£70 billion over 10 years, we hear today from the National Institute of Economic and Social Research; a winter NHS crisis beckons; schools are still on short measures in some places; Northern Ireland has been sold short, and Johnson rumbled on that; and, vitally, the impact of a hard Brexit has yet to be felt, or even the arguments over it, as the noble Lord, Lord Wigley, said.

So the Conservatives, for electoral advantage, which the Fixed-term Parliaments Act was meant to prevent, want an election while the fruits of their ham-fisted policies have yet to bite. I urge them not to be complacent. The public might just see through them and grasp why they are being sent out to polling stations in the run-up to Christmas. It is not really to "unclog" Parliament, the Commons having given the withdrawal agreement Bill a Second Reading. As my noble friend Lady Smith said, had there been a decent programme Motion, which needed only for the Prime Minister to swallow his pride over the totem 31 October date, he could have got the withdrawal agreement Bill through well before 31 January, and negotiations on our future relations with the EU could have begun.

Of course, the Government might feel complacent because they know that they may not be playing absolutely fair. Having an election before we have sorted out the regulation of targeted digital campaigning will probably play into the hands of a certain Dominic Cummings. I am not saying that it is the dark arts, but I know that it is neither transparent nor regulated, as my noble friend Lord Puttnam made abundantly clear. When he responds, the Minister needs to spell out what steps the Government and the Electoral Commission will take to ensure a fair and open contest.

For Labour, we look forward to being able to take our challenge to the Government to every street, village, town and city of the country. We will show what damage the Government are risking—to the car industry, to farming, to the environment, to consumers and to our vibrant service sector—with their approach to Brexit. We will highlight the impact that their policies have already had on the poor and disadvantaged, on

those living with debt and insecurity, on those dependent on social services, on working families torn between jobs and paying for childcare, on students graduating with massive debt, on young couples no longer even able to dream of owning their own house, on people on zero-hours contracts, on the elderly finding it hard to see a GP or dentist any time soon, and on teachers and nurses who, at the end of the month, cannot find the money for any luxuries after years of pay restraint.

It will become clear over these coming weeks that the Prime Minister is not a man who can be trusted. He owes no loyalty even to his own MPs, let alone to society. He is a man with only one person's future at heart, and that is his own.

I confess that I never wanted a winter election —I hate cold dark mornings and early sunsets—but I want the chance to rid this country of this Government. So here's to this Bill—and the election that it now brings.

6.06 pm

Earl Howe (Con): My Lords, this has been a very constructive and focused debate, and I thank all noble Lords who have contributed to it. Unsurprisingly, we have heard a range of views expressed on all sides of the House about the Bill and the reasons why we find ourselves debating it, so I think that a helpful place for me to start is to return briefly to first base by re-emphasising the key points made earlier by my noble friend the Leader of the House.

Why do we believe that a general election is now necessary? The hung Parliament that we are in, complicated by the divergent views of elected Members across all parties on the most significant political and constitutional issue of our day, has created an impasse. It is an impasse that the Government are clear cannot be allowed to continue.

The withdrawal agreement negotiated by my right honourable friend Theresa May was rejected on three separate occasions earlier this year. The Prime Minister has successfully negotiated a new deal and the other place passed the revised withdrawal agreement Bill at Second Reading. However, by also voting down the Government's programme Motion, they prevented the progress of that Bill and, hence, this country's departure from the European Union by 31 October. Then, despite the extension of the Article 50 deadline, conversations held in another place made it apparent to the Government that there could be no certainty, or anything approaching certainty, of the withdrawal agreement Bill receiving parliamentary approval through all its subsequent stages. Therefore, contrary to the contention made by the noble Baroness the Leader of the Opposition, it was not rejection of the programme Motion that brought about this Bill; it was the Government's realisation that even the three-month extension to 31 January left the fate of the Bill wide open.

The noble Baroness, Lady Smith, said that she accepted that there should be a general election. I wish that she had done so with as much good grace as the noble Lord, Lord Newby. All the main political parties now agree that a general election is needed in order for the British people to have their say, and we earnestly hope to provide a new Parliament with a way forward. So this is a short and simple Bill, which sets the date of the election as 12 December. The general election timetable allows the Northern Ireland Budget Bill to pass before Dissolution, to ensure that the Northern Ireland Civil Service can access the funding it needs to deliver public services and proper governance in the Province.

The 12 December date is important for another reason: it is critical that we do not miss this opportunity to have an election, and a new Parliament sitting, before Christmas. An election on the following Thursday—19 December—would not allow time for the new Parliament to sit before the start of the new year. The noble Lord, Lord Butler, in his intervention, asked me for the earliest date on which Parliament could first sit following the poll. My right honourable friend the Prime Minister has stated that if our party were to win the election, he would aim for both Houses to reconvene before 23 December. However, the exact date cannot be set until after Dissolution, when the Sovereign issues a proclamation, so I regret that I cannot more specific.

Lord Butler of Brockwell: I am grateful to the noble Earl for that, but surely the Queen cannot reopen Parliament before Christmas, on 23 December. That would be an absurd time to have a reopening of Parliament. Surely the answer is that the Queen cannot reopen Parliament until 6 January. We would then have a Queen's Speech debate, so proceedings on the Bill are unlikely to start before the week beginning 13 January. We will then be getting into just as difficult a position, in passing the Bill before 31 January, as we were previously.

Earl Howe: I cannot agree entirely with the noble Lord. The House will have followed his train of thought, but it is nevertheless possible for Parliament to convene before Christmas for swearing in and so forth to take place, and we can get that part of things done. As I have said, I am not in a position to speculate in advance of the Sovereign's proclamation the exact timetable following that.

Baroness Smith of Basildon: I think the House would like a bit more information. When the noble Earl says that the House could reconvene before 23 December, I think that most Members of your Lordships' House, and indeed of the other place, would expect that some business would be undertaken. If the election were on 12 December, I see little reason why the House could not reconvene the following week. He will appreciate that legislation will be required before the end of January. Surely the Government do not intend not even to start tabling business until the middle of January.

Earl Howe: Before we have a new Government in place, it is certainly not in my gift to specify the date on which Parliament will return, or indeed what it will do when it does return. However, I am sure the noble Baroness, if and when she is elected to office, will see to it that there is a rapid reconvening of Parliament.

[Earl Howe]

I listened with care, and a great deal of sympathy, to the noble Lords, Lord Puttnam and Lord Whitty, on the critical issue of transparency in electoral campaigning. I also read the noble Lord's article in the *Times* today. His criticisms of the Government are noted, but I hope he will accept that the Government are committed to increasing transparency in digital campaigning, to maintain a fair and proportionate democratic process. As both noble Lords will know, to this end, on 5 May the Government announced that we will implement an imprints regime for digital election material. The aim of that is precisely to ensure greater transparency, and to make it clearer to the electorate who has produced and promoted online political material.

Lord Tyler: We had some exchanges on this point last Wednesday, and as the Minister has now repeated to your Lordships, that commitment was given as long ago as May. What exactly is he proposing should now take place to ensure that those very urgent controls are implemented before the poll takes place?

Earl Howe: I understand the noble Lord's impatience for moving faster in this area but I am sure he would acknowledge that nothing would be worse than getting this wrong. If we were to proceed in haste, we could find ourselves either unintentionally stifling democratic debate with overly restrictive regulations or rushing through a regime that would mean people were unknowingly committing an offence, and we would not want that either. It is a much more complex area of the law to get right than it may at first appear.

Lord Puttnam: I thank the noble Earl for giving way. All I am trying to get at is that nothing could be worse than a contested election result, and the rules that we are applying at present make that almost inevitable. If it is a very close election, as I suspect it will be, it does not matter which party wins; it will be contested. Given the fragile state of our democracy at the moment, I cannot think of a worse outcome.

Earl Howe: I understand the noble Lord's concern, and I am sorry that it has not proved possible to enact the measures that I am sure we all want. However, I reconfirm the commitment that the Government have given that, if re-elected, we will bring forward detailed proposals on the scope of the new regime in the coming months for further scrutiny.

The noble Baroness, Lady Bennett, spoke in her clear and emphatic way in favour of strengthening the powers of the Electoral Commission. I hope she knows that the Government work closely with the Electoral Commission to protect the integrity, security and effectiveness of referendums and elections. The commission has civil sanctioning powers that apply to referendums and elections. More serious criminal matters can be, and are, referred to the police and then considered by a court of law. The courts already have the power to levy unlimited fines.

However, it is important to remember that the commission is independent of the Government and accountable to Parliament through the Speaker's Committee on the Electoral Commission. Quite rightly, the Government are not involved in the decisions over what the Electoral Commission investigates or the fines that it may impose. The commission has recommended that its sanctioning powers be increased, and the Government are considering that proposal. The amendment that the noble Baroness spoke to would involve giving the Electoral Commission fining powers far beyond those of most other civil regulators. My own view, and that of the Government, is that that would not be proportionate. Even the Electoral Commission has not suggested having unlimited fining powers. Instead it has suggested that fines should be raised to hundreds of thousands of pounds so that it can punish and deter the most serious offences.

More broadly, as the noble Baroness herself said, changes to electoral law cannot be made overnight. They require extensive stakeholder engagement to ensure that they are workable and proportionate. Political parties vary considerably in size and professionalism, and it is important to ensure that their regulation is fair and proportionate so as not to undermine local democracy or discourage engagement.

The noble Earl, Lord Kinnoull, called for the rapid reappointment of your Lordships' Select Committees following the convening of the new Parliament, and I recognise the importance of the issue that he has raised. The reappointment to our Select Committees is of course a matter for the Committee of Selection. They are usually reappointed early in any new Session, and I am sure the usual channels will do everything that they can to help to make that happen. Ultimately, though, these reappointments are not a matter for the Government.

The noble and learned Lord, Lord Judge, spoke powerfully about the Fixed-term Parliaments Act and the need for Parliament to reconsider its provisions, and my noble friend Lord Elton added weight to those comments. I am grateful to both of them for what they said. These are serious matters that deserve appropriate consideration. The Fixed-term Parliaments Act provides that the Prime Minister must make arrangements in 2020 for a committee to carry out a review of the operation of the Act. The new Government will be bound to instigate that review and consider its outcome very carefully.

The noble Baroness, Lady Smith, and the noble Lord, Lord Wallace of Saltaire, expressed concerns about the possible tone of the forthcoming election campaign and discussed the need to prevent candidate intimidation and maintain respectful debate across the country. Democracy is a cornerstone of British values and the key to a healthy democracy is having respectful, vibrant and open debate. However, this freedom can never be an excuse to cause harm or spread hatred. A line is crossed when disagreement mutates into intimidation, violence or abuse. The Government recognise that rising levels of intimidation in public life can prevent talented people standing for public office, particularly women and those from minority backgrounds. That is why we are taking action to confront it and will continue to do so if re-elected to government.

The purpose of the Bill is to allow the British people to have their say and to give the other place the mandate to resolve this deadlock and sufficient time to act before 31 January 2020. This is our last opportunity

to hold an election in a timely way before that date—an election that has significant cross-party support in the other place. I am sure your Lordships will ensure the swift passage of this vital Bill and enable an election on 12 December.

Bill read a second time and committed to a Committee of the Whole House.

6.21 pm

Sitting suspended.

Early Parliamentary General Election Bill

Committee (and remaining stages)

7.15 pm

The Deputy Chairman of Committees (Lord Rogan) (UUP): My Lords, I understand that no amendments have been set down to the Bill and that no noble Lord has indicated a wish to move a manuscript amendment or to speak in Committee. With the agreement of the Committee, I will now report the Bill to the House without amendment.

House resumed.

Bill reported without amendment. Report and Third Reading agreed without debate.

7.18 pm

Motion

Moved by ***Baroness Evans of Bowes Park***

That the Bill do now pass.

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, I thank all noble Lords who have taken part in today's debate for their work to ensure the swift passage of the Bill. I wish you all a very happy evening. I beg to move.

Bill passed.

Northern Ireland Budget Bill

First Reading

7.18 pm

The Bill was brought from the Commons, read a first time and ordered to be printed.

House adjourned at 7.19 pm.

Grand Committee

Wednesday 30 October 2019

Arrangement of Business

Announcement

3.45 pm

The Deputy Chairman of Committees (Lord Brougham and Vaux) (Con): My Lords, welcome to the Grand Committee. If there is a Division in the Chamber, the Committee will adjourn for 10 minutes.

Welfare of Animals at the Time of Killing (England and Northern Ireland) (Amendment) (EU Exit) Regulations 2019

Considered in Grand Committee

3.45 pm

Moved by ***Baroness Chisholm of Owlpen***

That the Grand Committee do consider the Welfare of Animals at the Time of Killing (England and Northern Ireland) (Amendment) (EU Exit) Regulations 2019.

Relevant document: 2nd Report from the Secondary Legislation Scrutiny Committee

Baroness Chisholm of Owlpen (Con): My Lords, this statutory instrument makes simple and technical amendments to domestic legislation so that we meet our obligations under the UK-Ireland common travel area with regard to certificates of competence for slaughterers upon exit. After exit day, a slaughterer will have to have a UK certificate of competence in order to work in the UK. This means that slaughterers operating in the UK after we leave the EU must hold a certificate of competence issued by a UK competent authority. This will ensure that any changes we want to make to the regime in the future will apply equally to all slaughterers operating in the UK. It will also enable us to take effective enforcement action in the UK, as currently only the member state that issued a certificate of competence can suspend or revoke it.

It is, however, the case that we continue to have reciprocal arrangements with the Republic of Ireland under the UK-Ireland common travel area, which provides a right for Irish citizens to work in the UK and have qualifications recognised, and vice versa. This instrument ensures that we will continue to recognise training and examinations carried out in the Republic of Ireland after we leave. It does this by amending the definition of "evidence of training and examination" contained in Regulation 3(1) of the Welfare of Animals at the Time of Killing (Northern Ireland) Regulations 2014 and the Welfare of Animals at the Time of Killing (England) Regulations 2015. This means that, when applying for a certificate of competence from the competent authority in England and Northern Ireland, the applicant may refer to any training and examination undertaken in the Republic of Ireland to support their application. The applicant will not need to undergo further training or take an exam if they have already passed the relevant modules in the Republic of Ireland.

The Food Standards Agency and the Department of Agriculture, Environment and Rural Affairs—DAERA–which are the competent authorities in England and Northern Ireland respectively, consider that very few applications are likely to rely on evidence of training or examination from the Republic of Ireland: the estimate is two applications per year, and any impact would be positive insofar as the applicant would not be required to undergo additional training or examination and would not incur the additional costs, which would be approximately £225.

Animal welfare is a devolved issue. Each devolved Administration is responsible for their own regulations in this area, but, as noble Lords are probably aware, the Scottish and Welsh Governments have made similar amendments to ensure consistency across the UK. We have decided that, in the interests of legal certainty in Northern Ireland, the UK Government may take through the necessary secondary legislation for Northern Ireland in some circumstances.

Lord Rooker (Lab): Can the Minister remind the Committee how long the common travel area has been in force?

Baroness Chisholm of Owlpen: I will answer the noble Lord in just a second.

In the interests of legal certainty in Northern Ireland, the UK Government may take through the necessary secondary legislation for Northern Ireland in some circumstances, in close consultation with the Northern Ireland departments. This is one such instrument.

The answer to the noble Lord's question is that the common travel area has been in force since 1922—so quite a long time.

The Government have taken care to avoid using the urgency procedure, but they considered the use of this procedure to be appropriate in this instance to ensure the continued application of our obligations under the common travel area at the point of exit. I beg to move.

Lord De Mauley (Con): My Lords, while it was unfortunate that the original SI was not drafted to recognise certificates of competence issued in the Republic of Ireland, it is surely right that this is put right now. The consequence of a large number of people currently working in our abattoirs suddenly being unable to continue to do so legally, upon our departure from the EU, could clearly be adverse for the welfare of animals immediately before slaughter.

I am delighted that the Prime Minister has identified animal welfare standards as one of the areas that we can improve on after leaving the EU. I ask my noble friend the Minister to pass on to him that the All-Party Group for Animal Welfare has recently undertaken an inquiry into small abattoir provision, specifically arising from concerns at the alarming rate of closure of small abattoirs over the last few years. There is a strong view that welfare standards are good across the production landscape, but small abattoirs are able to limit transport distances and times, ensure swift processing and avoid

[Lord De Mauley]
mixing unfamiliar animals and collecting points during lairage—all of which would suggest that they can improve welfare outcomes.

I understand that the Government are looking at wider improvements to animal welfare, and that one of the objectives is to reduce travel time from point of production to slaughter. The recent objective announced by the Government that farm animals should be sent to the closest available abattoir, alongside the intention to address live transport, could mean that, ultimately, we would need more small abattoirs.

A thriving rural economy which ensures that local farming is profitable will also help to ensure good animal welfare. Anecdotal evidence would imply that livestock passing through small-scale abattoirs is more likely to be destined for local markets. Given an increased demand and commitment by many consumers to purchase from a high-welfare husbandry system, shorter and therefore more easily transparent food supply chains are, I would argue, desirable.

Small-scale farmers selling premium, high-welfare products can often increase profitability by being both producer and retailer of their products. This demands small-scale and sometimes specialist slaughter facilities to accommodate more varied breeds and seasonal supply. Private kill is often fundamental to the business model, and this is rarely offered at large-scale abattoirs.

Specific examples of premium products requiring specialist slaughter facilities are rare and native breed animals. Polled cattle breeds, for example, are often catered for only by small abattoirs because of the need to adapt the facilities to suit their specific requirements. Outdoor-reared pigs, which tend to have a thicker coat than indoor-reared animals, are unsuitable for some larger-scale abattoirs. At this stage, I simply ask my noble friend the Minister to take this back to her department.

Lord Rooker: My Lords, one lesson I learned in 1974, when there was no induction system, came from the late Willie Hamilton MP, who noble Lords will remember. He used to do his own little bit for Members, and one thing he always told us was, "Never ask a question unless you know the answer, because you might be surprised".

The common travel area has been in place for almost 100 years. The Government, in their headlong rush to Brexit, forget that it includes work, and work includes professional qualifications and mutual recognition. That has always been the case. It has nothing to do with the EU. It is part of the system we have of living in the British Isles.

It beggars belief. I remember this being raised in Committee B—I think it was—when we were split for the statutory instruments. The question arises: what else is affected? If the Government forget about slaughtermen and slaughterwomen in the killing of animals, what other jobs have been affected across Ireland and the UK, where we plan—because we have not left yet—to charge, or to abandon mutual recognition?

This is not something that nobody thought about. As the second report of the scrutiny committee makes clear, the earlier instrument ended the recognition of the certificates of competence. So it was a positive act of the Government to end mutual recognition. It has not just slipped through; they forgot that it included work. This beggars belief. I am certainly not blaming the civil servants in Defra; some of the finest civil servants I have worked with were in Defra—Dame Glenys Stacey, Jill Rutter and of course all my private office staff, who are busy climbing their way up at the present time.

However, the fact is that in Paterson, Leadsom, Truss and Villiers we have had four absolute duds as Secretaries of State. I do not expect the Minister to respond to that, but it is a fact. They are all hard-line Brexiteers not looking at or even thinking about any detail. It almost beggars belief that this would not have been put in a brief at some point if they were attending to matters of mutual respect with the island of Ireland in the normal day-to-day work of Defra—the department that, above all others in Whitehall, probably still has, for obvious reasons, the most day-to-day contact with the EU.

Has any other work been done on this? Why is it only this narrow bit? I assume that, if it was remembered in other departments, someone would quite clearly have said something to Defra two years ago, because obviously this has taken quite a while, even after it was alerted. And there is an attempt in the instrument itself—I really find this very sad—almost to blame the non-sitting of Stormont. It has nothing to do with the non-sitting of Stormont. I consider it outrageous to effectively blame the local politicians who should be getting together but are not. This is something central government forgot about in Brexit—and we are going to end up charging people over £200. All right, it is not many people, but numbers do not count here; it is the principle of the issue. What other professions and departments have been dealing with work under the common travel area? I assume there ought to be an answer to that.

I certainly do not hold the present Minister responsible for any of this whatever—I meant to say that earlier. No, it is the dud top dogs in Defra who are to blame for this.

Baroness Flather (CB): My Lords, I will bring up something different. There is a lot of ritual slaughter in this country, and I have no idea whether those who perform it are in any way regulated. Those who know anything about slaughter for halal meat will know that it is not the way animals should be treated—a prayer has to be said while the neck is being separated from the body. It is just going on, and we do nothing about it.

The other thing is that some halal meat—the majority, some say—is, I cannot remember the word—

Lord De Mauley: Pre-stunned.

Baroness Flather: I thank the noble Lord. I said to the last Secretary of State that meat that is available as halal or pre-stunned should be labelled. He said that that might reflect badly on Muslims. But they too want it to be labelled because the very conservative Muslims will not eat pre-stunned halal. They will eat only halal meat where the neck was cut off while prayers were being said. It is time we looked at that, as it certainly goes against animal welfare.

Really, everything should be labelled. We have always labelled everything in this country; why do we not label halal? Everyone says that all the takeaways now serve halal because they want Muslims to buy it. That is fine, but we should know. Everybody should know what they are eating. People like me who will not buy halal because of the ritual slaughter should also know whether we are eating halal. I would very much like the Minister to look at this issue, which has just been brushed under the carpet: "Oh, we do not want to upset the Muslims". Why not? They are living in this country; they should conform to our standards.

4 pm

The Earl of Caithness (Con): My Lords, I support the point made by the noble Baroness about stunning animals before slaughter, but perhaps I may ask my noble friend a different question. I understand that the vast majority of vets at slaughterhouses are from the EU. Is she confident that we will have enough vets to protect animal welfare to the highest standards once we leave the EU?

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I thank the Minister for her introduction and for her time in producing a briefing. This SI is a tidying-up exercise and, as the noble Lord, Lord Rooker, said, many aspects have been missed out in previous SIs. This SI covers the certificate of competence which those working in slaughterhouses will need in order to continue to be employed. The certificate is awarded after training has been completed. However, due to existing regulations, those working in Northern Ireland will not need any additional training, but they will need to register as an EU slaughterer. The FSA issues the certificates to work.

Defra expects around two applications per year to be affected by the changes, saving each applicant approximately £225 for additional training or examination which would otherwise be required. The department says that both Scotland and Wales are making similar changes to ensure consistency across the UK.

UK workers can work in Northern Ireland and in the Republic of Ireland, so the movement of animals across the border will not be affected—not that this SI deals with the movement of animals. It is only about what occurs within the confines of the abattoir and about the welfare of the animal at the point of killing, as other noble Lords referenced. This is a very important point.

As the Minister said at the briefing, most of those who receive training at an abattoir tend to remain and work in that location for some considerable time and do not move around. I shall be very interested in the answer she gives to the noble Earl, Lord Caithness, about whether we have enough qualified people working in abattoirs to meet our needs.

This instrument is needed to ensure that the UK meets its obligations under the UK-Ireland common travel area, which provides for the right of Irish citizens to work in the UK and have professional qualifications recognised. For me—but probably not for others—it is non-controversial, and I am happy to support it.

Baroness Jones of Whitchurch (Lab): My Lords, I am grateful to the Minister for introducing this SI and for the helpful briefing that she organised beforehand. We have debated the more detailed SI—which this SI now seeks to amend—on a previous occasion, and I do not intend to repeat the original issues we raised at that time.

To echo my noble friend Lord Rooker, it does raise the question of why the obligations under the UK-Ireland common travel area were not picked up and incorporated at that time. I agree with my noble friend that, to use his words, it "beggars belief" that this was not picked up beforehand. I also agree that it is possible that other professions covered by other SIs might similarly have been missed out, given that we are dealing here with a pretty fundamental agreement.

When we originally discussed this issue in March, the Government estimated that around 200 EU nationals working here as slaughterers would have to apply for a new UK certificate of competence, at the cost of £225. Have these figures been updated and is there an increased danger of UK slaughterhouses not having sufficient staff to deal with the throughput of animals? I agree with the noble Lord, Lord De Mauley, that there is a particular concern about the future of smaller abattoirs—only one part of which is the issue of staffing. Nevertheless, I should be interested to have confirmation from the Minister that the Government are alive to this issue and that it is being addressed. I also agree with the noble Baroness, Lady Flather, that halal meal should be properly labelled. She has raised important issues there.

I want to ask about a separate relatively small point. In the letter to the Secondary Legislation Scrutiny Committee, the Government said that there were only about two applications a year from the Republic; the noble Baroness repeated that figure today. How was that figure calculated? It seems particularly low, given that we are led to believe there is a relatively free flow of work across the border, for example. How was the figure estimated and might it change in the future?

Finally, I will address the issue of devolved interests. Paragraph 7.6 of the Explanatory Memorandum says:

> "Animal welfare is a devolved matter"—

which we know, while the Secondary Legislation Scrutiny Committee's report said that Scotland and Wales were making similar changes to those proposed here to ensure consistency. Again, the Minister repeated that, so why does it say in the Explanatory Memorandum, at paragraph 4.1:

> "The territorial extent of this instrument is England, Wales and Northern Ireland",

whereas at paragraph 4.2 it says:

> "The territorial application … is England and Northern Ireland",

only? Can I have clarification of the status of Wales in how this SI will be applied? I look forward to the Minister's response.

Baroness Chisholm of Owlpen: I thank all noble Lords who have taken part in this short and interesting debate. They have brought up many interesting issues that are not part of this SI, but I will still try to answer some of them.

[Baroness Chisholm of Owlpen]

I could not agree more with my noble friend Lord De Mauley: our welfare standards are very important. I think he said that he was involved in an APPG on small abattoirs. That is fascinating and a very important part of this. As we know, in England small abattoirs are so important to local farmers, as they do not have to travel a long way with their animals. It also means that they know the slaughterers in the abattoirs. In fact, when I take my sheep to our local abattoir, I am absolutely thrilled that I know everybody working there. I have known them for a long time and am absolutely sure that the welfare of the animals is tip-tip-top. I will certainly take that back to the department.

My noble friend also mentioned the travel of live animals, which again is a concern, as we know. I cannot say too much about that at the moment because we are in consultation on it, but we certainly feel that the live export of animals for fattening and slaughter needs to be looked into. We believe that it is possible to send animals on long journeys while simultaneously respecting the need for good animal husbandry. Sometimes they may travel for 30 or 40 hours, as we know, and in some cases 50 hours, which is not compatible with animal welfare. So it is certainly being looked into at the moment. In fact, when this SI was considered at the other end, my right honourable friend the Minister, Zac Goldsmith, mentioned that he was very involved in several round tables going on at the moment. He is talking to stakeholders and finding out the standards that might be changed as far as that is concerned.

I always love it when the noble Lord, Lord Rooker, stands up to talk, because when I first came here I was a Defra whip and he was enormously helpful to me. Quite often, I had to stand up and answer questions that I had no idea about, so I used to go to him and he would tell me what I should say and give me the answers. But I do not have him to ask today, because he is asking me the questions; we are slightly changed around.

The noble Lord asked about the common travel area and I hear what he says about it. In fact, the common travel area predates our joint accession to the EU. It offers Irish citizens the right to live and work in the UK and vice versa. The recognition of qualifications is necessary to enable individuals to exercise their right to work. Both Governments have publicly committed to protecting the rights associated with the common travel area. In May 2019, the UK and Irish Governments signed a memorandum of understanding reaffirming their commitment to it, as well as acknowledging that the recognition of professional qualifications was an essential facilitator of the right to work.

The noble Lord also mentioned other people wanting to work in the common travel area and asked how that would be affected. That is a BEIS competence. There is a comprehensive process going on at the moment and Defra is engaging with it.

My noble friend Lord Caithness and the noble Baroness, Lady Bakewell, asked about vet standards. The Home Office decision to place the veterinary profession on its shortage occupation list means that it will be easier for UK employers to attract international veterinary expertise. It will also help to ensure that the UK can continue to maintain high standards of animal health and welfare, veterinary public health advice and biosecurity. We have already made operability amendments to the Veterinary Surgeons Act 1966 to ensure that the mechanisms are in place to recognise equivalent certificates from anywhere in the world.

The noble Baroness, Lady Flather, talked about halal and kosher labelling. The Government will not accept labelling changes that could put up the cost of food for religious communities. We expect industry to provide consumers with the information to enable them to make informed choices about the food they eat. The Government are aware that there is public concern about meat from animals being slaughtered in accordance with religious beliefs being sold to consumers who do not require their meat to be prepared in that way. My right honourable friend the Minister, Zac Goldsmith, was asked a similar question when this SI went through in the House of Commons. He said:

> "The previous Secretary of State initiated a series of roundtables with stakeholders from across the board. Those discussions continue and I am now involved in them. I have had some very good meetings with stakeholders in the last month. It is not the right time to pre-empt what we will deliver as a consequence of that, but we will deliver steps that I think will satisfy the stakeholders' concerns and improve animal welfare at the point of slaughter".—[*Official Report*, Commons Eighth Delegated Legislation Committee, 29/10/19; col. 6.]

Baroness Flather: Will we be able to know what we are eating? I want to know what I am eating. We have always had that in this country. We always tell people what they are eating. There are many countries where horses are normally eaten, but here there was a big hoo-hah about it. Why should it bother the people for whom the ritual slaughter is done? They should be happy that they know what they are eating.

Baroness Chisholm of Owlpen: The Government are aware that there is public concern about that. I think that that is part of the round table discussions going on at the moment with my right honourable friend.

Lord Rooker: Are some of the round table discussions about the fact that all New Zealand lamb imported into the UK is halal, and it is all pre-stunned? Is it a fact that the meat used in the National Health Service is all halal and patients are never told and that the meat in prisons is all halal and prisoners are never told? Should they not be?

Baroness Flather: There is meat in schools as well.

4.15 pm

Baroness Chisholm of Owlpen: I hear what the noble Baroness and the noble Lord say, and I will certainly take it back to the department. As I said earlier, it is being looked into.

The noble Baroness, Lady Jones, mentioned staff in abattoirs. It is important to remember that a lot of staff come over from eastern Europe or wherever it happens to be to learn the trade in abattoirs in England,

and they get their certificate of competence in England, which means that they are trained to English standards. It means that the standards are as good there but, if they come from abroad and they do not have the certificate of competency, obviously they have to get it and undergo training before they are allowed to work in an abattoir.

The noble Baroness also referred to the two applications a year. The reason for that was that they had to come up with a number. It is not likely to be as many as two; it could be none. They felt that that was the mean average; there is no particular meaning to that number otherwise.

The issue of jurisdiction between England and Wales was a legal matter. Normally, when we deal with SIs, the SI refers to England and Wales working together. In this case, Wales is doing its own, so it refers only to England. That is why that was in there.

I think that I have answered everybody's questions, so unless anybody wants to ask anything else, I thank all noble Lords for taking part.

Baroness Flather: There is still the question of whether there is anything to look at the people who practise these ritual killings. Do we know anything about them, such as whether they are in any way competent?

Baroness Chisholm of Owlpen: Everybody who works in an abattoir is registered.

Baroness Flather: I am not talking just about people. Is there something for abattoirs? I do not know.

Baroness Chisholm of Owlpen: All abattoirs are registered. There certainly are some illegal ones, but they should not be allowed to practise.

I hope that your Lordships are reassured on these points. I reiterate that the regulations do no more than meet our existing obligations under the common travel area.

Motion agreed.

Agriculture, Environment and Rural Affairs (Amendment) (Northern Ireland) (EU Exit) (No. 2) Regulations 2019

Considered in Grand Committee

4.18 pm

Moved by ***Baroness Chisholm of Owlpen***

That the Grand Committee do consider the Agriculture, Environment and Rural Affairs (Amendment) (Northern Ireland) (EU Exit) (No. 2) Regulations 2019.

Baroness Chisholm of Owlpen (Con): My Lords, the instrument amends existing domestic legislation to ensure operability following EU exit. The SI relates only to Northern Ireland, concerning devolved areas of policy ranging from animal and plant health, non-native invasive alien species and the wider ecosystem, which would normally be dealt with by a devolved Administration. The regulation relates to protecting biosecurity. The changes do not introduce any new policy but seek to ensure that legislation is fully operable after exit.

The SI will make minor amendments to existing Northern Ireland domestic legislation, namely the Eggs and Chicks Regulations (Northern Ireland) 2010. These regulations make provision for the enforcement and execution of EU marketing standards relating to eggs for hatching and farmyard poultry chicks and eggs in shell for consumption. They also make provision for the enforcement of controls for salmonella serotypes with public health significance in relation to the marketing and use of eggs in shell for human consumption. They confer powers of entry and seizure and other enforcement powers, including the power to destroy seized products.

This SI amends the eggs and chicks regulations to ensure operability following exit by omitting EU requirements, namely offences of not marking eggs, or not marking eggs correctly for delivery between member states. The instrument also removes a reference to Article 4 of Council directive 1999/74/EC, replacing it with a reference to the Welfare of Farmed Animals Regulations (Northern Ireland) 2012. The instrument prohibits the importation of animal pathogens or carriers of such pathogens except under a licence issued by DAERA. This SI makes minor, technical amendments to this instrument in relation to a reference to, and a definition of, "another Member State".

On the Agriculture, Environment and Rural Affairs (Amendment) (Northern Ireland) (EU Exit) Regulations 2019, the original SI made necessary amendments to subordinate legislation in relation to animals, aquaculture, environmental protection, food and horticulture. This SI amends that regulation to insert a corrected reference to the community marketing rules offences in the Marketing of Fresh Horticulture Produce Regulations (Northern Ireland) 2010. The amendments in this SI provide transitional arrangements for fresh horticultural products placed on the market after exit. This will ensure that fruit and vegetable marketing labels currently allowed under EU law will continue to be permitted in the UK during a transition period of 21 months after exit day. The EU labelling requirements set out in Article 7 of Commission Implementing Regulation 543/2011 should have referred to regulation 15 rather than regulation 17 and is amended by this instrument.

The Marketing of Vegetable Plant Material Regulations (Northern Ireland) 1995 implement Council directive 92/33/EEC and Commission directives 93/61/EEC and 93/62/EEC on the marketing of vegetable propagating material other than seeds within the European Union. This instrument amends these regulations by making an operability amendment with the substitution of "European Union" with "United Kingdom".

The Plant Health (Wood and Bark) Order (Northern Ireland) 2006 makes provision for measures to prevent the introduction and spread of harmful forestry pests and diseases. This instrument amends this order by removing references to the European Union, omitting EU decision references that are not operable outside the EU, and omitting references to EU decisions.

[Baroness Chisholm of Owlpen]

The Plant Health Order (Northern Ireland) 2018 makes provision for transposing the EU directives that protect plant health. This relates in particular to the official control of quarantine organisms affecting plants and plant products. In addition, it relates to official investigations and surveys, official designations of infected areas and demarcation zones for control, and measures to be taken following confirmation of outbreaks. This instrument amends the Plant Health Order (Northern Ireland) 2018 to omit definitions of decision (EU) 2018/1503 relating to the organism Aromia bungii—also known as Faldermann. This EU decision was added to the order after the Agriculture, Environment and Rural Affairs (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 SI was made, and is now included in the UK common list: therefore, this is not required in the order after EU exit.

The Invasive Alien Species (Enforcement and Permitting) Order (Northern Ireland) 2019 introduced penalties and sanctions to implement the requirements of Regulation (EU) 1143/2014 of the European Parliament and of the Council on the prevention and management of the introduction and spread of invasive alien species. Regulation (EU) 1143/2014 will become retained EU law on exit day. On that day, the list of invasive alien species known as "species of Union concern" will become,

"the list of species of special concern",

reflecting the UK's exit from the European Union.

This SI amends that order to ensure parity with retained EU law, omitting the definition of "Union list" throughout the order and, where appropriate, replacing the term with "list of species of special concern". The list of special concern is defined in the amendment to reflect that the list is derived from the EU's list of invasive alien species. Similar amendments have been made for the UK statutory instrument, the Invasive Alien Species (Enforcement and Permitting) Order 2019.

This instrument is needed to ensure that operable legislation is in place in Northern Ireland for exit day and to facilitate the flow of goods while preserving the current plant and animal health regime's overall aim of preventing and managing pest and disease threats. It is basically a wash-up SI and I beg to move.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, here is yet another SI to tidy up things for Northern Ireland. Most of the items covered have previously been debated at length, some only last week. As the Minister just said, the SI appears to be a sweep-up of things overlooked or already in need of amendment. I have little to add to previous debates.

I understand that, in terms of eggs and chicks, the instrument changes the law from EU standards to Northern Ireland standards and will help to prevent the spread of salmonella. A limit of nine laying hens per square metre is included in the SI.

It is reassuring that a licence is required before animal pathogens are imported, with exceptions for veterinary and human medicines. I am reassured that these exceptions will continue post Brexit to ensure both animals and humans will have access to the medicines they need; that will be important.

We have had a great many debates about invasive alien species, which are numerous. Lists of the species are held in the EU and will transfer from EU to UK law, including Northern Ireland law, on Brexit. Although this is important, we all know that it is tremendously difficult to limit invasive species, which, as their name suggests, are hardy and difficult to eradicate.

Noble Lords will be pleased to hear that I will not go through the whole list of subjects covered by the SI. Despite the many items it covers, I am at something of a loss to understand why this SI in particular should be subject to the urgent "made affirmative" procedure. Perhaps the Minister will comment on that.

Baroness Jones of Whitchurch (Lab): My Lords, I am grateful to the Minister for explaining the SI and for the helpful briefing that she organised beforehand.

This is one of a number of recent Defra SIs laid using the "made affirmative" procedure, with the justification that changes to the statute book must be implemented by the EU exit date of 31 October. It is now 30 October and it is clear to everyone concerned that we will not leave on 31 October. Nevertheless, we seem still to be correcting errors, some of which might be said to be quite serious. For example, Regulation 4 corrects an error made in a previous Defra SI and was identified in the 69th report of the Joint Committee on Statutory Instruments as sufficiently important not to,

"be suitable for correction by correction slip".

Regulation 8 amends the Marketing of Seeds and Plant Propagating Material (Amendment) (Northern Ireland) (EU Exit) Regulations to correct a reference to the European Union that was missed in the original instrument.

A number of these amendments change longer standing, devolved Northern Ireland legislation, which one would hope had been cross-checked and updated well before now. If the Minister accepts that we will not leave tomorrow, as is clear, where does this leave the "made affirmative" provisions, which, as the noble Baroness, Lady Bakewell, said, were only ever intended for use as an emergency measure? I query whether the Government are now broadening them out to deal with all the corrections and updates that really should have been made some time ago. I find this process unsatisfactory. I hope that the Minister can comment on that.

Can she clarify what additional steps have been taken to ensure that these new instruments, and the ones we have been dealing with during the past year, are 100% correct? We seem to be uncovering new mistakes every week. Will the Government use this delay to the exit to hold a thorough review of the state of Defra EU exit legislation so that we are not left making endless corrections? They could cause considerable confusion to businesses and farmers who will be doing their best to abide by our laws in the coming period.

On a separate matter, what organisations in Northern Ireland have been consulted on these proposals? Are they content with them as they stand, even though it appears that we may well be revisiting them in the context of the re-establishment of the Northern Ireland Assembly or of a variation of the withdrawal Bill when we come back after the election? A comment on

the stakeholders who have been consulted and their views on this would be helpful. I look forward to the Minister's response.

4.30 pm

Baroness Chisholm of Owlpen: My Lords, I thank the noble Baronesses, Lady Bakewell and Lady Jones, for their questions.

The noble Baroness, Lady Bakewell, asked why the SI had been upgraded to the "made affirmative" emergency procedure. It was to meet the 31 October deadline but also, if this instrument were not approved by Parliament, there would be significant risk to biosecurity in Northern Ireland and to trade with other countries. The relevant Northern Ireland legislation will not remain operable after the UK withdraws from the European Union. These amendments are being made using the operability powers in the European Union (Withdrawal) Act 2018. The drafting simply amends the EU legislation references to post-EU and UK references. The intention is to maintain the status quo and to keep legislation functioning after exit day in the same way as it functions before EU exit. The amendments do not introduce any new policy changes.

The noble Baroness, Lady Jones, wanted assurances that there would be no further corrections. This SI ensures that all these errors are amended. In the course of drafting it, all 25 previous SIs were rescrutinised as part of the process. I hope that means that we are not going to be coming back here again.

The noble Baroness, Lady Jones, also asked about what consultation or stakeholder engagement had been carried out, with whom and when. There was a quite considerable amount of stakeholder contribution, including a consultation with Northern Ireland stakeholders which was very targeted. There was also a special website in which people could be involved. A lot of consultation took place with the Ulster Farmers' Union. Six workshops were carried out across Northern Ireland in which farmers could take part. A Minister went over to speak to Northern Ireland stakeholders and put them at ease. The Ulster Farmers' Union is happy with the SI and what it is trying to do.

I hope noble Lords are happy that I have answered all questions. I thank the noble Baronesses for being here. Could this be our last SI? Who knows? One can always hope.

Motion Agreed

Common Fisheries Policy and Animals (Amendment etc.) (EU Exit) Regulations 2019

Considered in Grand Committee

4.34 pm

Moved by ***Lord Gardiner of Kimble***

That the Grand Committee do consider the Common Fisheries Policy and Animals (Amendment etc.) (EU Exit) Regulations 2019.

Relevant document: 2nd Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con): My Lords, this instrument makes technical amendments to ensure that retained EU law is effective and enforceable while also providing continuity to businesses and protection for the environment. No policy changes are being made and no change is expected in the way that the fishing industry conducts its activities as a result of this instrument.

The principal purpose of these regulations is to amend EU legislation that has come into effect since the previous fisheries EU exit SIs were made. This instrument will ensure that existing technical conservation measures continue to apply as part of UK law and will maintain the effective operation in UK waters of long-term plans for the sustainable management of fish stocks in the North Sea and the western waters. Where provisions confer powers to exercise legislative functions on the EU Commission or member states, those references are, generally speaking, changed to "a fisheries administration".

The SI before your Lordships makes a number of adjustments to three pieces of retained EU legislation, but they make no changes to policy. First, it makes updates to the technical conservation regulation, which outlines technical rules that fishing vessels must adhere to for conservation purposes. This regulation is essential for the management of the fisheries activities of UK vessels wherever they are, and non-UK vessels in UK waters. The technical conservation regulation was previously made operable in retained UK law through an EU exit statutory instrument made in March 2019. However, the EU subsequently introduced revisions to that regulation in July. The UK was fully engaged in the process of revising the regulation which makes important changes, such as introducing a ban on pulse fishing from July 2021 and measures to support implementation of the landing obligation. UK fishermen are currently bound by the EU regulation, which is important to protect the marine environment, and the changes we are discussing today will ensure that they continue to fish to the latest standards by making the regulation operate in UK law.

Secondly, this SI completes the transfer of the North Sea multiannual plan into retained EU law. This establishes long-term plans for the recovery and sustainable management of mixed fisheries in the North Sea. The bulk of the legislation has previously been made operable in UK law. This SI completes the process by bringing across legislative powers necessary to introduce or amend the details of the plan. These powers to make legislation were previously conferred upon the European Commission, whereas they will now be exercisable by UK Administrations, and parliamentarians will be able to scrutinise them in a way that has not been possible hitherto.

Thirdly, this SI makes necessary amendments to the western waters multiannual plan. Almost identical to the North Sea multiannual plan, this establishes a long-term plan for the recovery and sustainable management of mixed fisheries in the western waters, of which UK waters form a part. The instrument makes minor technical changes such as amending references from "Union waters" to "United Kingdom waters" and removing references to "common fisheries

[Lord Gardiner of Kimble]
policy" or "the Council" to ensure that the legislation operates correctly as part of retained EU law. We are making these amendments to this plan now as it was published only in March 2019, and we were therefore unable to include it in previous instruments.

This instrument also amends previous marine and fisheries EU exit statutory instruments—the Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019, the Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019 and the Common Fisheries Policy (Amendment etc.) (EU Exit) (No. 2) Regulations 2019—as a consequence of changes made to the EU regulations since those previous instruments were passed by this House. Such minor changes include: the revocation of certain regulations relating to regional fisheries management organisations and a Community Fisheries Control Agency, which have been revoked at EU level and which will therefore no longer form part of retained EU law, and a minor change to the amendments to the North Sea discard plan, which has since been amended by the Commission. This ensures that our amendments to retained EU law are up to date with the legislation which will be transferred on to the UK statute book by the European Union (Withdrawal) Act 2018 on exit day.

I am afraid that there were a number of typographical errors in these previous instruments which we have taken the opportunity to correct: for instance, replacing a reference to the singular "member state" with the plural, "member states". We have also changed a handful of amendments to the annual EU TAC and quotas regulation, made by a previous instrument. In particular, we have amended provisions relating to commercial and recreational bass fishing to ensure continuity of approach after we leave the EU.

Finally, we have taken the opportunity to amend the Animals (Legislative Functions) (EU Exit) Regulations 2019 to prevent duplicate amendments to the retained EU law version of Council Regulation (EC) No. 1/2005 on the protection of animals during transport and related operations. In particular, it removes an unnecessary power to make regulations about animals not covered by the regulation's annexes. This power, which was originally conferred on member states, is not necessary because we are rolling forward a power—originally conferred on the European Council—to amend the annexes themselves. Similarly, a second amendment to a technical rule for transporting horses has been removed because it duplicated an amendment made by a different instrument: the Animal Welfare (Amendment) (EU Exit) Regulations 2019. Both of these minor changes ensure that we have the tidiest—the word used here—possible statute book before exit.

I reiterate that, although I have raised some substantial matters, particularly on fisheries, these are purely technical changes that are intended to simplify the statute book. They will in no way dilute or alter the ability of the Government to maintain current standards of protection, for instance of animals.

While there is no statutory duty to consult on this instrument, as is customary we have liaised with stakeholders about future fisheries policy as well as the approach taken by this instrument and other instruments made under the EU withdrawal Act. We have worked to ensure that stakeholders understand that this SI makes necessary technical amendments to retained EU law, which will ensure that we maintain a fully functioning and up-to-date statute book. Indeed, stakeholders have expressed gratitude for our engagement with them on this and earlier instruments.

Given that this instrument relates to devolved matters, all four Administrations have given their consent to Defra laying it on their behalf. This means that the powers will be made operable for England, Wales, Scotland, and Northern Ireland after exit. As with our approach to previous fisheries instruments made under the withdrawal Act, we have worked to develop and draft the instrument in close co-operation with each Administration.

This instrument makes retained EU law effective as part of UK law in these important areas. I beg to move.

The Duke of Montrose (Con): My Lords, I have a couple of questions for the Minister, whom I thank for the extensive explanation of this fairly long bit of modification to an existing statutory instrument. As the Minister mentioned, fishing is all devolved, and this will take care of converting EU legislation so that it can be used by the various Administrations. Is any consideration required, or has any taken place, on having a framework for fishing in the UK? So many of the EU powers that are being devolved could do with a UK framework as a background to allowing all these things. However, the various devolved Administrations are very protective of their powers and I realise that it must be difficult to find a framework that will fit. When my noble friend the Minister mentions tidying up the statute book, I wonder whether the Government are relying on individual businesses that are interested in this legislation to correct their own copies. There is a massive amount of alteration in this instrument and if the Government could produce an amalgamated version, that would help.

4.45 pm

Baroness Neville-Rolfe (Con): I thank my noble friend for his elegant and succinct summary of this long SI. I would like to ask a couple of questions. The first is about the enforcement of these fisheries rules. Page 14 has a reference to Article 23 and to projects involving "catches and discards" and so on. I remember from the time when I worked in the fisheries department, at what is now Defra, that enforcement of the rules is actually as important as the statutory framework itself. We are obviously moving from an EU-based system to a UK one, and in some cases to a devolved system. It may be beyond the reach of this SI, but can the Minister say anything reassuring about enforcement? Vessels will obviously come from other EU member states; they may not always be punctilious about discards and catches. Our own fishermen also need to be properly protected.

The second point is on the issue of errors, which we heard about in the previous debate and again here. Are any steps being taken, as part of the Brexit process and more generally, to minimise the amount of errors that there are in SIs? If an SI is wrong even in terms of

one spelling mistake, my recollection is that you have to re-lay it. I found this to be a problem when I was in the business department, so I took steps to make sure that the SIs did not come through with errors in them. "Right first time" is obviously a good principle. Can anything be done in that area to help? I am sure that we will have a lot more SIs as work on Brexit continues into the more detailed areas.

Lord Hodgson of Astley Abbotts (Con): My Lords, I apologise to my noble friend Lord Gardiner and to the Committee for having missed the first 45 seconds of his elegant introduction. My noble friend Lady Chisholm dealt with her business faster than I anticipated, so I was caught in the corridor. I am the chairman of the Secondary Legislation Scrutiny Committee, which has looked at this instrument. Our report is in the papers for today's meeting and our committee was obviously concerned about fishing, because fishing and fisheries policy is quite a hot topic on two grounds. One is that the "take back control" argument rides quite high in fishing; the other is the increased focus today on marine conservation, preservation, resources and so on. The committee also saw that this is a "made affirmative" instrument, and therefore has speedy passage under the European Union (Withdrawal) Act. One is always concerned about how and why it had to be done at this last minute, and so quickly, and whether it meets the requirements laid down in that Act for going through the "made affirmative" procedure.

I heard my noble friend say that this is about tidying up the statute book. Part 2 of the annex to the Explanatory Memorandum indicates that the Minister is required to make an "Appropriateness statement", and Mr George Eustice has made a statement saying that in his view the SI,

"does no more than is appropriate".

If we are tidying up the statute book, we do not need to think about that as part of our consideration here. This is nothing to do with tidying up the statute book.

Those are the technical issues. My real concern is the fact that we are moving from two layers of supervision to one. We are coming out of the EU; I understand all that. Up to now, each individual member state has put positions to the EU. The EU has made decisions and those have been passed back to the individual member states. That is clearly not appropriate, it does not work under the new structure. But we now have a situation where Defra is marking its own homework. Nobody is checking and saying whether it is a good decision or a bad decision; Defra is deciding it.

I know that the Government have in mind—we refer to this in our report—to introduce a stand-alone supervisory body to ensure that Defra does not mark its own homework for longer than is strictly necessary. It would be helpful as part of the consideration of this SI if the Minister could update the Committee on where we are with the creation of this new body, when it is going to arrive—I imagine as part of the Environment Bill—and how it is going to develop. Can he also generally reassure the Committee that we have in mind to ensure a proper a balance of powers, and that the Government, in the shape of Defra, will not have all the cards for longer than is necessary?

Lord Teverson (LD): My Lords, I, too, thank the Minister for his explanation, although I was disappointed in that he pointed out that there will be greater opportunity for scrutiny in future, as I assure him that my colleagues on the EU Energy and Environment Sub-Committee, including the noble Duke, the Duke of Montrose, scrutinise very carefully all the Explanatory Memorandums and everything else that comes through the department as does, I am sure, my colleague in the European Parliament, Mr Chris Davies, who is chair of the Fisheries Committee there. The scrutiny might be different, but it will be, I hope, as good as what we do at the moment.

That brings me to one of the items that we looked at in our committee meeting this morning, although it might seem slightly irrelevant: the Council regulation on fish stocks in the Baltic Sea, an area of European waters that has particular issues. I was interested in a comment made by the noble Baroness, Lady Jones, on the previous SI about dates, because that Explanatory Memorandum said that the UK is leaving the EU whatever the circumstances on 31 October 2019. I am not making a point on that. My serious point is that I note from the Explanatory Memorandum that this SI is necessary partly because the date of 29 March is no longer applicable. I would like reassurance that whatever date we leave—if we leave—we will not have to go through this process again; for example, if the date moves from 31 January to, say, 14 January, because Brexit gets sorted out earlier. Is this SI now robust in respect of dates?

I am grateful to the noble Lord, Lord Hodgson. He struck a key point in relation to the office of environmental protection, which was in the draft environment Bill but was, to a degree, amended to become more robust in the Environment Bill that will now be lost with the Dissolution of Parliament. Will the Minister confirm two things? First, when that body is established, will it include the marine area? I am almost certain that it will because the Bill mentions waters and so on, but I would like to understand that more clearly. Will the responsibility of the OEP extend to the territorial waters, the EEZ line, or, indeed, to wherever British fishing vessels fish, even in international waters? More importantly—this is exactly the point made by the noble Lord, Lord Hodgson—how long are we likely to have to wait until that body is established and what will happen in the meantime? How will we make sure that the decisions made post Brexit by Defra are enforced and that, exactly as the noble Baroness said, Defra is not just marking its own homework.

It seems to me that our marine environment is as important as our terrestrial environment. On that theme, as the Minister will know, there is an overall target for all stocks in the common fisheries policy to be sustainable in terms of MSY by 2020. That is next year, and the rest of those stocks will be agreed, with scientific advice, in December this year. One of the cod stocks in the Baltic Sea is not at a sustainable level, so this principle has already been broken. If that is true for some of our own stocks in the North Sea and the western waters, will Defra actually change the stocks post Brexit—if that happens—to a sustainable level in the waters over which we have control, thus at least maintaining the government policy, as I understand it, to retain sustainability not just within a CFP context but in our own waters?

[Lord Teverson]

Another area mentioned by the Minister, which is in the Explanatory Memorandum, is regional management fisheries organisations beyond territorial waters and EEZs. Through the EU, we were signatories to a number of them, and I know that we are trying to rejoin a number of them, including the Indian Ocean Tuna Commission. The most important one is the North East Atlantic Fisheries Commission, an important if imperfect conservation organisation. Have we now joined it? Are we a member of that organisation so that we can participate in its actions?

As the noble Baroness, Lady Neville-Rolfe, said, enforcement is key to this. I entirely accept that the Government wish the landing obligation to remain, so that the discard ban will continue and will be enforced post Brexit. However, and I understand the questions here, traditional control methods do not work to stop discarding. Just having a fleet of vessels that plod around inspecting other vessels does not really work in terms of the landing obligation. I would be very interested to understand the Government's position on this and whether they have started to move on remote electronic monitoring, which is the only tool in the box that really works for this challenge.

Baroness Jones of Whitchurch (Lab): My Lords, I thank the Minister for his introduction to this SI and for organising a helpful briefing beforehand. I also thank all noble Lords who have contributed to this discussion.

At the outset I will say something about the overall content of this SI. I find it amazing that an SI dealing primarily with amendments to the common fisheries legislation also has buried away in it amendments to the transport of animals regulations. This is particularly irritating as we dealt this afternoon with a separate SI on animal welfare; it would have made much more sense to have included these amendments in that.

It is even more concerning since the Minister of State, George Eustice, stated in the other place that the Government had no intention of consolidating these SIs into a meaningful piece of legislation, which would have made more sense for those working in the sector and abiding by the rules. So do the Minister's civil servants consult before issuing what seem to be random pieces of legislation that do not bear any connection? Does he agree that this is not the best way to go about making legislation that could be on the statute book for some time before being superseded by new primary legislation? While we are on the subject of primary legislation, can the Minister shed some light on when the fisheries Bill is likely to see the light of day? It might address some of the issues raised this afternoon.

5 pm

Returning to the specifics of this SI, it appears to make a number of detailed changes to fishing regulations, which I want to understand a little better. First, paragraph 7.2 of the Explanatory Memorandum says that the definition a "fisheries administration", which is the new phrase that we are adopting, means,

"the Secretary of State, a devolved fisheries administration or the Marine Management Organisation".

However, paragraph 7.6 goes on to state:

"The MMO is also listed as 'a fisheries administration' in the retained EU law of which the relevant regulations form part, but the MMO does not have any legislative functions".

Given that this legislation hands considerable powers to the fishing administration, can the Minister clarify whether this will hand new powers to the MMO that it did not exercise before? What is the meaning of what appear to be slight contradictions in the phraseology of those two paragraphs?

Secondly, turning to the text of the legislation itself, proposed new paragraph (2) in Regulation 5(12) refers to the Secretary of State being able to amend the fishing areas set out in Annex 2, taking into account the impact of displacement fishing activity on "other sensitive areas". Is there a definition of what is meant by "other sensitive areas"? Is this a phrase used by the EU, because it would seem to have quite a wide range of interpretations?

Similarly, on the subject of definitions, proposed new paragraph (1) in Regulation 5(20) refers to assessing the impact of "innovative fishing gear". How will that be defined, given that one would think that modifications and improvements to the gear happen on a regular basis? I raise the issue because, in part, it goes to the heart of what the noble Baroness, Lady Neville-Rolfe, said, which concerned enforcement. As long as there is phraseology like that, which can be interpreted by fishers or businesses in different ways, it makes enforcement very difficult. We do not want to allow people to swim through the net and escape the regulations that would otherwise apply to them, so some clarification on that point would be helpful.

Thirdly, the Minister will have seen reference in the Secondary Legislation Scrutiny Committee report to concerns raised by the Green Alliance; the noble Lord, Lord Hodgson, also raised this issue. One of its concerns, which the noble Lord very helpfully repeated, was that the existing EU provisions enable joint recommendations by member states to change or repeal technical measures on fishing conservation. This SI subsumes the joint recommendations into the powers of the fisheries administrations, which can act alone—and, as we know, that will often be the Secretary of State acting alone.

When this issue was raised, Defra's response was that joint recommendations,

"would not work as a concept in the new regime".

However, this issue goes to the heart of many of our concerns about EU withdrawal: namely, that we seem to have lost the advantages of collaboration and shared decision-making, which in the past ensured that we came out with more balanced, well-founded outcomes. Instead, we have one body that is not really accountable —as noble Lords said, it will effectively mark its own homework—and which can be subject to all kinds of political and short-term economic pressures, which might result in cutting corners on conservation. Picking up on the points made by the noble Lord, Lord Teverson, will the Minister explain how the Government intend to put back those layers of scrutiny and accountability in the forthcoming Environment Bill and the fisheries Bill?

Fourthly, the SI sets out new arrangements for the western waters multilateral plan and the North Sea multilateral plan. Will the Minister clarify the wording

in the SI? Does it refer to the outcome of those multilateral agreements? Does it mirror what is being introduced by all the other nations that are party to the agreements, or have we put our own interpretation on the existing agreements?

Finally, it is clearly important that the devolved Administrations work together on fisheries, as fish do not respect national borders. This issue was raised by the noble Duke, the Duke of Montrose. In future, how will the devolved Administrations work together? Can the Minister clarify what arrangements are in place for ongoing dialogue between the devolved Administrations' fishing administrations? What arrangements are being put in place to resolve any conflicts that may occur, given that we will be on our own in trying to resolve them and will not have a higher authority to appeal to when disagreements occur?

Will the Minister also explain the implications of Boris Johnson's withdrawal Bill for Northern Ireland fishers? Is it the case that the Northern Ireland protocol includes the territorial land but not the territorial waters, so the customs territory of the land is in Northern Ireland but the sea and the fish in the sea are retained by the UK? If you are a Northern Ireland fisher fishing in the coastal waters around Northern Ireland, will your fish be designated as UK and not Northern Irish for customs purposes? What would happen if a Northern Ireland trawler landed its catch in Scotland for processing and the processed fish was destined for the EU? What would happen if a trawler landed its catch in the Republic and the fish was passed back to the UK market? Those are examples of what could be very complicated arrangements for Northern Ireland fishers. They clearly have big political implications, but they go to the heart of those individuals' livelihoods.

Michel Barnier has said that a free-trade agreement could take around three years to negotiate. The Northern Ireland protocol would therefore be in effect until that agreement came into force—or, if there is no deal at the end of the transition period, it would remain in place until 2024 at the earliest. So I would be grateful if the Minister could clarify the status of the catch of Northern Ireland fishers in the different circumstances that may arise over the next four years. I know that this is a specific question, but it is important and goes to the heart of the EU withdrawal arrangements that we are discussing. I look forward to the Minister's response.

Lord Gardiner of Kimble: My Lords, I am most grateful to all noble Lords for their rightly penetrating questions. I stress that the purpose of this instrument is overwhelmingly to ensure that we have the most up-to-date statute book. As I say, there are no policy changes in it.

My noble friend the Duke of Montrose and the noble Baroness, Lady Jones of Whitchurch, asked about devolution. The UK Government and the devolved Administrations have agreed that it is essential to maintain common approaches in a number of areas after we leave. We are therefore working together to develop a new UK framework made up of legislative and non-legislative elements. Clearly, the Fisheries Bill—which sets out shared objectives as a key legislative element—includes a requirement to publish a joint fisheries statement, which will be drafted jointly by the four Administrations and will contain policies that address these shared objectives. The policies in the joint fisheries statement will be binding. Non-legislative elements include a memorandum of understanding, which would build on the existing fisheries concordat and UK-wide quota management rules.

We know that Parliament will be dissolved, so it is absurd for me to try to say when the Fisheries Bill will come back. This is another piece of primary legislation that, whatever the outcome of the general election, will no doubt have to be addressed.

My noble friend the Duke of Montrose and the noble Baroness, Lady Jones of Whitchurch, raised the issue of amalgamation consolidation. We all understand that EU law comprises a large number of regulations dealing with different areas. The purpose of the withdrawal Act SIs is to ensure continuity by making retained EU law operate correctly on exit. That is why—I choose these words carefully—no consolidation of the SIs themselves is planned. However, importantly, the National Archives has launched two new services. The first is a new EU exit website archive; the second is the addition of EU legislation to the Government's legislation website, legislation.gov.uk. This brings together the text of EU legislation and details of the UK corrections, as well as some additional features, including a timeline of the changes so far. We believe that these two services will help to aid legal certainty and support research in preparation for leaving. After we leave, the National Archives will maintain the EU legislation on legislation. gov.uk, incorporating amendments made by the UK into the texts.

Baroness Jones of Whitchurch: Can I clarify something? When we had the briefing earlier, we talked about there being almost a master version that people could access, even if it was not widely published. The Minister implied that this is not what the National Archives is doing. Can he clarify that there will be a master document that brings all this together and which is easily accessible for all stakeholders and businesses who want to access it?

Lord Gardiner of Kimble: Yes, I can. My purpose in reading out, "This brings together the texts of EU legislation and details of the UK corrections", is precisely this: I think that we discussed it at earlier meetings and it makes common sense. The only way that I can understand any of this—my goodness me, we have done more than 180 of these—is to read the Explanatory Memorandum rather than the SI. Unless one has that amalgamation or consolidation, the SIs alone are very difficult to decipher. That is precisely why I read out what I did about the work that is going on: so that there will be clarity and understanding.

My noble friend Lady Neville-Rolfe asked about the all-important issue of enforcement. In England, our enforcement system is delivered by a number of agencies working in partnership—in particular, the Marine Management Organisation, or MMO, the Inshore Fisheries and Conservation Authority and the Royal Navy. Patrols are undertaken by the Royal Navy's offshore patrols vessels, and physical checks and

[Lord Gardiner of Kimble]
surveillance by the MMO, using a combination of monitoring systems including vessel monitoring, electronic reporting and data systems and remote electronic monitoring. Although the noble Lord, Lord West of Spithead, is not in his place, he and I went up to the MMO at Newcastle and had an interesting look at this. The noble Lord was particularly pleased because many of the officials were originally from the Royal Navy. There is a recognition that there will be an increase in control and enforcement capability, including increased personnel to train as warranted marine enforcement officers and act in support roles at the MMO, and greater levels of aerial and surface surveillance.

I should probably say that control and enforcement is a devolved matter. Nevertheless, Defra, the Scottish Government, the Welsh Government and the Northern Ireland Executive are working closely together to share information and ensure a robust approach to monitoring, compliance and enforcement across UK waters.

5.15 pm

Lord Teverson: I have a caveat. I fully welcome the extra resources that the MMO has and the fact that the Navy is doing that. The Navy has been largely absent from monitoring recently, because it has been dealing with other border security issues. However, the difficulty is that that budget is mainly financed from the Brexit process. Many of us do not have a lot of faith given the fact that, as the Minister will know, Defra is always on the front line regarding budget cuts, and once we get through Brexit—if indeed we do—frankly, those extra budgets will disappear and we will be back to where we are, with all the enforcement challenges that we had prior to that. I am not asking the Minister for a reply but warning him, in case he stays in office.

Baroness Neville-Rolfe: I am not sure that I am allowed to comment, but I was rather reassured by the list that that my noble friend read out and the fact that the Navy will now be more involved—as indeed it used to be historically, before Defra experienced cuts. It feels as though fisheries, if we get Brexit, will become a more important national asset, which will therefore justify the expenditure. I hope that that will be respected by Ministers when they come to look at these budgets.

Lord Gardiner of Kimble: The interventions by the noble Lord and my noble friend have inspired me to say a little more. Currently, we have two Royal Navy Batch One offshore patrol vessels assigned to fisheries protection duty. Over time these will be replaced by five, more capable, Batch Two OPVs. In addition, the MMO has appointed three commercial operators to be on standby to provide extra boats for enforcement duties, should additional support be required. The point which the noble Lord made is of course a challenge to whoever has those responsibilities, but my noble friend is absolutely right. On sustainable fisheries and ensuring that those principles are adhered to, my guess is that there will be a strong public feeling—a strong desire—given the responsibility in UK waters for that. A Government would be brave to start trimming that when there could be that potential pressure.

Baroness Neville-Rolfe: My noble friend can rely on us to make it clear if we feel that not enough is being done in this important area of sustainability and its enforcement.

Lord Gardiner of Kimble: I have no doubt that that will be the case with all your Lordships—noble friends and noble Lords—and rightly so. Clearly, if we do not have sustainable fisheries in the end, we will have no fish, and that cannot be good for the ecosystem or for food production.

The noble Lord, Lord Teverson, again asked for reassurances on dates. If the EU introduces new fisheries measures between now and whenever, obviously we will want to make them operable so that everyone concerned in this world would have an up-to-date statute book.

My noble friend Lady Neville-Rolfe and the noble Baroness, Lady Jones of Whitchurch, mentioned errors. I am conscious of that and I take responsibility—and of course, it drives me mad. There is a normal checking process, which includes second and third-eyes checks by Defra and other government lawyers. They are also checked by policy officials and lawyers in the devolved Administrations, as well as being scrutinised by the JCSI. All government departments have rigorous checking procedures for EU exit SIs, and indeed any SI. All I can say is—I do not mean this glibly—that I very much regret even a single one, let alone the number that I have had to explain to your Lordships. We are distinguished to have the Secondary Legislation Scrutiny Committee's chairman, my noble friend Lord Hodgson, observing our deliberations. I know that the department replied to all the points made by the committee.

On the question of governance, the oversight function that the Commission currently holds over member states could, for example in England, definitely be taken on by the OEP, as detailed in the Environment Bill. Yes, we have had a Second Reading, but we know that this will have to come back. The OEP will be capable of holding the Government to account on their compliance with environmental laws. It will be able to take enforcement action and be required to monitor our progress on improving the natural environment. It will produce its own annual reports on its activities.

My noble friend Lord Hodgson and the noble Baroness, Lady Jones of Whitchurch, referred to oversights. The issue of the power in Article 15 also requires the Secretary of State to obtain scientific evidence to support any measures contained in regulations made under that power, as well as to consult,

"such bodies or persons as appear to the fisheries administration to be representative of the interests likely to be substantially affected by the regulations".

In addition, I should say to my noble friend Lord Hodgson that we are working with industry and NGOs to establish a replacement fisheries advisory infrastructure for the United Kingdom that can be put in place after we leave. We have a number of established models for consultation with stakeholders, work closely with fisheries science partnerships around the country and have a multi-stakeholder expert advisory group to consider EU exit issues.

I will go through some other points. I agree with the noble Baroness, Lady Jones of Whitchurch, that it is not ideal to have a fisheries SI in which there is a section on animals, but I will seek to explain why things have happened in this way. These amendments are included in the instrument because they required an affirmative SI—since the amendments deal with transfers of powers—as well as being in an instrument that we wanted to be in force for exit day. I do not want to go into the history of this but all the work was done on the basis of a certain exit date and we, as a responsible Government, felt that we had to cover all eventualities. We have all worked together, extremely collaboratively, to ensure that no one can say we have not done our work in getting the statute book where we might have needed it to be. As I say, the instrument is to ensure the law is absolutely clear from exit day. There have been other SIs related to animal health but those had already been laid in Parliament, meaning that, at the time, this SI was the best available vehicle for these changes. I agree that us securing an SI containing this subject would have been preferable but, on this occasion, given that the amendments simply remove inadvertent duplications, I plead with your Lordships to understand that we thought that this was the most appropriate instrument available.

The noble Lord, Lord Teverson, mentioned the discard ban, which the Government obviously need to address. We recognise the importance of the effective monitoring, control and enforcement of the landing obligation. For this reason, work has been undertaken this year to enhance our control and enforcement approach. For example, to complement measures to ensure that fishers have the right resources and information to be able to comply with the landing obligation, the MMO has focused its efforts on identifying non-compliance and improving the accuracy of catch recording, particularly in high-risk fisheries. Between 2018 and 2019, the MMO more than doubled the number of inspections of landings, and also nearly doubled the number of inspections at sea. The noble Lord also asked about the regional fisheries management organisations. We have applied to join the North East Atlantic Fisheries Commission but, as I think he will know better than me, we cannot join until we have ceased to be a member state.

The noble Baroness, Lady Jones of Whitchurch, asked about fisheries administration and the MMO, and how all that comes about. The powers of the MMO are set out in the Marine and Coastal Access Act 2009. It has a number of its own fisheries management functions, such as the licensing of fishing vessels. The MMO is also responsible for fisheries enforcement and has functions relating to protecting the marine environment. The MMO is included in the definition of "fisheries administration" in the statutory instruments made under the EU withdrawal Act 2018 because it carries out these key fisheries functions. She also asked about the definition of "other sensitive areas". Article 12 is intended to protect sensitive habitats, which are defined in Regulation (EU) 2019/1241 as,

"a habitat whose conservation status, including its extent and the condition (structure and function) of its biotic and abiotic components, is adversely affected by pressures arising from human activities, including fishing activities".

I think that answers that point.

The intriguing term "innovative fishing gear" is used in the EU measure being amended. It is generally understood as fishing gear that: improves fishing selectivity for an intended target species, or reduces or eliminates by-catch or incidental catches of sensitive species, for example marine mammals, seabirds, and marine reptiles; and reduces the impact of fishing activity on the habitat, protecting vulnerable marine ecosystems and generally reducing the impact of bottom fishing methods on the seabed. The arrangements for introducing innovative gear require scientific assessment to ensure that the standards achieved are at least equivalent to existing methods, and certainly do not have a negative impact on sensitive habitats or non-target species.

The noble Baroness, Lady Jones of Whitchurch, asked about regional co-operation. We fully intend, of course, to continue to work with other countries that share our waters. Indeed, under the United Nations Convention on the Law of the Sea—UNCLOS—the UK is obliged to co-operate on the management of shared stocks through appropriate regional and sub-regional organisations, such as the regional fisheries management organisations. This obligation will continue to apply to the UK when we leave. Formal co-operation will also continue through the Ospar Convention, where contracting parties agree policies and strategies on environmental management across the north-east Atlantic. She also raised the process of agreeing our participation in the multiannual plans. The EU regulations already apply to our fishers, as they do to other member states. We are simply making the minimum necessary changes to the wording to ensure that the plans operate correctly as part of the UK's statute book when we are an independent coastal state. The terms and requirements of the plans, within our waters, have not changed.

The noble Baroness also asked about our devolution arrangements, which I have already mentioned. The Northern Ireland protocol in the withdrawal agreement applies EU customs legislation in Northern Ireland but excludes territorial waters extending between zero and 12 nautical miles. The protocol sets out that the Joint Committee will consider means to ensure that tariffs are not applied to direct landings of fish and aquaculture products by Northern Ireland-registered fishing vessels. This will bring these products in line with others that are of Northern Irish origin.

There was also a query about Northern Ireland fisheries fishing in UK waters rather than in Northern Ireland waters. The designation of their catches will depend on where they are landed. The implications from the tariff perspective will be determined by the destination of those landings and exports. These important matters of detail will be considered by the Joint Committee, which is chaired by both the UK and the EU.

I will look at *Hansard*, because I think there may have been some other technical points, but I hope that I have covered most of them. On that basis, I recommend these regulations to your Lordships.

Motion agreed.

Railways (Safety, Access, Management and Interoperability) (Miscellaneous Amendments and Transitional Provision) (EU Exit) Regulations 2019

Considered in Grand Committee

5.30 pm

Moved by ***Baroness Vere of Norbiton***

That the Grand Committee do consider the Railways (Safety, Access, Management and Interoperability) (Miscellaneous Amendments and Transitional Provision) (EU Exit) Regulations 2019.

Relevant document: 2nd Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, I will start by explaining why we are considering this instrument under the urgent "made affirmative" procedure provided for in the European Union (Withdrawal) Act 2018.

This instrument is important for ensuring clarity and certainty for the rail industry and passengers. It fixes deficiencies in a number of pieces of rail-related legislation, including important changes to the rail safety legislative framework and corrections to minor issues in previous Brexit-related instruments raised by the JCSI.

The Government committed in previous debates on rail Brexit legislation in this House and to the JCSI that the rail safety amendments and the issues identified by the JCSI would be fixed in time for the UK's exit from the EU. We gave very careful consideration to the appropriate procedure for this instrument. Providing certainty and clarity to industry and passengers is an absolute priority.

We concluded that in order to provide the right level of certainty and fulfil commitments made to this House and to industry, this instrument needed to be in place for exit day. Therefore, this instrument was signed and laid on 7 October using the urgent "made affirmative" procedure. Noble Lords will be aware that the Article 50 extension letter was not sent until 19 October, and the extension was agreed only on 28 October.

Turning to what this instrument does, its most significant provision is to introduce in Great Britain a two-year recognition period for Part A safety certificates issued in the EU before exit day by amending the Rail Safety (Amendment etc.) (EU Exit) Regulations 2019. It will also make corrections to EU implementing legislation that has come into effect since 12 April 2019, as well as some further minor corrections to earlier implementing legislation.

I will now provide some background information on the changes being made by this instrument, including Part A safety certificates. Part A safety certificates are valid for up to five years and are an essential piece of documentation for operators seeking to operate trains in Great Britain. They are issued by the ORR and set out the essential safety arrangements and systems a train operator has in place to run trains competently and safely.

This instrument will introduce a two-year recognition period for existing Part A safety certificates issued in the EU as part of establishing full regulatory control of our rail safety regime. This gives certainty that EU-issued Part A safety certificates will continue to be recognised for the purpose of operating trains on the mainline railway in Great Britain for two years after Brexit or until they expire, whichever is the sooner. A train operator will then need to apply to the ORR for a new Part A safety certificate and accompanying Part B safety certificate. Two years provide an appropriate amount of time in which industry can prepare and align itself with the GB domestic certification regime and are consistent with recognition periods introduced in other rail-related Brexit legislation. This SI also enables GB-appropriate control, which we will use to maintain our excellent safety record. Safety is always the number one priority on the railway.

Only one operator has been identified as providing services in Great Britain using a Part A safety certificate issued in another EU member state. The operator is RTS Rail Transport Service GmbH. Officials from my department and the ORR have actively engaged with the operator concerned to ensure that it is prepared for Brexit, and its application for a new Part A certificate is well advanced.

Turning to the amendments correcting issues in previous Brexit-related instruments, I reassure noble Lords that the instrument we are considering today has been through pre-legislative scrutiny by the JCSI which returned it without comment. It was also considered by the JCSI in its meeting of 16 October and was not identified as an instrument to be brought to the attention of the House. The JCSI identified minor drafting issues in two previous rail Brexit instruments. I am sure noble Lords will remember that I detailed at least two of those drafting issues in a previous debate, but just in case I will do so again briefly.

In specific terms, the JCSI identified three missing words in the Railways (Safety Management) (Amendment) (EU Exit) Regulations (Northern Ireland) 2019. They were a definition relating to the Northern Ireland Department for Infrastructure's monitoring of safety targets, namely the term "risk to whole". The committee identified that the term,

"risk to society as a whole",

appears in paragraph 12(3)(f) of Schedule 7, and that this term should have been defined in paragraph 2 in place of "risk to whole". The committee also considered that the words,

"risk to society as a whole",

should have been set out in full rather than the label "whole society" in the table at the end of the schedule.

In addition, the JCSI identified minor drafting errors in the Railways (Access, Management and Licensing of Railway Undertakings) (Amendments etc.) (EU Exit) Regulations 2019. Specifically, they were a duplication of a sub-paragraph and an incorrect cross-reference to other legislation. Those errors are corrected in this instrument, and the Government would like to thank the JCSI for pointing them out.

My department has also identified small analogous errors in two other Brexit instruments, the Rail Safety (Amendment etc.) (EU Exit) Regulations 2019 and

the Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019. These errors are also corrected in this instrument.

This instrument will also make the usual Brexit-related corrections to EU implementing legislation that has come fully into effect since 12 April 2019. These include corrections such as removing references to "member states" and replacing references to European legislation with references to domestic legislation wherever possible. The instrument also makes some further minor corrections to earlier implementing legislation.

It is important to emphasise that officials have worked closely with the industry throughout the preparation of this instrument and it will welcome the clarity and certainty that it will provide. The provisions contained in this instrument will enable the rail legislative framework to continue to operate effectively after exit day. This instrument provides certainty to the railway industry and passengers and will ensure that the rail legislative framework continues to function effectively after the UK leaves the EU. I commend these regulations to the Committee. I beg to move.

Baroness Randerson (LD): My Lords, I thank the Minister and her officials for talking us through these regulations at a meeting yesterday. I am very grateful for her time. Despite her enthusiasm, I had to supress a weary sense of déjà vu about this, but then I thought of an upside. When the history of this Parliament is written, this SI will go down as one of the significant pieces of legislation passed during this Session which, after all, has lasted only a couple of weeks, so it will have its place in history and therefore I set my mind to looking at it with rather more attention and diligence. But my whole spirit protests at the amount of time that we, and particularly officials, have spent preparing for a no-deal Brexit—an issue which is so damaging that it should never have been a credible option.

This SI fixes deficiencies in previous drafting, as the Minister has noted. I believe that there are four of them; that is quite a lot for such a short piece of legislation. My concern is that officials have been under such pressure to churn out such no-deal legislation, if I can call it that, that it has been very difficult for them to maintain the usual high standards. I had a quiet laugh at the opening line of paragraph 2 of the Explanatory Memorandum, which tells us:

"The Government is committed to leaving the European Union on 31 October".

I will come back to this later on.

The core purpose of this SI is to put in place a system of recognition of Part A safety certificates for rail operators. It introduces a two-year recognition period, which is flexible according to the renewal date. As the Minister has pointed out to us, this affects only one company but it is symptomatic of the ridiculous position that we are in. Part A certificates are currently EU-portable; the company concerned therefore only has to get them once, and they apply in all EU countries where that company operates. It is proposed that, in future, the ORR will issue Part A certificates. As a result, as the Secondary Legislation Scrutiny Committee's report observes:

"ORR issued Part A safety certificates will be substantially the same in terms of content compared to EU issued Part A safety certificates, including the requirements necessary to obtain one. However, after the UK leaves the EU ORR issued Part A certificates will not have EU identification numbers, EU symbols or references to the EU. ORR issued Part A safety certificates will not be valid in the EU".

This is about creating something which is identical in intent but has a different badge. It creates more complexity and bureaucracy; it is very far from the rosy image we were sold in 2016. The effect is of course that the company concerned, and any other company which might come along and need this certificate, will have to get two certificates rather than only one. What is more, since it is a criminal offence to operate a railway without a Part A certificate, the criminal offence has to be adjusted too. What will happen to the mountain of paperwork and complexity that we have created when, or if, we decide not to leave the EU after all? Are we going to have to unwind it painfully, SI by SI, or could we have just one mega-piece of legislation saying: "Forget what we have done for the last year"?

5.45 pm

I have another question for the Minister. Paragraph 2.5 of the Explanatory Memorandum says:

"The UK notified the Commission on 29 November 2018 that it intended to transpose the recast Railway Safety Directive by the later permitted transposition deadline of June 2020, though this will depend on the nature of Brexit on 31 October 2019".

Can the Minister please update us on what the date will be now, since we have not left on 31 October 2019? We are now rolled forward to 31 January 2020. What does this do to those dates? It is important to have that on record because it is, of course, an issue for the railway industry.

Paragraph 2.16 of the Explanatory Memorandum refers to the potential for the ORR to charge a fee. I was relieved to see that it is not intending to do so, but it can as a result of this. Can the Minister indicate what sort, or size, of fee is likely?

Finally—the Minister referred to this in her speech—this SI uses the "made affirmative" procedure. The Minister concerned has attested that this procedure is necessary because this is an urgent piece of legislation, but it is no longer urgent. It was urgent when we were leaving on 31 October or possibly leaving without a deal, but it is no longer urgent until we get to the January deadline. Circumstances have changed. I am concerned, and want to put on record, that the Government have not rethought their approach to this SI and have continued to use this procedure even though the circumstances have changed.

Lord Rosser (Lab): My Lords, I too thank the Minister for explaining the content and purpose of this draft statutory instrument, which relates to a no-deal scenario. I also thank the Minister and her officials for the meeting yesterday. I do not think that anything I am going to say will come entirely as a surprise to the Minister and I am afraid that I will repeat some of the points made by the noble Baroness, Lady Randerson.

I have a number of questions about the content of the Explanatory Memorandum, some of which will, no doubt, relate to issues about which I am still not entirely clear. First, how does an EU portable Part A safety certificate currently differ from a Part A safety

[Lord Rosser]
certificate from the Office of Rail and Road, if at all, and how will they differ in the future? When introducing this SI, the Minister said that the two-year period to which this SI relates,

"provides an appropriate amount of time in which industry can prepare and align themselves with the Great British domestic certification regime",

before going on to talk about it giving Great Britain "appropriate control". In the light of that comment about giving time for the industry to prepare and align itself with the British domestic certification regime, what will the industry have to do in the two-year period to achieve that preparation and alignment with the British domestic certification regime? What actions will it have to take, because there has been talk of there being similarity between the two? It would be helpful if that comment could be clarified; it was also made by the Transport Minister in the Commons when the SI was debated there. I am not entirely clear about what the industry will have to do in that two-year period to prepare and to align itself with the domestic certification regime.

Will operators of services travelling from mainland Europe to the UK require both a UK Part A safety certificate and a Part A certificate issued in an EU member state? Clarification on that point would be helpful. Will a mainland Europe operator with a Part A certificate issued in an EU member state have to acquire a UK Part A safety certificate before bidding for a rail franchise, or will it have to acquire such a certificate only if it is successful in its franchise bid?

What is the position for a train operator in Northern Ireland? What Part A certificate will it require? Will it be a UK one or an EU member state one? Paragraph 4.1 of the Explanatory Memorandum, headed "Extent and Territorial Application", suggests that, in Northern Ireland, an operator will have an EU member state-issued Part A safety certificate because, as I understand it, it is not covered by the part of the SI that relates to the Part A safety certificates. Once again, some clarification of that issue would be extremely helpful.

In addition, if an operator in Northern Ireland has an EU member state-issued Part A safety certificate, who will issue it and who has issued the current Part A safety certificate? Who has issued the current one and who will issue a future one if the train operator in Northern Ireland had an EU member state Part A certificate rather than one issued by the Office of Rail and Road?

I want to make two points on the Explanatory Memorandum, one of which is exactly the one made by the noble Baroness, Lady Randerson, about paragraph 2.5. I know that I am repeating what has already been said but, to recap, it states:

"The UK notified the Commission on 29 November 2018 that it intended to transpose the recast Railway Safety Directive by the later permitted transposition deadline of June 2020, though this will depend on the nature of Brexit on 31 October 2019".

My question is slightly different from that posed by the noble Baroness and is simply to ask what the current position is on transposing the recast directive. Since the memorandum refers to it being dependent on the nature of Brexit, how will the nature of Brexit affect the transposition?

Finally, paragraph 2.11 of the Explanatory Memorandum states that, once the UK has left the EU:

"There will be an opportunity for the UK to shape its own railway to meet the needs of our passengers and freight shippers".

What will we be able to do in the future to shape our own railway that the Government are in effect saying we cannot do at the moment under the present arrangements? I am not entirely clear on the answer to that question.

Baroness Vere of Norbiton: I thank the noble Baroness, Lady Randerson, and the noble Lord, Lord Rosser, for this short debate on the SI before us. A number of issues have been raised and I look forward to trying to answer as many questions as possible. As ever, I will write if I miss out anything.

As I would expect from a leading Liberal Democrat, we heard the usual question: "What happens if we don't leave the EU?" It is quite right for the noble Baroness to pose that question. That is obviously not government policy, so not a huge amount of work has gone into it—but the noble Baroness will know that, in the event that the UK does not leave the EU, all the work that we in government are doing at the moment on no-deal preparations, including these SIs, could be revoked. The SIs would simply fall away.

The noble Baroness, Lady Randerson, and the noble Lord, Lord Rosser, asked about the recast of our safety directive. That point is very important and is in flow at the moment; we will certainly need to consider it at some point next year. The recast Directive (EU) 2016/798 on rail safety repeals and replaces the previous rail safety directive, and forms the basis of the regulations that we currently have in place. The key aims of the new directive are: to streamline the application process for rail vehicle authorisations and safety certificates through a single EU one-stop shop; to achieve consistency of regulatory approach between national safety authorities; to achieve much clearer alignment with the European Union Agency for Railways; and to progressively eliminate technical and operational differences between member states' railways, including through the gradual elimination of national safety rules.

As noble Lords mentioned, the UK has applied for an extension to be in place until 16 June 2020, which has been agreed. Regarding the terms of our departure, if we are in an implementation period at that stage, the recast safety directive will be brought into our legislative framework. I suspect that, if we are still in our positions, we will be back in place to debate it at that time. If there is no deal, the Government of the day can look at the changes that have happened in Europe and decide whether to bring those changes into UK legislation. If the directive is implemented in whole or in part, a consultation with industry will take place, as with any new legislation. Officials have already done much of the work to ensure that the directive could be implemented if it is necessary and desirable.

Moving on to the ORR and its ability to charge a fee, the instrument makes fixes to EU tertiary legislation that allows the ORR to charge a fee. It was clear that

the ORR wants to retain that fee-charging ability should it need to in future; essentially, we are retaining the status quo. However, the ORR has advised that it does not currently charge a fee in its role in determining applications for access to the rail network but that it wishes to retain the ability to charge a fee should it need to—which is the status quo. However, if a fee were to be charged in future, it would be subject to consultation with the industry.

The noble Baroness, Lady Randerson, also mentioned the "made affirmative" procedure and asked whether it was still appropriate for this instrument to be brought through your Lordships' House under that procedure. I suspect that it is. The debate taking place today is happening prior to the date on which a no-deal exit would otherwise have happened. Therefore, the significant difference between the "made affirmative" procedure and the normal affirmative procedure is not substantial in this case. Had we done it the other way, we may well have had the debate on the same day—but it was absolutely clear to us that we needed to make sure, had this debate not been able to be scheduled, for example, that certainty would be available to the industry. That is why we used the "made affirmative" procedure. We could have gone back and withdrawn the SI, then tabled it again under the new procedure—but, in practical terms, I am not sure that it would have made any real difference.

The noble Lord, Lord Rosser, brought up the subject of safety certificates in future and asked whether there would be divergence. We may want to diverge in future; one of the benefits of Brexit is being able to take control of the sorts of regulatory systems that we might find beneficial. Safety has always been a priority for this Government and for Governments before us, and it may be that, in future, we diverge from the EU in certain areas with regard to the safety framework. We are definitely not going to lower our safety standards, but we might do things differently. But things may change and, in future, EU operators wishing to operate in the UK will have to get a safety certificate from the UK, and that will be under the new regime. Obviously, this would have to go through your Lordships' House and there are many steps to be taken in that process.

6 pm

If we look at UK companies which operate in the EU, at the moment Eurostar has services to France and Belgium. It has set up a French subsidiary, so it has both its UK licence and its EU licence from its French subsidiary which enables it to continue to operate services.

The noble Lord, Lord Rosser, asked what industry will have to do to align itself. I suspect that the wording in the Explanatory Memorandum is possibly a little overblown in this area. In reality, at the moment very little alignment needs to happen because we are fully aligned. If the industry needs to do anything—and we are talking about one operator—it is to familiarise itself with the process of the new application system with the ORR because companies will have used a different member state authority to get their original Part A safety certificate. They will have to get used to dealing with the ORR as the new regulator for their safety certificate.

Turning to Northern Ireland, noble Lords will know that rail is a transferred matter. In the absence of a functioning Northern Ireland Executive, policy in Northern Ireland cannot be changed. It has been agreed with the Department for Infrastructure that we will take forward legislation on its behalf to preserve the status quo. At present, safety certificates in Northern Ireland are issued by the Department for Infrastructure and it will continue to do so. They will remain valid—there is no two-year cut-off for services within Northern Ireland. Decisions on future legislation will be a matter for a future Northern Ireland Executive. There is some divergence between GB and NI in this instrument, which is why parts of it are applicable to certain areas. The intention is to introduce a two-year time limit on the recognition of Part A safety certificates as a specific policy choice, but it cannot be imposed on Northern Ireland in the absence of an Executive.

The noble Lord, Lord Rosser, mentioned franchise bidders. This is an important issue because there are many overseas companies involved in our railways and we welcome their involvement. They must have a safety certificate in place prior to operating their services. Operating companies have a UK base so they would make the application.

I hope that I have answered all the questions, unless the noble Lord, Lord Rosser, is going to challenge me on that one.

Lord Rosser: Paragraph 2.11 of the Explanatory Memorandum states that,

"once the UK has left the EU we will have the flexibility to diverge from EU rail law where it is in the UK's interest to do so, whilst maintaining our excellent safety record. There will be an opportunity for the UK to shape its own railway to meet the needs of our passengers and freight shippers".

The inference is that we do not have that opportunity under the current arrangements. What are these opportunities to shape our own railway to meet the needs of our passengers and freight shippers that we do not have at the moment because of current arrangements?

Also, on the bit about alignment with the British domestic certification regime, I think that was something the noble Baroness the Minister said in her introduction, but it was certainly something the Minister of State said when this matter was being discussed in the House of Commons. Those were the words he used—so it is hardly the Explanatory Memorandum; it was actually what the Minister said when he referred to,

"an appropriate amount of time for the industry to prepare and align itself",

with what he described as,

"the Great British domestic certification regime".—[*Official Report*, Commons, 21/10/19; col. 4.]

I get the impression from the Minister's answer on behalf of the Government that maybe that was some slightly flowery wording and perhaps he got a bit carried away with himself.

Baroness Vere of Norbiton: I could not possibly comment on the words of my honourable friend in the other place, and I will go no further on that, but if I can shed any light, I will happily write to the noble Lord.

[Baroness Vere of Norbiton]

The words missing from the Explanatory Memorandum are "future needs". Needs that might come to light will be in freight, for example. In my view, rail freight is an area where we should be looking to expand and improve the volume of goods that travel by rail. Improving gauge clearances or making all the other slight changes that one has to make to a railway to improve the ability of rail freight to, for example, get through tunnels, may have a knock-on impact on the safety certification. I do not know for sure, but these are the sorts of things that we will need to look at if we are to get more freight on to our railways. Therefore, we feel that, in future, divergence is a possibility. It is by no means a certainty. It would not happen without full consultation with the industry, and it would happen only if it is in the interests of the industry.

Motion agreed.

Committee adjourned at 6.07 pm.

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