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# HOUSE OF LORDS

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| <b>Abbreviation</b> | <b>Party/Group</b>            |
|---------------------|-------------------------------|
| 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         |

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# House of Lords

Wednesday 22 May 2019

3 pm

*Prayers—read by the Lord Bishop of Winchester.*

## Office for Environmental Protection Question

3.06 pm

*Asked by Baroness McIntosh of Pickering*

To ask Her Majesty's Government when they expect the Office for Environmental Protection to be operational; what its remit will be; and in the interim, which body will ensure compliance with environmental protection legislation and regulations.

**The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con):** My Lords, we are planning for the office for environmental protection to be operational from 1 January 2021. The OEP will be an independent statutory organisation established by the environment Bill. It will provide environmental scrutiny and advice, respond to complaints and take enforcement action. If necessary, we are ready with interim arrangements. These will provide an initial assessment of complaints, scrutiny of the 25-year environment plan and ad hoc advice until the OEP is established.

**Baroness McIntosh of Pickering (Con):** I am grateful to my noble friend for that reply, and I yield to no one in my admiration of his concern for the environment. The Government have committed, in the EU withdrawal Bill being brought forward by the Prime Minister, to enforcing environmental protections but, in the unfortunate position of the United Kingdom leaving the European Union with no deal, we will lose access to the European Commission and the European Court of Justice to enforce the principles of environmental protection to which we have subscribed. Does my noble friend share my sense of urgency about setting up the office for environmental protection before 2021 to ensure that we will have a mechanism in place for enforcing all the principles to which we have subscribed under the EU in the event that we leave with no deal?

**Lord Gardiner of Kimble:** My Lords, that is precisely why we have the interim arrangements and the establishment of a non-statutory secretariat for those circumstances. It would be headed by a distinguished environmental lawyer. All of this is to ensure that, before the operation of the OEP, there is a body up and running and thus ready to take action in terms of the functions that apply directly to central government and public bodies. When the OEP is set up, those functions will be passed on, so there will be no gap in terms of holding government and public bodies to account.

**Baroness Jones of Whitchurch (Lab):** My Lords, is the Minister concerned about the criticisms made by the Commons EFRA Committee, whose Conservative chair said recently of the draft environment Bill:

“There is also little point in setting up an environmental watchdog if it is unable to fulfil its essential function of holding the government to account”.

Does he recognise that criticism and, if so, what is his department doing to address those shortcomings?

**Lord Gardiner of Kimble:** First, my Lords, perhaps I may wish the noble Baroness a very happy birthday.

**Noble Lords:** Hear, hear!

**Lord Gardiner of Kimble:** I can assure noble Lords that we work closely. The reports of the Environmental Audit Committee, the EFRA Committee and indeed of our own committee have been immensely valuable in responding to the draft environment (principles and governance) Bill. We will be considering the responses as positively as we can, but obviously the most important thing is to ensure that we enhance the environment and that we have the right legislation in place to do that.

**Lord Krebs (CB):** My Lords, as the Minister will be aware, the two main concerns raised by the Environmental Audit Committee and the EFRA Select Committee in the other place—as well as the EU Energy and Environment Sub-Committee, of which I am a member, in your Lordships' House—have been about the independence of the OEP and its enforcement powers. I hope the Minister will be able to confirm to the House that, in considering these three Select Committee reports, the Government will take steps to ensure that the OEP is fully independent and has enforcement powers comparable to those currently exercised by the Commission and the ECJ.

**Lord Gardiner of Kimble:** My Lords, I reply in the same vein to the noble Lord. We found the responses of the three committees very helpful. Referring to Clause 12(1) of the draft Bill, I can say that the OEP will set its own work plan independently of government. It is absolutely clear that this body must be independent from Defra. Ministers cannot set its programme of activity or improperly influence its decision-making, and it will be accountable to Parliament. The absolute intention of this is to ensure we have an independent body so that we can all be confident we are enhancing the environment.

**The Lord Bishop of Winchester:** My Lords, a new global review has concluded that the damage to human health from air pollution extends to all organs of the body. Southampton in my diocese is now among the top 20 UK cities already at the pollution-level limit of 10 micrograms per cubic metre. I therefore press the Minister to confirm what responsibility the office for environmental protection will have in holding the Government to account for implementing their commitment to the clean air strategy, which is internationally recognised by the WHO.

**Lord Gardiner of Kimble:** My Lords, the right reverend Prelate is absolutely right. Air quality and this whole arena will be part of the environment Bill, and it is clear that the improvement of air quality is part of ensuring we have an enhanced environment. Indeed, the Bill will give legal force to our clean air strategy, and we will work to ensure that we continuously improve air quality as part of environmental governance and its principles.

**Baroness Jones of Moulsecoomb (GP):** My Lords, can I pin the Minister down a little more? When the withdrawal agreement comes before this House, is he prepared to support any amendments that would ensure we have the same enforcement in the future as now?

**Lord Gardiner of Kimble:** My Lords, this is precisely why a rather considerable environment Bill will come before us in the second Session. It is important that all relevant committees have had sight of the draft Bill. Clearly, it will be for the other place and your Lordships to consider whether the provisions are suitable. I believe it is a strong example of the Government's bona fides in wanting to enhance the environment and having the right principles and governance arrangements on the face of the Bill.

**Baroness Bakewell of Hardington Mandeville (LD):** My Lords, what mechanisms are the UK Government proposing to put in place, in partnership with the devolved Administrations, to ensure that there is continued co-operation on governance across the UK after exit, including on transboundary issues?

**Lord Gardiner of Kimble:** My Lords, the noble Baroness is absolutely right in inferring that none of these matters respects borders. This is why we want to work collaboratively with the devolved Administrations. We respect the devolution settlements but will clearly work with the devolved Administrations for the very reasons the noble Baroness has set out. It is important that we collaborate on the environment, but it is part of the devolved arrangements. The Bill will relate to all reserved environmental matters and to England.

## Schools: British Sign Language

### Question

3.14 pm

Asked by **Lord Bruce of Bennachie**

To ask Her Majesty's Government when they plan to introduce British Sign Language into the school examination curriculum.

**Viscount Younger of Leckie (Con):** My Lords, the Department for Education is working to develop draft GCSE subject content for British Sign Language as soon as possible. This is a complex process and it is important that we take time to get it right. If it proves possible to meet the requirements that apply to all GCSEs, the department will consider whether to make an exception to its general rule and allow a new GCSE to be introduced during this Parliament.

**Lord Bruce of Bennachie (LD):** I thank the Minister for that helpful reply, and I declare an interest as the father of a profoundly deaf daughter and as holding an honorary position on a number of charities for deaf people. As the Minister will acknowledge, sign language is the principal language for tens of thousands of people and all those with whom they have relationships. Having a GCSE in it, as an academic subject, will help people understand the communication challenges deaf people face, broaden the number of people who have an understanding of it and provide a pool for the basis of training sign language interpreters, who are the means of bridging the gap between the hearing community and the deaf community.

**Viscount Younger of Leckie:** I note the noble Lord's interest. The Government fully recognise the benefits that a British Sign Language GCSE would bring to the deaf community. I wish I was in a position to give the noble Lord a more definitive timeline. However, as I have said, the process of developing a new GCSE is complex. Typically, it takes at least two years from the start of a reform process to the first teaching of a new GCSE. In this case, it might take longer, as there has not been a GCSE in BSL previously.

**Lord Hunt of Kings Heath (Lab):** My Lords—

**Baroness Nicholson of Winterbourne (Con):** My Lords—

**Lord Hunt of Kings Heath:** I will of course give way, but I do not know why the Tories have precedence.

**Baroness Nicholson of Winterbourne:** While welcoming the Minister's answer, I wonder whether he would be willing to have a wider consultation, in which I personally could be involved. He may be aware that only 27,000 of Britain's 11.5 million deaf people use sign language, and that the remainder need a whole lot more speech therapy, which includes both sorts of communication. The difficulty of sign language is that it does not create sentences, let alone paragraphs and pages, so children using it cannot enter the national curriculum. Investment in speech therapy is surely the way forward, because it enables children and young people to speak and communicate, visually and orally.

**Viscount Younger of Leckie:** I appreciate the detail that my noble friend has given. I would like to add to it, because there are complexities here. For example, GCSEs in other languages require students to demonstrate the four skills of reading, writing, speaking and listening; in BSL there are only two skills: production and reception. We also need to address the question of whether the GCSE would be aimed at students for whom BSL is their first language or at those learning it from scratch. This will have a significant impact on the level of difficulty at which it is pitched.

**Lord Hunt of Kings Heath:** My Lords, there was a time when deaf children were punished for using sign language in schools. We have come a long way since then, but will the noble Lord comment on the outcomes for deaf children in the current educational system? We know that they are not very good at all, and I urge

the Government to reflect on that. I welcome the review they are undertaking, but I hope they are prepared to make this decision, which would be a huge boost to many young deaf people.

**Viscount Younger of Leckie:** The noble Lord is correct in that. Our vision for children with a hearing impairment, or any special educational need, is the same as it is for all children and young people. As the noble Lord will know, schools have to make best endeavours—it is a legal expression—to look after those with special needs; they have a duty to do this. By and large, schools adhere to this, but I am sure that more could be done, and I very much take note of what the noble Lord says.

**Lord Addington (LD):** My Lords, will the Government take into the account that other types of technology are available—for example, text message? That has been very beneficial to the deaf community, both those who use sign language and those who do not. When the Government are devising this curriculum, will they look at how they can use it to interface with the other types of technological support out there? If this is narrowed down to being a traditional GCSE, we will miss an opportunity.

**Viscount Younger of Leckie:** Again, it is helpful to have some expert input. I know that in developing this GCSE—if it goes ahead—work has been done between Signature, the DfE and Ofqual. The SEN code of practice makes it clear that children and young people with special educational needs should be helped to prepare not just for school but for adult life.

**Lord Watson of Invergowrie (Lab):** My Lords, the noble Baroness, Lady Nicholson, spoke of course with great authority when she highlighted the gulf between the number of people in this country who are deaf or hard of hearing and those who are British Sign Language users. So I welcome what the noble Viscount said about the DfE working to develop subject content for a sign language GCSE.

It is now 16 years since the Labour Government gave British Sign Language official status as a language. The next Labour Government are committed to introducing a British Sign Language Act, which will go a step further and ensure that it is allowed in schools and that, as with other languages, British Sign Language users are able to access education in their first language. This should not be party political issue, so will the noble Viscount undertake to press his party to mirror that commitment to British Sign Language legislation for schools?

**Viscount Younger of Leckie:** I will not be drawn into making any commitment, but I say again that the department takes this extremely seriously. The process is well under way but as I said at the beginning, it is complex. The department reviewed a proposal from the exam board for a BSL GCSE in November 2018. After considering that initial proposal, it confirmed in February 2019 that it would begin the process of developing draft subject content. We think that is the right way forward at present.

## Schools: Free School Meals Question

3.21 pm

Asked by **Baroness Boycott**

To ask Her Majesty's Government what steps they are taking to maintain appropriate standards in the delivery of free school meals.

**The Parliamentary Under-Secretary of State, Department for Education (Lord Agnew of Oulton) (Con):** My Lords, this Government want pupils to be healthy and well nourished. It is important that all pupils have access to healthy and nutritious meals at school, including those eligible for free school meals. We encourage a balanced diet and healthy life choices through school funding legislation and guidance. Our school food standards mean that the food children eat at school is healthy and foods high in fat, salt and sugar are restricted.

**Baroness Boycott (CB):** I thank the Minister for that Answer. I wish it were entirely true. Through the Children's Future Food Inquiry, I have spoken directly to children who live in poverty and for whom these meals are a lifeline. The £2.30 a day allowance is simply not enough, unless the school is very creative, to provide daily meals and snacks. I have heard from children who were charged up to £2 for half a small pizza. In some schools, where the water fountains are broken, they were paying 90p for a bottle of water. We spend £458 million a year on school meals, but no monitoring system is in place in England and standards are very uneven. When free school meals were extended under the coalition, a post was created to monitor them, but that person was let go after a year. Do the Government not agree that this is an extremely short-sighted approach and that the post should be reinstated immediately?

**Lord Agnew of Oulton:** My Lords, I will certainly take the noble Baroness's suggestion back to the department for consideration. It is, however, a statutory requirement that all state schools provide free drinking water to their pupils. If there is any evidence of schools not delivering that, I would be interested to hear it.

**Baroness Lister of Burtersett (Lab):** My Lords, a recent academic study of children and food in low-income families published by the Child Poverty Action Group, of which I am president, found that most of the children attended schools with exclusionary school meal practices, which rationed the food that children receiving free school meals were allowed, leaving them hungry and stigmatised. As one child reported, "If you're not free school meals, you get to have bigger food", and he did not think that was fair. Does the Minister think it is fair? If not, what can the Government do to encourage more schools to adopt inclusionary practices, which make no discriminatory distinctions between poorer and better-off children?

**Lord Agnew of Oulton:** My Lords, a great deal of work has gone on over the past few years to remove any chance of stigma, principally through the cashless

[LORD AGNEW OF OULTON]

facilities that schools now operate in their canteens so that a child in receipt of free school meals is indistinguishable from another child when they are being served with food. I would be very surprised to hear of the discrimination that the noble Baroness referred to.

**Lord Storey (LD):** The Minister rightly talks about healthy eating, nutritious meals and the problem of childhood obesity, but the reality in schools is rather different. First, at key stage 2 the majority of children bring packed lunches, which are often not at all healthy. Secondly, the amount of time that children have for their lunch is being cut back so they literally rush in, eat it and rush out again. Thirdly, a cafeteria approach means that, sadly, young people choose food that is not at all healthy. I can remember when you would have what were called family meals; children would sit down at a table and serve each other, there would be conversation and they would have time to eat. Is it not time to look at what is happening in our schools at lunchtime and establish some guidelines about good practice?

**Lord Agnew of Oulton:** My Lords, compliance with school food standards is mandatory for all maintained schools and has been part of funding agreements for academies and free schools since 2014. We have provided this legislative framework, and we are providing free school meals for a huge number of pupils. As the noble Lord will know, we introduced free school meals for infants, which are now feeding some 1.5 million pupils a year.

**Lord Laming (CB):** My Lords, will the Minister take this opportunity to congratulate the charity Family Action, which is running the national school breakfast programme? It is now operating in 1,700 schools, providing a nutritious breakfast for more than 280,000 children who come to school without having had any breakfast.

**Lord Agnew of Oulton:** The noble Lord is quite correct. Family Action was deployed in March last year on a two-year contract. It has since provided support to improve breakfast clubs in some 1,770 schools with a focus on increasing provision for disadvantaged pupils in opportunity areas.

**Baroness Symons of Vernham Dean (Lab):** My Lords, the Minister failed to answer the question that my noble friend Lady Lister asked. She gave evidence of discriminatory practices and the Minister said they could not possibly exist. Will he please look into the allegations that my noble friend made and answer the question? If this is going on, does he believe it is fair? It is a simple question and it deserves a simple answer.

**Lord Agnew of Oulton:** My Lords, if the noble Baroness would like to write to me with examples of this, I will certainly look into it.

**Baroness Manzoor (Con):** My Lords, I passionately believe that good nutrition is a human right. What are our schools doing to ensure that parents are educated in good nutritional value? Without good nutritional value, those children are prone to heart disease, obesity and related diseases later in life.

**Lord Agnew of Oulton:** It is certainly incumbent on parents to set an example of good nutrition and diet in the home. I know of a number of schools that operate cookery classes and cookery clubs for parents. Indeed, my academy trust used to do such a thing. It is something that we need to keep as a priority.

**Baroness Bull (CB):** My Lords, a new clinical service at the Evelina London Children's Hospital has found that 70% of children with ongoing health conditions are from families living with food insecurity. It is even seeing the return of rickets, a disease of malnutrition and poverty. For these children, high-quality free school meals may be the best reliable source of nutrition. Given that we know that children who go hungry are more likely to experience health issues in later life, does the Minister agree that ensuring high-quality free school meals is about not just preventing hunger but preventing food insecurity leaving an indelible mark on these young people's lives?

**Lord Agnew of Oulton:** I agree with the noble Baroness that nutritious food is essential for children. That is why that is set out clearly in the food standards. We are working to understand more about food insecurity by spring 2021.

**The Earl of Listowel (CB):** My Lords, as the school holidays approach, what steps are the Government taking to ensure that disadvantaged children continue to enjoy nutritious food through the school holidays?

**Lord Agnew of Oulton:** My Lords, we are running a number of pilot schemes on food in school holidays, and we have quadrupled the amount of money this year to strengthen programmes to encourage co-ordination in local communities. Just two weeks ago, we announced a number of organisations that will be working across the country to do this. We hope to feed around 50,000 children during the holidays this summer.

**Lord Watson of Invergowrie (Lab):** Can the Minister square his comment that all children are entitled to nutritious school meals with the fact that the Conservative Party's 2017 manifesto committed to ending universal free school lunches for infants?

**Lord Agnew of Oulton:** My Lords, the reality is that we have not done that and are providing some 1.5 million infant meals at a cost of some £600 million a year.

## Political Parties: Donation Rules

### Question

3.29 pm

Asked by **Lord Kennedy of Southwark**

To ask Her Majesty's Government what plans they have to review the donation rules for political parties.

**Lord Young of Cookham (Con):** My Lords, on 5 May the Government announced a consultation on safeguarding UK elections. Recommendations for closing loopholes on foreign spending in elections and preventing shell companies sidestepping the current rules on political

finance could be addressed in the consultation. The Government will take the views of interested groups such as the Parliamentary Parties Panel and the Electoral Commission to better understand the problems that we could seek to address in the consultation.

**Lord Kennedy of Southwark (Lab Co-op):** I thank the noble Lord for that Answer. He is highly respected in this House and, more importantly in this case, in his party. The Government often come out with consultations but we really have a problem in this country with our electoral law, with law governing political parties, with donations, loans and everything else in this area. Can he give an assurance to the House that, despite other problems, he will do everything in his power to make sure that we address this urgently?

**Lord Young of Cookham:** I am grateful for the consensual approach adopted by the noble Lord. Quite recently he attended a meeting with me, the noble Baroness, Lady Kennedy, my noble friend Lord Hayward, the noble Lord, Lord Rennard, and, I believe, the noble Lord, Lord Stunell, at which we sought to see whether there was a consensus on some of the challenges facing the electoral system. Subsequently, a meeting was held with the Electoral Commission. I would be more than happy to contact the Minister for the Constitution, who was also at that meeting, to see whether it would be helpful to have another round-table discussion to identify areas of consensus and to see whether we can make progress in developing a rigid and credible electoral system.

**Lord Wallace of Saltaire (LD):** My Lords, if we are to re-establish trust in where money for politics comes from, we need to have answers to challenges fairly quickly. It is now nearly three years since the last referendum and we still do not have any indication of where the largest donation to the Vote Leave campaign came from and whether it was legitimate or illegitimate. Should we not somehow provide extra resources immediately for the Electoral Commission and all those investigating what are potentially criminal acts to make sure that we have answers as quickly as possible, if not during the campaign then at least soon afterwards?

**Lord Young of Cookham:** The noble Lord will be aware that some cases concerning the Leave.EU campaign have been referred to the police. On his question about resources for the Electoral Commission, the last time he asked me that I pointed out that there had been an underspend. Since then, the Electoral Commission has put in an increased bid for next year of, I think, 11% for resource expenditure and 18% for capital expenditure. That has been approved by the Speaker's Committee on the Electoral Commission, because it is that committee that finances the Electoral Commission, not the Government. It has yet to be ratified by the other place but I hope that it will be. That would give the Electoral Commission the resources that it needs, to which the noble Lord referred.

**Lord Hodgson of Astley Abbotts (Con):** My Lords, is my noble friend aware that there is a Law Commission Bill on electoral reform which is, as they say, shovel-ready? It has many important changes in it and, being a Law

Commission Bill, is relatively uncontroversial. Could we not find time to bring it forward to remedy some of the deficiencies in our electoral law?

**Lord Young of Cookham:** As I said on Monday, there appears to be some headroom in the Government's legislative programme at the moment. Sitting beside me are two members of the relevant Cabinet sub-committee that processes bids for legislation and they will have heard my noble friend's suggestion. Were there to be such a Bill, I hope that it would be taken through by law officers and not by me.

**Lord Forsyth of Drumlean (Con):** My Lords, given that the largest ever political donation to the Liberal Democrats was given by a convicted fraudster, Mr Michael Brown, and that they refuse to return that money to the people who have been defrauded, will my noble friend look at the law to see whether we should require political parties who have been given money by convicted criminals to return it on behalf of those who have lost out?

**Lord Young of Cookham:** That was a slightly less consensual approach from my noble friend than that from the noble Lord, Lord Kennedy. If we did go down that road, I doubt whether any legislation would be retrospective. I suspect my noble friend would agree. It would be for the Electoral Commission in the first place to put proposals forward for such legislation.

**Lord Leigh of Hurley (Con):** My Lords, I refer to my interests as a senior treasurer of the Conservative Party. Does my noble friend the highly respected Minister agree that, unless we want political parties funded by taxpayers, there needs to be a sea change in the way that donors to all political parties are treated and respected? There should be no discrimination against them, and they should stop being vilified in the national press.

**Lord Young of Cookham:** I agree. Political parties are an essential part of our democratic system. They give people choice at election time; they incubate and nurture the politicians who will run the country; and they provide a forum for political discussion and policy development. If they were not going to be funded by volunteers, they would be funded by the taxpayer, which would be a deeply unpopular suggestion. I applaud all those who, out of their post-tax income, subscribe to the political party that most accurately reflects their values. They should be applauded rather than denigrated. I am particularly grateful to my noble friend for the generosity that he has shown to my party.

**Lord Blunkett (Lab):** My Lords, I welcome the Minister's consensual approach, and there is universal applause for the way he handles himself. Would he consider putting himself forward for the leadership of the Tory party?

**Lord Young of Cookham:** I am deeply flattered by what the noble Lord has just said but I think it would be better if the leader of my party came from the other place.

**Lord Tyler (LD):** My Lords, the Minister will be aware that, ever since the report of the CSPL some eight years ago, I have been putting forward draft legislation to deal with the problem that is now before us. Does he recognise that his colleagues in the Conservative Party will get a drubbing tomorrow precisely because, for so many years, they thought that this particular system was working to their advantage and have done nothing about it?

**Lord Young of Cookham:** Were my party to do badly tomorrow, I think it would be for reasons other than those the noble Lord has just given.

### Sentencing (Pre-consolidation Amendments) Bill [HL] *First Reading*

3.37 pm

*A Bill to give effect to Law Commission recommendations relating to commencement of enactments relating to sentencing law and to make provision for pre-consolidation amendments of sentencing law.*

*The Bill was introduced by Lord Keen of Elie, read a first time and ordered to be printed.*

### Business of the House *Motion on Standing Orders*

3.38 pm

*Moved by Baroness Evans of Bowes Park*

That Standing Order 40(4) (so far as it relates to Thursdays) and (5) be suspended until the end of the session so far as it is necessary to enable notices and orders relating to Public Bills initiated by Her Majesty's Government concerning the United Kingdom's withdrawal from the European Union to have precedence over other motions and orders on Thursdays.

**Lord Foulkes of Cumnock (Lab):** My Lords, this is a very interesting Motion. However, if the Leader of the House could answer a couple of points, it might be easier to understand exactly what is going to happen. I want to raise two questions. First, she is asking us to suspend the Standing Orders until the end of the Session. Could she give us a little clue as to when that might be, plus or minus a year or two? Later on, the Motion refers to,

“orders relating to public Bills”—

—that is “Bills”, plural. We know from the Statement that we heard earlier in the House of Commons, and which the Leader of the House is going to repeat, that there is one Bill, the withdrawal Bill, which is anticipated to come before the Commons. If it gets its Second Reading in the House of Commons, which is not certain—in fact, I think it is pretty unlikely—then it will come to us. That Bill might need to be dealt with, but this says “Bills” plural, so could she give us a hint about what other Bills there might be for us to consider on Thursdays ahead?

**The Lord Privy Seal (Baroness Evans of Bowes Park) (Con):** When I have the information to provide, the noble Lord will be the first to know.

**Lord Foulkes of Cumnock:** I am very flattered, but I think everyone else wishes to know exactly the same. We do not know when the recesses will be, beyond Whitsun—unless the Government Chief Whip is going to get to his feet later today. We do not know whether we are coming back in September, when the end of the Session is, or how many Bills are coming forward. What a way to run a country, or a House. No one in their right mind would run a sweetshop in the way this Government are running the country and the House at the moment. With respect, rather than just the rather trite reply that the Leader of the House gave me, however flattering it might be, surely she has something more to say to the House.

*Motion agreed.*

### Leaving the European Union *Statement*

3.40 pm

**The Lord Privy Seal (Baroness Evans of Bowes Park) (Con):** My Lords, with the leave of the House, I shall now repeat a Statement made in another place earlier today by my right honourable friend the Prime Minister. The Statement is as follows:

“With permission, Mr Speaker, I would like to make a Statement on the Government's work to deliver Brexit by putting forward a new deal that Members of this House can stand behind. We need to see Brexit through, to honour the result of the referendum and deliver the change the British people so clearly demanded. I sincerely believe that most Members of this House feel the same; that for all our division and disagreement, we believe in democracy, and that we want to make good on the promise we made to the British people when we asked them to decide on the future of our EU membership.

As to how we make that happen, recent votes have shown that there is no majority in this House for leaving with no deal and this House has voted against revoking Article 50. It is clear that the only way forward is leaving with a deal, but it is equally clear that this will not happen without compromise on all sides of the debate. That starts with the Government, which is why we have just held six weeks of detailed talks with the Opposition, talks that the Leader of the Opposition chose to end before a formal agreement was reached, but which none the less revealed areas of common ground.

Having listened to the Opposition, other party leaders, the devolved Administrations, business leaders, trade unionists and others, we are now making a 10-point offer to Members across the House: 10 changes that address the concerns raised by honourable and right honourable Members; 10 binding commitments that will be enshrined in legislation so they cannot simply be ignored; and 10 steps that will bring us closer to the bright future that awaits our country once we end the political impasse and get Brexit done.

First, we will protect British jobs by seeking as close to frictionless trade in goods with the EU as possible while being outside the single market and ending free movement. The Government will be placed under a legal duty to negotiate our future relationship on this basis.

Secondly, we will provide much-needed certainty for our vital manufacturing and agricultural sectors by keeping up to date with EU rules for goods and agri-food products that are relevant to checks at the border. Such a commitment, which will also be enshrined in legislation, will help protect thousands of skilled jobs that depend on just-in-time supply chains.

Thirdly, we will empower Parliament to break the deadlock over future customs arrangements. Both the Government and Opposition agree that we must have as close to frictionless trade at the UK-EU border as possible, protecting the jobs and livelihoods that are sustained by our existing trade with the EU. But while we agree on the ends, we disagree on the means. The Government have already put forward a proposal which delivers the benefits of a customs union but with the ability for the UK to determine its own trade and development policy. The Opposition are sceptical of our ability to negotiate that, and do not believe an independent trade policy is in the national interest. They would prefer a comprehensive customs union, with a UK say in EU trade policy, but with the EU negotiating on our behalf.

As part of the cross-party discussions, the Government offered a compromise option of a temporary customs union on goods only, including a UK say in relevant EU trade policy, so that the next Government can decide their preferred direction. But we were not able to reach agreement, so instead we will commit in law to let Parliament decide this issue, and to reflect the outcome of this process in legislation.

Fourthly, to address concerns that a future Government could roll back hard-won protections for employees, we will publish a new workers' rights Bill. As I have told the House many times, successive British Administrations of all colours have granted British workers rights and protections well above the standards demanded by Brussels, but I know that people want guarantees and I am happy to provide them. If passed by Parliament, this Bill will guarantee that the rights enjoyed by British workers can be no less favourable than those of their counterparts in the EU, both now and in the future. We will discuss further amendments with trade unions and business.

Fifthly, the new Brexit deal will also guarantee there will be no change in the level of environmental protection when we leave the EU. We will establish a new and wholly independent office of environmental protection, able to uphold standards and enforce compliance.

Sixthly, the withdrawal agreement Bill will place a legal duty on government to seek changes to the political declaration that will be needed to reflect this new deal. I am confident we will be successful in doing so.

Seventhly, the Government will include in the withdrawal agreement Bill at its introduction a requirement to vote on whether to hold a second referendum. I have made my own view clear on this many times: I am

against a second referendum. We should be implementing the result of the first referendum, not asking the British people to vote in a second one. What would it say about our democracy if the biggest vote in our history were to be rerun because this House did not like the outcome? What would it do to that democracy and what forces could it unleash? However, I recognise the genuine and sincere strength of feeling across the House on this important issue, so to those MPs who want a second referendum to confirm the deal, I say: you need a deal and therefore a withdrawal agreement Bill to make it happen. Let it have its Second Reading and then make your case to Parliament. If this House votes for a referendum, it would require the Government to make provisions for such a referendum, including legislation if it wanted to ratify the withdrawal agreement.

Eighthly, Parliament will be guaranteed a much greater role in the second part of the Brexit process: the negotiations over our future relationship with the EU. In line with the proposal put forward by the honourable Members for Wigan and for Stoke-on-Trent Central, the new Brexit deal will set out in law that the House of Commons will approve the UK's objectives for the negotiations. MPs will also be asked to approve the treaty governing that relationship before the Government sign it.

Ninthly, the new Brexit deal will legally oblige the Government to seek to conclude the alternative arrangements process by December 2020, avoiding any need for the Northern Ireland backstop coming into force. This commitment is made in the spirit of the amendment tabled by my honourable friend the Member for Altrincham and Sale West, passed by this House on 29 January. While it is not possible to use alternative arrangements to replace the backstop in the withdrawal agreement, we will ensure they are a viable alternative.

Finally and 10thly, we will ensure that, should the backstop come into force, Great Britain will stay aligned with Northern Ireland. We will prohibit the proposal that a future Government could split Northern Ireland off from the UK's customs territory and we will deliver on our commitments to Northern Ireland in the December 2017 joint report in full. We will implement paragraph 50 of the joint report in law. The Northern Ireland Assembly and Executive will have to give their consent on a cross-community basis for new regulations that are added to the backstop. We will work with our confidence and supply partners on how these commitments should be entrenched in law, so that Northern Ireland cannot be separated from the United Kingdom.

Following the end of EU election purdah, the withdrawal agreement Bill will be published on Friday so that the House has the maximum possible time to study its detail. If Parliament passes the Bill before the Summer Recess, the UK will leave the EU by the end of July. We will be out of the EU political structures and ever-closer union. We will stop British laws being enforced by a European court. We will end free movement. We will stop making vast annual payments to the EU budget. By any definition, that alone is delivering Brexit.

[BARONESS EVANS OF BOWES PARK]

By leaving with a deal we can do so much more besides. We can protect jobs, guarantee workers' rights and maintain close security partnerships that do so much to keep us all safe. We will ensure that there is no hard border between Northern Ireland and Ireland and we can bring an end to the months—years—of increasingly bitter argument and division that have both polarised and paralysed our politics. We can move on, move forward and get on with the jobs we were sent here to do—what we got into politics to do. That is what we can achieve if we support this new deal.

Reject it, and all we have before us is division and deadlock. We risk leaving with no deal, something this House is clearly against. We risk stopping Brexit altogether, something the British people would simply not tolerate. We risk creating further divisions at a time when we need to be acting together in the national interest. And we guarantee a future in which our politics become still more polarised, and voters increasingly despair as they see us failing to do what they asked of us. None of us wants that to happen. The opportunity of Brexit is too large and the consequences of failure too grave to risk further delay. So in the weeks ahead, there will be opportunities for MPs on all sides to have their say, to table amendments, to shape the Brexit they and their constituents want to see.

In time, another Prime Minister will be standing at this Dispatch Box, but while I am here, I have a duty to be clear with the House about the facts. If we are going to deliver Brexit in this Parliament, we are going to have to pass a withdrawal agreement Bill, and we will not do so without holding votes on the issues that have divided us the most. That includes votes on customs arrangements and on a second referendum.

We can pretend otherwise and carry on arguing and getting nowhere. But in the end our job in this House is to take decisions, not to duck them. So I will put those decisions to this House, because that is my duty, and because it is the only way that we can deliver Brexit. So let us demonstrate what this House can achieve. Let us come together, honour the referendum, deliver what we promised the British people and build a successful future for our whole country. I commend this Statement to the House”.

3.51 pm

**Baroness Hayter of Kentish Town (Lab):** I thank the Minister, but with some sadness—worse, alarm—at the Statement. It is not simply that it is Groundhog Day all over again. It is not even that it is a cut and paste job on earlier versions, with the faux descriptor of being a “new deal”—which I think would make Roosevelt gag. No, it is that this Government have lost the ability to govern. In truth, that was evident right from the start, from the 10 December cancellation of the meaningful vote—and then, more obviously, with the 230 defeat, followed by the embarrassing 149 defeat on a second try, and then by 58. One wonders what it takes for the Prime Minister to hear.

In truth, after that first 230 defeat, the worst for any Government in modern parliamentary history, the Prime Minister should have resigned or been visited by those apocryphal men in grey suits. When a leader loses their flagship policy by such a margin, and loses

the support of the Commons, normal parliamentary custom requires a change at the top—particularly because that defeat was of the Prime Minister's own making.

When she moved to No. 10, many of us imagined that she would try to implement the referendum by crafting a departure deal that was as good as it could be for the country and had the approval of the Commons. Just in case that did not happen, we ensured that any departure agreement would need Commons approval—good in itself, but vital with the country so divided on this issue. Perhaps innocently—especially when Keir Starmer was made a Privy Counsellor—I imagined that the Government would engage with the Opposition to shape the sort of deal that would be acceptable across the House.

After she lost her majority in 2017, I was even more sure that Mrs May would work on something to win over a divided House—and we were always clear about what that would take. Indeed, my right honourable friend Keir Starmer spent many hours in Brussels discussing the parameters of what might be acceptable to the EU 27, so that none of our demands would be unacceptable to them. In speeches and interviews, he offered up options to bring Parliament and the country together. They were all ignored, including in last night's last-minute letter to my right honourable friend Jeremy Corbyn. They were ignored by a Government who cannot even hold their own party together, never mind the country or Parliament.

So we have this sorry sight today: a speech made first not to MPs but to PwC—whose strapline, by the way, is:

“To build trust in society and solve important problems”.

Perhaps it should have given some advice to the Prime Minister, for her speech yesterday was rejected within minutes by her own side before the Opposition had even seen the text—and now we hear that some of her own Ministers will not vote for it. Indeed, I gather that there are letters going in to try to oust her straight away, while the ConHome website is urging people not to vote Tory tomorrow if she is not on her way out by the end of today—the day before an election.

So my question to the Leader is: where do the Government go from here? Why do they not have the confidence to put their deal to the public if they believe it is so good? Will she confirm that the Government will heed the Commons vote of 13 March, categorically rejecting no deal in any circumstances, as referred to in the Statement? Will she take back to the Cabinet this House's vote against any no-deal exit and remind her colleagues of the strength of that view? Will she personally undertake to respect the view of this House—the House that she leads—on that, and vote against any such no-deal proposal within Cabinet, whether it is one led by Mrs May or by anyone else?

**Lord Newby (LD):** My Lords, this is now the 16th time that we have debated the Prime Minister's deal and what to do with it. Each time we have done so, the Prime Minister has claimed that she has made some new, bold, improved offer for which she begs our support. But each time she does this—and this time is no exception—she is simply putting lipstick on a pig. It remains a pig and everybody can see it is a pig. That is

why, as is clear from the comments of DUP and Tory MPs, this latest attempt is doomed to failure like the rest—almost certainly by a bigger margin than the third time that she failed to get it through the Commons. This is hardly surprising.

I will not weary the House by taking your Lordships through all 10 of the Prime Minister's points; I will take just two. First, there is the legal duty to try to conclude alternative arrangements to replace the Irish backstop by December next year. This refers to technical means to ensure that there are no physical checks on the Irish border. But we know that no such technological solution exists—and certainly nothing that could even remotely be put in place within 18 months. So this promise cannot be fulfilled, as the Prime Minister herself must know. It is a straightforward deceit, and one of the many reasons why her proposals will be rejected by the Commons.

Secondly, there is the promise of a vote on a confirmatory referendum. I am obviously delighted that the Prime Minister now sees a referendum coming down the track. But the idea that she has made a new concession by saying that MPs will be allowed to put down an amendment on the issue, which presumably she will oppose, is neither new nor a concession. When we put down an amendment to the withdrawal Bill calling for such a referendum, we did not ask for the permission of the Leader of the House or the Government. We just did it, and the Commons has the ability to do it to the withdrawal agreement Bill, with or without government approval. So this alleged concession is a nothing, like all the rest.

Tomorrow, we are having a proxy poll on Brexit. We obviously do not know the results but we can be pretty confident that those parties which are clearly advocating leaving the EU, on either hard or soft terms, will not get a majority of the votes. I am sure that the Leader of the House will be grateful that it is a secret ballot. That way, we will never know how many Members on her own Benches vote for other parties. We know that it will be a considerable number.

This election will demonstrate the state of public opinion on Brexit, but it will also dispel the scare stories that having a national public debate on the issue would lead to civil unrest and possibly violence. A couple of milkshakes have indeed been thrown, but this campaign has been conducted like all campaigns in this country. It has been very largely civil, respectful and thoughtful. Yes, there are many people on both sides who are angry, and I have met a fair number of them in recent weeks. But they recognise that the way to deal with this issue and their anger is to vote and not to punch somebody on the nose. There is no evidence whatever that a further referendum would lead to any different method of proceeding. To suggest that it might is both irresponsible and desperate. I therefore invite the Leader of the House to disassociate herself from the Statement by the Prime Minister today about such a referendum unleashing “forces”—not specified, but clearly designed to make our flesh creep. They do not make my flesh creep, because they are simply another attempt to scare people into denying the electorate another say.

Just as the Prime Minister's deal has not changed over months, neither have the options facing the country. There are only three. It could accept the deal and leave the EU on that basis; it could leave the EU without a deal; or it could decide to retain our membership, prosperity, security and influence by remaining in the EU, by asking the people to confirm that way forward.

It is now six months since the Prime Minister reached the current deal, and it is increasingly clear that failing to get a decision is a very costly exercise. It is not just the ridiculous £4 billion wasted on no-deal planning. Ask steelworkers in Scunthorpe today whether this delay, this inability to get an agreement in the Commons and this failure to give people a say are having an impact on people's lives.

We can wait no longer—not for another improved, new, shiny, meaningless offer from the Prime Minister, not for a leadership election in the Tory party and not for a general election. Tomorrow's vote will demonstrate that the country remains starkly divided on Brexit, but it will also demonstrate that there is no majority for Brexit on any terms and that the demand for a people's vote to get us out of this Brexit nightmare cannot now be stopped.

**Baroness Evans of Bowes Park:** I thank the noble Baroness and noble Lord for their comments. The noble Baroness rightly said that both Houses of Parliament had rejected leaving without a deal on several occasions, but it remains the legal default position at the end of the current extension period. I do not want no deal; that is why I am still at this Dispatch Box, attempting to encourage Members of this House to support the Prime Minister's deal. That is what we are working towards; it is why we have come up with this new offer.

The noble Lord talked about alternative arrangements. He will of course be aware that the UK and EU have agreed that there will be a specific negotiating track on alternative arrangements, that there is benefit in doing this work, that it is a priority for both sides and that this work will be done in parallel with the future relationship negotiations. To help move that on, we will establish three domestic advisory groups to inform our negotiations on finding these alternative arrangements. So we do believe that it will be possible and we are putting money and effort into ensuring that we do it.

Both the noble Lord and the noble Baroness talked about a second referendum. This Government are committed to delivering on the first.

4.03 pm

**Viscount Hailsham (Con):** My Lords, may I say to my noble friend that she should suggest to the Prime Minister that, if the withdrawal agreement makes no progress, she should have cross-party discussions in order to ascertain whether there is support for revoking Article 50 preceded by a further referendum to authorise that step?

**Baroness Evans of Bowes Park:** My noble friend will know that both the Conservative and Labour parties at the last election stood on manifestos to deliver the result of the referendum. We have had talks with the Opposition which were very constructive; unfortunately, we could not come to a complete agreement,

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but we have put into this deal a number of the issues that the Opposition Front Bench expressed, and we very much hope that this will be enough to help MPs support the deal and make sure we can get the withdrawal agreement past Second Reading.

**Lord Hain (Lab):** My Lords, does the Minister accept that, right across the world, there is incredulity at how a once reliable, respected country has fallen into such dysfunctional governmental chaos? Is it not time—long overdue time—to give the people an opportunity to end all this madness in a public vote, and not simply to dangle that in front of Parliament but to offer it within government legislation that Parliament can vote upon? This whole saga began with a referendum; surely it can only be ended with a referendum to restore normalcy and stability to this country.

**Baroness Evans of Bowes Park:** The Prime Minister has been very clear that she does not support a second referendum. We do not support a second referendum but, if the withdrawal Bill gets its Second Reading, it will then go through the usual legislative process: if MPs want to vote for a second referendum and put that into the Bill, they will be able to do so. It is not the Government's position, but there will be a vehicle for MPs to do that if that is where the support is.

**Lord Cormack (Con):** My Lords, my noble friend said in her Statement that she wished to encourage your Lordships' House to give support to the Prime Minister's deal. I welcome that, but there is no provision in the business so far announced for the two weeks after we come back for this House to discuss the matter at all. I realise that a Bill has to have a Second Reading in another place, but surely we in this House should have the opportunity to express our views on the deal if it is going before the Commons again.

**Baroness Evans of Bowes Park:** My noble friend will know that, as we have announced, the Bill will be published on Friday, so noble Lords will indeed have the chance to look at it. I am sure that, through the usual channels, we will be able to find time relatively soon after we come back from recess for noble Lords to air their views on the Bill once they see it.

**Baroness Ludford (LD):** My Lords, if we really had parliamentary sovereignty, would that not mean that the Government would respect and reflect in their policy the majority vote in the Commons to rule out no deal? As for a people's vote, the Prime Minister's recognition of the possibility is enough for me to win my long-standing bet—I should have made it for more than £5—with the noble Lord, Lord Callanan, but the failure to pledge it definitely is no better than the leader of the Opposition sitting on the fence. The noble Lord, Lord Young of Cookham, has, for the second time this week, acknowledged that there is headroom in the legislative timetable. That means that the Government's claim that there is no time to legislate for a people's vote is false. Will the Government now facilitate such legislation?

**Baroness Evans of Bowes Park:** I think I have been quite clear on the process in terms of a second referendum. There will be opportunities within the discussions on the withdrawal Bill for debates to be had on that. As for no deal, I can only repeat what I said to the noble Baroness, Lady Hayter, that, yes, Parliament has rejected leaving without a deal on several occasions but it remains the legal default position.

**Lord Howell of Guildford (Con):** My Lords, we are obviously not going to get much in the way of support from the Official Opposition—that is their job—but will my noble friend remind her critics that what everyone calls the PM's deal is in fact the treaty agreement between Her Majesty's Government and the European Commission? That is in fact the only path that is available for fulfilling the undertaking of both main political parties that the Brexit referendum decision should be obeyed. Does she also recall the adage of Winston Churchill that one should never commit political suicide, because you may regret it afterwards? Will she draw that to the attention of the hard-line Brexiteers in our own party who are at the moment bent on destroying the very cause that they claim to espouse?

**Baroness Evans of Bowes Park:** My noble friend is absolutely right that the withdrawal agreement is an agreement between the United Kingdom and the European Union. The EU has been very clear that this is the only deal available and that it will not be reopening the withdrawal agreement. All the arguments are about the future relationship. We need the withdrawal agreement to leave the EU; we need it in all circumstances, whatever your vision for the future relationship with the European Union. We have put together this offer, in the hope that MPs will support it, so that we can move on to the important issues both within this country and around defining our future relationship with the EU.

**Lord Pearson of Rannoch (UKIP):** My Lords—

**Lord Lea of Crondall (Lab):** My Lords—

**Lord Wigley (PC):** My Lords—

**Lord Taylor of Holbeach (Con):** My Lords, the noble Lord, Lord Pearson, has been getting up since the beginning. We ought to hear from him and then from the noble Lord and, indeed, from Wales.

**Lord Pearson of Rannoch:** That is generous of the noble Lord. If and when this latest version of the Government's deal fails, why do they not offer EU citizens a very simple alternative deal: continuing free trade under the World Trade Organization, which would get rid of the Irish border problem; continuing reciprocal residence for, say, two years; and going on with programmes such as Erasmus but as a sovereign nation? Why do the Government feel bound to prolong their hopeless negotiations with the Commission under clause 2 of Article 50 when Brussels has broken clause 1 by not allowing us to regain our sovereignty and has no intention of doing so? Why do we not team up with the people of Europe, to our mutual benefit and friendship?

**Baroness Evans of Bowes Park:** We certainly want a positive and fruitful relationship with the European Union going forward. That is why we are working towards this deal. That is why we believe that this deal is the best way to deliver a smooth and orderly Brexit and ensure that we have a strong relationship with the EU and all its citizens in the future.

**Lord Lea of Crondall:** My Lords, in point 8, about future relationships, we have the very interesting statement that the Government are proposing that,

“the new Brexit deal will set out in law that the House of Commons will approve the UK’s objectives for the negotiations”.

Does the noble Baroness the Leader of the House not recall that this was exactly the proposal carried by this House? Some of us were very pleased to know that this would be enabling the House of Commons to have a vehicle for reaching consensus. At that time, a year ago, it was denounced as being totally unconstitutional and against the conventions of the history of Parliament in this country.

**Baroness Evans of Bowes Park:** I am glad the noble Lord at least agrees with one element of the withdrawal Bill, and I look forward to his support on the rest of it.

**Lord Wigley:** My Lords, does the noble Baroness seriously believe that the package put forward by the Government today reflects the vote of those who voted for Brexit in 2016? If it does, why do they fear having a confirmatory referendum? If it does not, surely it requires such a referendum.

**Baroness Evans of Bowes Park:** As I have said, we want to deliver on the first referendum. The people said they wanted to leave the EU; we have been in negotiations with the EU for several years now; and we now have a deal that we believe is the best way to leave the EU in an orderly way, and we can then begin our discussions on the future relationship—the fruitful, productive and positive future relationship—that we want going forward. But we need to have this withdrawal Bill passed in order that we can move on to do that.

**Lord Hannay of Chiswick (CB):** My Lords, would the Minister clarify a point? The Statement suggested that the only thing necessary for the exit to take place on 1 August was for the House of Commons to vote on a Second Reading. Is she not aware that the European Parliament has still not ratified that agreement? The Statement also made reference to the fact that the political declaration would need to be redrafted. Is she aware that that will also take a certain amount of time and might well exceed the amount before 1 August? Finally, there was a long list of wonderful things that will happen on 1 August if the House of Commons does give it a Second Reading, none of which will actually happen. On free movement, for example, can the Minister confirm that, should the withdrawal treaty enter into force on 1 August, free movement will continue until at least the end of 2020?

**Baroness Evans of Bowes Park:** The noble Lord is absolutely right that the Bill would need to be ratified by both Houses of this Parliament and the European Parliament within that timeframe. There is a June Council,

and if changes are needed to the political declaration, the aim would be to go to the June Council to seek them and have discussions then. The noble Lord is absolutely right about the timescale, and I am well aware of it.

**Lord Forsyth of Drumlean (Con):** My Lords, would my noble friend take this opportunity to tell the House that there is nothing hard line about Conservative MPs voting to implement the manifesto which they were elected on, which was to remain outside the customs union and outside the single market?

**Baroness Evans of Bowes Park:** My noble friend is absolutely right that Conservative MPs were indeed elected on the manifesto, and there is nothing hard line about that whatever. We believe that the deal we have will deliver the benefits of a customs union but with the ability to develop an independent trade policy, which is what we want to see in the future.

**Lord Soley (Lab):** The noble Baroness keeps repeating this, but she knows as well as everyone else in the House of Commons and elsewhere that the deal will not go through. That may be a bad thing or a sad thing but it is reality, and it is time to face up to that because the country is in such an appalling state. There are only two options. I do not like referendums, I did not want referendums like this and I certainly do not like referendums on a finely judged point. But we are stuck in a situation which cannot continue, so either you go for a referendum or in some way we withdraw it. The alternative at the moment is to be stuck in this position, not just until August but beyond August. Either the Prime Minister or a substitute or replacement Prime Minister has to take a decision on this. We cannot go on in this situation, because we will be stuck in this situation throughout the summer and beyond.

**Baroness Evans of Bowes Park:** People have not seen the withdrawal Bill yet. It is being published on Friday, so I urge the noble Lord and colleagues down in the other place to wait, look at it, reflect, and understand that we need the Bill in order to leave the EU, whatever you wish the future relationship with the EU to be. I would ask everyone to look at the Bill and consider it, and then the vote will be brought forward at Second Reading. I hope that we will then see the Bill begin to pass, and we can then move on, as everyone here has said, to the future relationship with the EU.

**Lord Campbell of Pittenweem (LD):** My Lords, I begin by expressing my admiration for the Leader of the House, first, for her loyalty to the Prime Minister and, secondly, for her courage under fire. But is not the fate of these proposals to be found in the rather brutal headline of the national newspaper which used to be regarded as the house magazine of the Conservative Party—namely, “Desperate, deluded, doomed”?

**Baroness Evans of Bowes Park:** I am grateful to the noble Lord for what I think are his kind words—I shall take them as that anyway. As I said, I believe that we want to leave the EU in an orderly and smooth manner. This deal is the way to do that, and that is why I continue to stand here and defend it in the face

[**BARONESS EVANS OF BOWES PARK**] of fire from all sides. However, the British people made a decision, we are determined to deliver it, we have made a further offer to MPs to consider it and I hope that, in a couple of weeks' time, they will vote for the Second Reading of the withdrawal Bill.

**Lord Deben (Con):** When my noble friend says to the House that she wants to carry through the decision of the British people, is not the problem that there is a good deal of disagreement as to what that decision actually was, which is why the votes are so difficult to achieve? Would it not be much better to offer the British people a real choice between actualities, so that they could make a real choice, rather than pretending that we are trying to implement what people voted on nearly three years ago, when none of us knows what they really meant by the totality of removing themselves from the European Union?

**Baroness Evans of Bowes Park:** I am afraid that I will sound like a stuck record but, as I said, we have said that there will obviously be discussions and debates on a second referendum during the passage of the withdrawal Bill. If MPs wish to vote for a second referendum, that is their right, but they have not shown a majority in the House of Commons for one. We do not want a second referendum but, through the course of the Bill, MPs will be able to decide whether that is what they want.

**Lord Dykes (CB):** My Lords, last year there were two marches, with 100,000 to start with and 700,000 later in the year, all of them pro-Europe and pro remaining in the EU. In March this year, 1 million people marched with the same objective in mind. Is that not the real reason why the Government are afraid to admit that the hard Brexiteers are terrified of yet another march—and, indeed, a people's vote?

**Baroness Evans of Bowes Park:** I do not accept that. I gently remind the noble Lord that the 2016 referendum was the biggest democratic exercise in our history, where the British people voted to leave the EU.

**Lord Tugendhat (Con):** My Lords, does my noble friend agree that the reason that we have not yet left the European Union is not because of machinations by Brussels, as the noble Lord, Lord Pearson, suggested, nor as a result of machinations in the House of Commons by people who voted to remain, but because a significant section of the Conservative Party refused to back its leader?

**Baroness Evans of Bowes Park:** It is certainly true that we have not been able to get a majority in the House of Commons to support the deal; otherwise, we would be having a different conversation, which would be a very nice one to have. But we are where we are. We now have a new offer, which we hope will appeal to MPs across the House of Commons, so that we can get the Bill through and start to focus on our future relationship with the European Union.

**Baroness Bull (CB):** My Lords, can the Minister confirm whether I heard her right: that protection for jobs is related to our trade in goods? If so, can she say why our trade in services and the roles up and down the country relating to it will not be protected in the same way, given the importance of our trade in services to our exports, our GDP and employment? Perhaps I heard it wrongly.

**Baroness Evans of Bowes Park:** I think the noble Baroness did hear it wrongly. I am happy to write to her.

**Lord Marlesford (Con):** My Lords, does my noble friend agree that, on Sunday, we may have a clearer view of the British people's opinion on whether we should leave after the European elections, which I suspect are being treated by very many voters as a referendum?

**Baroness Evans of Bowes Park:** I suspect that each side will interpret the European election results as they wish, as we saw with the local election results, so I am not sure that I can agree entirely with my noble friend.

## British Steel

### Statement

4.22 pm

**The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Henley) (Con):** My Lords, with the leave of the House I shall now repeat a Statement made in another place by my right honourable friend the Secretary of State for Business, Energy and Industrial Strategy. The Statement is as follows:

“With your permission, Mr Speaker, I would like to make a Statement about British Steel. It was announced this morning that the court has granted an application by the directors of British Steel to enter an insolvency process. Control of the company will now pass to the official receiver, an employee of the Insolvency Service, who will run a compulsory liquidation. The official receiver has made it clear that British Steel employees will continue to be paid and employed, and that the business will continue to trade and supply its customers while he considers the position of the company. In fact, employees were paid early with the May payroll being run yesterday through cash advanced by the company's lenders.

As the House will recall, I made a Statement on 1 May setting out details of a bridging facility that the Government agreed to provide to ensure that British Steel was able to meet its obligations under the EU Emissions Trading System, which fell due on 30 April. The Government provided the facility to purchase the allowances, worth £120 million, against the security of the 2019 ETS allowances, which are currently suspended pending ratification of the withdrawal agreement. Without this facility, British Steel would have faced a financial pressure of over £600 million—the ETS liability plus a £500 million fine. This would not only have placed British Steel in an insolvent financial position; the charge attached to its operational assets would have been likely to prevent any new owner acquiring the assets

in the future. This transaction demonstrated the Government's continuing willingness to work closely with all parties to secure the long-term success of this important business.

Following this agreement, the Government have worked intensively with the company for many weeks to seek solutions to the broader financial challenges it has been facing. The Government and individual Ministers can act only within the law and this requires that any financial support to a steel company must be made on a commercial basis. In the case of the ETS facility, this was based on the security of future ETS allowances. To provide liquidity to the business in the face of its cash flow difficulties, the Government were willing to consider making a cash loan to the company and worked hard to investigate exhaustively the possibilities of doing this. However, the absence of adequate security and no reasonable prospect that any loan would have been repaid, and the shareholder being unwilling to provide a sufficient cash injection itself, meant that this did not meet the required legal tests. I am placing in the Library of the House the accounting officer's assessment of these proposals, drawing on professional and legal advice, which concludes:

"It would be unlawful to provide a guarantee or loan on the terms of any of the proposals that the company or any other party has made or any others we have considered. You must note that such an offer cannot be made legally and that by making it you would be in breach of the Ministerial Code".

The insolvency removes Greybull from the day-to-day control of British Steel. Given the Government's willingness to help secure British Steel's future, demonstrated in the ETS facility and the discussions that have taken place in recent weeks, the Government will work closely with the official receiver and prospective new owners to achieve the best possible outcome for the sites. The Government have provided an indemnity to the official receiver, who is now responsible for the operations. We will take every possible step to ensure that these vital operations can continue, that jobs are secured and that the sites at Scunthorpe, Skinningrove and on Teesside continue to be important centres of excellent steel-working. During the days and weeks ahead, I will work with the official receiver, the special managers and a British Steel support group of trade unions, management, suppliers, customers and the local communities to pursue remorselessly every step to secure the future of these valuable operations.

This is a worrying time for everyone associated with British Steel. Each one of its sites has a proud record of steel-making excellence and I am determined to see that continue. Britain and the world will continue to need high-quality steel, and British Steel is among the best in the world. Today is a very big setback for these operations, but it is far from being the end and we will take every possible step to secure a successful future for these vital assets, both people and plant".

My Lords, that concludes the Statement.

4.27 pm

**Lord Stevenson of Balmacara (Lab):** My Lords, I am grateful to the Minister for repeating the Statement on British Steel made in the other place by his right honourable friend the Secretary of State for BEIS. It rather neatly demonstrates that there is a bit of a gap between what is happening in Parliament, with our

discussions on Brexit, and the real world, in which our current political difficulties are causing real and lasting damage to our economy and to our country. If I may say so, the noble Lord rather gave the game away yesterday when his response to the Urgent Question on this same issue contained no information whatever about the state of play in what were ongoing negotiations with the company at the time and merely repeated the hollow sounding platitudes even he must get tired of hearing himself say about how, "Global economic conditions continue to be challenging for the industry", and that the Government, "are working with the sector, unions and the devolved Administrations to support a sustainable, productive and modern UK steel sector". Indeed, today's Statement is almost a repeat of yesterday's speech with a few added platitudes.

This is absolutely devastating news for the workers, their families and the communities who rely on British Steel directly in Scunthorpe, Skinningrove and on Teesside, and all the way through the supply chain. At least 25,000 people will have been worried sick this morning, wondering whether they will have a job this time next week and what the future holds for them. What plans do the Government have to support the 4,500 people employed directly by British Steel and the 20,000 or so employed by companies in the supply chain?

British Steel is our second-biggest steel-maker and one of only two integrated steel-making sites in the UK. It is the only UK steel plant that produces the rails we use on our tracks, providing almost all those procured by Network Rail and supplying ScotRail, TfL and Translink in Northern Ireland. It also exports a large volume of products across Europe. Surely, in any industrial strategy worth its name, British Steel would be one of the main pillars of our manufacturing capacity and the department would have detailed knowledge of its business plans, finances and operating strategy. Does the Minister agree that it seems to have been blindsided on this?

Yesterday's UQ response was largely a rehash of an earlier Statement on how BEIS has put £120 million into the company as part of the ETS bailout. We have heard the same story again. The only question the Minister answered yesterday was the one I asked about whether the ETS bailout money would be at risk in an insolvency; he said that the money would be repaid. What due diligence did the Government carry out before agreeing that bailout? Were they really unaware that there were likely to be cash-flow problems in the company sufficient to cause it to go into administration within three weeks of this deal? Does he want to reflect on what he said yesterday?

Secondly, it is surely imperative now that the Government ensure that this business is stabilised and that confidence is given to customers, workers and businesses right across the supply chain. In this context, can the Minister tell us whether the Government have considered taking over the company? My understanding of the situation is that, given the strategic importance of the sector, this would almost certainly be allowed under state aid rules. It would be a good deal, given that it has been estimated that allowing British Steel to collapse could lead to about £2.8 billion in lost wages over a 10-year period and cost the Government about £1.1 billion in lost tax revenues and increased benefit payments.

[LORD STEVENSON OF BALMACARA]

Thirdly, it is reported that the owner, Greybull Capital, was asking the Government for a loan of £30 million, although there have also been reports that it wanted £75 million. The Minister refused to name a figure yesterday. Can he confirm today what the asks of British Steel were in the negotiations? Was it just the reported £30 million or more? Was a wider package of measures requested, including government action to support steel production? If so, why was that refused?

Finally, Greybull Capital acquired the asset now known as British Steel in 2016 for £1. It is reported that the plant returned to profitability within 100 days of that sale. Of course, the directors of Greybull Capital owe a duty of care to the company and its creditors in an insolvency. Can the Minister confirm whether it is likely that an investigation into possible wrongful or fraudulent trading under the Insolvency Act 1986 will be considered, with particular reference to the substantial management fees paid to directors since 2016, the accrued interest charged at 9% on £17 million of loans made by Greybull to the company, and the £42 million acquisition only last week of a company based in France?

**Lord Fox (LD):** My Lords, I too thank the Minister for repeating the Statement made in the other place. Yesterday, we talked about the environment of uncertainty around Brexit, which has put pressure on this business. It certainly cannot have helped it in its struggle. I will not repeat those points today, because they have been well made.

Yesterday, the Minister stood at the Dispatch Box and metaphorically tapped his nose and said, “Wait and see”. We did not have to wait long, and what we see is really pretty terrible—for the employees and subcontractors, for Scunthorpe and the other areas in this business and, frankly, for the country. The Government can trumpet the proportion of British steel each department buys, but if this company goes down, there will be a significant lack of steel for these departments to buy.

The Minister says that the Government seek “the best possible outcome”. The best possible outcome for this business is the continuing making of steel in these furnaces. As I am sure the Minister acknowledges, the first job of the receiver is to do everything possible to keep this business going for future use. The priority is to keep the furnaces burning; once the furnaces go cold, the hope for those factories goes cold as well. Can the Minister confirm that this is the number one priority the Government have given the receiver? What other assistance will be available from the Government to keep those furnaces burning?

The Statement alludes to a sticking point around what future aid could be given and EU state aid rules, and reference was made to a letter from the accounting office. Can the Minister tell us what consultation has gone on with the European Union and the Commission, what response they have had in those discussions, who they talked to and when? I am slightly concerned that there is a level of scapegoating going on here.

As the noble Lord, Lord Stevenson, pointed out, there are a number of questions around Greybull Capital. I shall not repeat them, but there are suggestions

that the private equity owner of Greybull was unwilling to play ball when it came to the amount of money required to show its commitment to this business. Perhaps the Minister would like to set the record straight on that.

Just up the road from where I live, there is an empty former My Local convenience store; some of my friends were stranded when Monarch went bust; and today, we have British Steel. What is the link? The link is that they all went down on Greybull’s watch. That might be unfortunate, it might be a coincidence, or it might be a pattern. Some would say that these kinds of businesses come with an attendant risk and that sometimes, because of that risk, they fail. But who is taking the risk? Is it Greybull, the private equity owner of this business, or is it the Government who are actually absorbing the risk? We heard yesterday and today about the £120 million granted as a bridging loan. We have heard that the negotiations to rescue this company failed. How much risk are the Swedish and Turkish owners of this private equity company prepared to take? For there to be reward, there should also be risk.

Yesterday, the Minister said that no stone would go unturned. Today, he talked about remorseless activity. Could he tell us which stones are being turned? What actions are open to the Government to make sure that they continue to make steel in those blast furnaces?

**Lord Henley:** My Lords, I start by agreeing with both noble Lords. I accept the words they used: the noble Lord, Lord Stevenson, said that this was devastating news and the noble Lord, Lord Fox, said that it was terrible news. It is bad news, as my right honourable friend the Secretary of State made clear only an hour or so ago when he made this Statement in another place. He was very grateful for the positive, cross-party support he had from all round the House for what the Government have done and are proposing to do.

The noble Lord, Lord Stevenson, claimed that I said nothing yesterday. I agree that I said relatively little, but at that stage it was not possible to say much. Despite what he seemed to imply, I can assure your Lordships that the department, my right honourable friend and other Ministers have been involved in this matter for some considerable time. They have been in discussions with, as he made clear, the company and its owner, Greybull, and with the unions, the community, suppliers and others. I will possibly write to the noble Lord, Lord Fox, with details of further discussions they have had with the Commission about these things.

There are, however, obviously limits to what government can and cannot do within the law. Our focus now has to be on working with the official receiver to find new partners and new owners. As the noble Lord, Lord Fox, made quite clear, our focus should also be on working with him to keep the furnaces burning, for the very simple practical reason that they lose their value rapidly if they go cold. There is nothing so worthless as a cold steel works, and therefore, as far as is possible, one thing the official receiver will have to do is try to make sure things can be kept going for as long as possible so that he has an asset that is of value to sell on.

I want to make it clear that obviously, we can act only within the law and that requires any financial support to a steel company to be on a commercial basis.

I have been advised that it would be unlawful to provide a guarantee or a loan on the terms of any proposals that the Government have made so far. As the noble Lord, Lord Stevenson, made clear, the company did ask for £30 million, but it did not offer any contribution itself and without that it would not be possible for the Government to act.

The noble Lord, Lord Stevenson, also put forward the idea that we should nationalise the company, but that does not solve any of its problems, such as the need for investment and the fact that it is operating in a highly competitive global market. I have been criticised by both noble Lords for repeating that, but it is a simple statement of fact that a great deal of steel is being produced and it is a highly competitive market. All of us in this House who have been around a long time know that the UK steel industry has changed greatly over the past 40 years. We have a much better industry than we possibly had in the past but, even so, it is a competitive market and it is necessary to recognise that.

As I made clear, we will continue to work with the official receiver, the unions, local government and all the other stakeholders to provide the support that the workforce and the company need to provide continuity for the skills and expertise that we have in the plants in Scunthorpe, Skinningrove and Redcar. I hope that when my right honourable friend next has to make a Statement about British Steel, we can bring better news.

4.42 pm

**Lord Trefgarne (Con):** My Lords, was there ever any prospect of British Steel being selected to provide all the steel rails necessary for the HS2 project, and would that have made any difference?

**Lord Henley:** My Lords, I do not know whether that is the case; I will make inquiries. I know that providing steel for Network Rail is a major part of its business and it is a major supplier. Whether that would be the case for those who are building HS2 is another matter, but obviously that is some years off.

**Baroness Redfern (Con):** My Lords, the Scunthorpe site sits in my constituency. For those nearly 5,000 employees and 20,000 workers in the supply chain, news that the directors of British Steel will enter into an insolvency process will be devastating, particularly for the families. Does the Minister agree that British Steel's success is key to any future UK steel strategy because it is a national asset? We should 100% support it in saving our steel industry. Those blast furnaces must continue to burn. Steel has been the backbone of the UK's industrial landscape for 150 years and must continue to sit alongside the global tech firms.

**Lord Henley:** Coming from Lincolnshire, my noble friend knows exactly the problems faced by those employed by British Steel in Scunthorpe. As my right honourable friend made clear, particularly in responding to a whole raft of questions from those in another place who have constituency interests, one of our first concerns is to ensure that the uncertainty can be

removed for those workers. That is why we are encouraged that their pay packets have at least been dealt with as of yesterday. But as I said, we want to work with the official receiver to ensure that this can continue and that a viable, operating concern can be sold on to someone else, so that steel can continue to be produced both at Scunthorpe and at the other two sites.

**Lord West of Spithead (Lab):** My Lords, there is a strategic defence requirement for a capability to produce steel. Thirty-seven years ago, in the early hours of the morning my ship sank and blew up in the Falklands, having been attacked for 18 hours. In war, you need to replace ships, and you cannot always rely on people supplying you with steel—or anything—because they might not agree with what you are doing. There is an absolute need to do this. It seems that we have not pulled together our defence industrial strategy in terms of the 100,000 tonnes of steel that we would get from the UK if we built solid support ships in the UK, the 25,000 tonnes of frigate steel if we built the 31e's here and the 80,000 tonnes of steel for the new ballistic missile submarines. We have given the recipe for specialist steel, at which we are the best in the world, to the French so they can provide us with some. This is not joined up. Does the Minister agree that it is an absolute strategic defence requirement for our nation to be able to produce steel, and that we must therefore pull together a policy and provide support in whatever way necessary to ensure that we have this for the future?

**Lord Henley:** My Lords, as far as I am aware, British Steel is not producing steel in large quantities for the defence industry. Having said that, I take the point that the noble Lord made. It is obviously very important to our defence industry and, more importantly, to the defence of the realm to make sure that we can produce steel of an appropriate sort. My right honourable friend is fully aware of that, and that is why he has encouraged all departments to look to their procurement of steel and why, where possible, certain adjustments have been made to allow them to take other factors into account in procurement. The noble Lord, Lord Fox, was rather dismissive of the tables we have produced to encourage other departments to buy British steel, but they are important. I can assure the noble Lord that, wherever possible within the rules, we will certainly use British steel for defence projects, but not necessarily steel produced by this company, if it does not produce the right sort of steel.

**Baroness McIntosh of Pickering (Con):** My Lords, the Minister mentioned Scunthorpe and also Teesside, which was the cradle of the Industrial Revolution. Have the Government worked out the implications for our much-heralded industrial strategy, given that we have taken quite a knock with a number of manufacturing jobs going, Nissan's announcement about its production and Honda closing its production in 2021? The good news story is Hitachi in County Durham building the Azuma trains that will be required for HS3 as well as HS2. Will the Government look favourably on retraining any workers who in the long term lose their jobs with British Steel, so that they can participate in other manufacturing roles in the north?

**Lord Henley:** I shall not comment on my noble friend's assertion that Teesside is the cradle of the Industrial Revolution because I think that one or two other areas would also make that claim, and I do not want to have to be the judge on that. She is however right to point out that the loss of manufacturing jobs in a particular area is a very painful process, and we want to offer as much help as we can to those who are affected. She is right to take an optimistic approach in talking about developments in Durham with Hitachi, for example, where new jobs are on offer and there are therefore possibilities for retraining people from Teesside. It is important to remember that while we are looking at a risk to those jobs—at this stage it is only a risk, because good news could emerge in due course—at the same time, we have to look at the unemployment figures. Unemployment continues to decline very steadily and employment continues to rise.

**Baroness Kramer (LD):** My Lords, can the Minister help me understand the situation so as to better understand the appropriate response? Is he describing a company that in a sense is unlikely to be viable in any normalised market condition or a company that is in fact both efficient, producing high-quality goods with appropriate costs, but also suddenly in trouble because its primary European customers, afraid of the consequences of a no-deal Brexit with tariffs and disruptive supply chains, have had to source their product from other companies within the 27? If that is so, it seems that the burden falls on government, and it also means that we will start to see a chain of similar problems in other companies that are dependent on exports to the European Union 27.

**Lord Henley:** No, I am not describing a company that has terminal problems. I think that it has a future, and it is the official receiver's job to explore that and to find something viable that he can sell on. British Steel is producing fine products but it has been having problems. The level of the pound has increased the cost of its imports and, the company believes, the uncertainty over Brexit has also caused problems. However, I do not think that that is necessarily terminal for the company. It is a good company that produces fine products, and it is for the official receiver to find the right solution.

**Lord Morris of Aberavon (Lab):** My Lords, can the Minister give an assurance that government procurement provides a level playing field for steel produced within the United Kingdom?

**Lord Henley:** My Lords, I can expand a little on procurement. As the noble and learned Lord knows, there are rules that the Government must stick to, but we were able to relax them so as to allow, for example, government procurement to make use of British firms slightly more liberally than was the case in the past. It might be better if I write to the noble and learned Lord in greater detail on that point, but certainly we have been encouraging the government departments that use steel to use British steel wherever possible.

**Lord Campbell-Savours (Lab):** My Lords, will the Minister confirm that, in the event that Ministers allow British Steel to fail, HS2 rail requirements will be met in Hayange in France as opposed to Scunthorpe?

**Lord Henley:** My Lords, one ought to make it clear that British Steel is not the only manufacturer of steel in the country; there are other steel producers. However, as the noble Lord quite rightly puts it, it is a major producer of track for railway lines and that is why Network Rail has been using it. Whether the builders of HS2 will have that opportunity will depend on whether this company survives, which we very much hope it does.

**Lord Kirkhope of Harrogate (Con):** My Lords, perhaps I may ask my noble friend about the comprehensive nature of our steel industry. As he rightly alluded to earlier, some of these factories are turning out a finished product rather than just the basic steel. Is he satisfied that, in these circumstances, this country will continue to have comprehensive steel production across all the different categories, which we will need if it is necessary for us to be independent?

**Lord Henley:** My noble friend is right to draw attention to the fact that this is just one company among a number producing steel and steel products. I would hope that we could produce steel in a sufficiently wide number of areas to deal with the point that my noble friend makes. However, I think he would also have to accept that it is a very varied business, as he made clear in his question. Steel producers manufacture a whole raft of products, but whether we have the right blend is a wider question.

**Lord Brookman (Lab):** My Lords, I would like to make a brief point. I do not want to be criticised as I was recently with shouts of "Order", or "Question", but I want the Minister to know that I am pleased on behalf of the steel-workers involved in this crisis, that they have been shown unanimous support. Nobody is arguing that the listed steelworks are not good and should not remain. The trade union leaders, who have not been mentioned much in this discussion, are first class and doing a good job, and we hope that we can win.

**Lord Henley:** I am grateful to the noble Lord for making that point. I do not know whether he was able to hear the Secretary of State make his Statement in another place, but certainly my right honourable friend referred to individuals among the trade unions with whom he and other ministerial colleagues have had considerable dealings. He wants to continue to have those dealings and is the first to say that this is a matter where—as he said—we want to continue to talk and work with everyone involved. On this occasion, that includes the trade unions.

**Lord Judd (Lab):** My Lords, the Minister has said that he would hope there are alternative facilities available for the manufacturers of steel should the worst happen. That is really not good enough. If we are aiming to be an independent nation, with a strong, strategic role in the world in our defence arrangements, steel is absolutely central to all we are planning to do. We need a strategic approach to the steel industry which is included not only in our planning for an industrial strategy but in our planning for a defence strategy. We cannot drift along like this. We need to

see some muscular, convincing arguments from the Government that show they have taken all this on board and are determined to develop the necessary strategies.

**Lord Henley:** My Lords, I agree with the noble Lord up to a point. I am sure he would be the first to accept that, in the modern world that we live in, it is frequently wise to buy certain things from abroad because other people can produce them better or more cheaply. Obviously, one always has to take into account the strategic considerations that the noble Lord raises. But there is no point trying to produce absolutely everything oneself, probably at greater cost and less effectively.

**Baroness Altmann (Con):** My Lords, would my noble friend the Minister care to comment on the impact of the private equity capital structure games that are often played, with deep discount bonds being bought up and the ultimate owners ending up with a profit even when a company of such strategic importance ultimately fails? Can he assure us that the Government will look into the ways in which capital structure is used, particularly because the steelworkers had been doing such a marvellous job of turning around an industry that had failed in the past and was now operating extremely well? Indeed, we have other sectors in this country which are at risk, more directly perhaps, from a no-deal Brexit, and may have similar ownership structures, which we need to look into urgently.

**Lord Henley:** My noble friend makes an interesting point. My right honourable friend would be the first to say that we want to learn any lessons possible from what has happened here with Greybull's purchase of this company, which was then renamed British Steel, some three years ago. It is a good company and I am glad that my noble friend pays tribute to its employees. It has made improvements. As I understand it, the company was returning to profitability. My noble friend goes on to talk about wider lessons to be learned about the structure of companies such as Greybull. All I can say is that we will learn what lessons we can.

## **Devolved Administrations: 20th Anniversary**

*Motion to Take Note*

4.59 pm

*Moved by Lord Bourne of Aberystwyth*

That this House takes note of the 20th anniversary of devolution in the United Kingdom and the role of the devolved administrations in the governance of Scotland, Wales and Northern Ireland.

**The Parliamentary Under-Secretary of State, Ministry of Housing, Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth) (Con):** My Lords, it is a great honour to open this debate. I have the greatest respect for the wealth of knowledge and experience of devolution that exists within your Lordships' House, which is amply demonstrated by the list of speakers for this debate.

In your Lordships' House, there are former and current members of the Welsh Government, including the noble Baroness, Lady Randerson, who is speaking today. There are former members of the National Assembly, such as the noble Lord, Lord Wigley, and the noble Baroness, Lady Humphreys. There are former Secretaries of State for Wales, including the noble Lord, Lord Hain, who is speaking in this debate.

There are also former members of the Scottish Government. The noble Lord, Lord McConnell, is not in his place, but he certainly contributes to this House with great acumen. Former members of the Scottish Parliament are speaking today, including the noble Lords, Lord Foulkes and Lord Purvis. There are also former Members of the other place who have been Secretaries of State for Northern Ireland: again, I mention the noble Lord, Lord Hain. There is a wealth of other Members of this House who served with distinction in the devolved Administrations. My noble friend Lord Duncan will close the debate. He serves both the Northern Ireland Office and the Scotland Office with distinction.

Over the past 20 years, successive United Kingdom Governments have supported devolution. They have put in place arrangements that provide the different nations of the United Kingdom with the space to pursue different domestic policies, should they choose to do so, while protecting and preserving the benefits of being part of the larger United Kingdom family of nations. Devolution has also provided our four proud nations with a platform to celebrate our unique cultural heritage, while sharing a common identity, making the United Kingdom a truly precious union of nations.

I should acknowledge that some noble Lords were not supportive of devolution historically—I fall into that category myself. That has changed massively. My own views have certainly changed; I am now very much in favour of devolution and am a proponent of it. That is true of all the mainstream parties in the United Kingdom today.

It is evident that support for devolution has grown over the years. In Wales in 1997, there was a very narrow vote in favour of establishing a National Assembly. In 2011, under David Cameron, we had a further referendum on full law-making powers, supported by all four mainstream parties in Wales. All but one local authority area voted in favour of giving the Assembly those powers; even in the only area that did not, it was an extremely close call. Today, the Senedd is an established feature of everyday life, taking critical decisions on matters that affect the lives of people in Wales. It has had many notable successes.

From my perspective, those successes are best demonstrated by the principle of where it is most appropriate for decisions to be taken. I think particularly of the foot and mouth outbreak and the way that was dealt with in Wales. It was appropriate for it to be dealt with there. It was to do not with a particular policy stance, but with immediacy and responsiveness and the fact that people in Wales expected it to be dealt with from Wales. The same could be said of many aspects of Welsh language delivery and Welsh culture.

[LORD BOURNE OF ABERYSTWYTH]

Not all Welsh language policy rests with the National Assembly, but that is surely the appropriate place for it to be.

One of the Assembly's successes has been legislating to make Wales the first part of the United Kingdom—probably one of the first jurisdictions in the world—to charge for plastic carrier bags. Public opinion across the world has now caught up and we are seeing pressure to reduce levels of discarded plastic worldwide. The Assembly was ahead of other parts of the United Kingdom at that time, but the success of the approach in Wales led to it being replicated in other parts of the United Kingdom and, indeed, elsewhere.

Two other policy initiatives that were supported very widely in the Assembly were the Older People's Commissioner and the Children's Commissioner. Other pioneering Acts unique to Wales are also attracting interest from across the globe. The Well-being of Future Generations (Wales) Act aims to improve social, cultural, environmental and economic well-being by requiring public bodies in Wales to think about the long-term impact of their decisions and to engage with local communities to tackle poverty, health inequalities and climate change, which are intergenerational issues. That seems extremely sensible. It has been happening since I left the Assembly but it seems a pioneering and interesting approach.

The Assembly also introduced a new approach to organ donation when it became the first nation in the United Kingdom to move to an opt-out system of consent. People aged 18 and over who have lived in Wales for more than 12 months and who die in Wales are now regarded as willing to donate their organs unless they have expressly said that they do not wish to do so. Other parts of the United Kingdom are considering the impact of this new system on the availability of organs for transplant.

The Scottish Parliament has also had its firsts. Scotland was the first part of the United Kingdom to introduce a smoking ban. As the noble Lord, Lord McConnell, pointed out recently, it is hard to imagine that Westminster could have legislated to introduce a smoking ban only in Scotland, but that is what the Scottish Parliament did. Other parts of the United Kingdom followed later. We are still seeing significant developments. More recently, the Scottish Parliament introduced minimum unit pricing of alcohol in Scotland. The National Assembly for Wales then passed similar legislation in June for Wales, and the Welsh Government are currently finalising their plans to introduce this policy in Wales.

In Northern Ireland we see a place transformed from what it was 20 years ago. The introduction of the Belfast agreement remains a historic landmark, providing for the principle of consent, established political institutions, reformed policing and justice systems, protections for people's rights and identities, and new bodies to foster greater north/south and east/west co-operation. The effect has been striking. Employment is at near record levels, rising to a record high of 70% at the end of last year. Northern Ireland remains the most popular location for foreign direct investment outside of London and the south-east, and since 2011

exports are up 11%. In July, the eyes of the world will once again be on Northern Ireland as the oldest and most famous golfing championship in the world, the Open, is played at Royal Portrush. I will say something later about Northern Ireland talks. I know that the noble Lord, Lord Hain, has had a leading part in this area. I look forward to hearing what he has to say later too.

These examples of successes demonstrate a further benefit of devolution: we can learn from the different approaches taken across the United Kingdom to address the common challenges we all face. We have a role to play in that—a number of noble Lords have experience of being Members of the devolved legislatures, as I have indicated. I was proud to serve in the National Assembly too for 12 years. Of course, the current Secretaries of State for Wales and for Scotland are also former Members of the National Assembly for Wales and the Scottish Parliament respectively. I have been very proud to introduce into the Ministry of Housing, Communities and Local Government a devolution forum that meets regularly and exchanges policy ideas and progress on different areas, because we have much to learn from each other.

We should recognise that people from the proud nations of Scotland and Wales each have two Governments and expect them to work together. One example of this happening concerns growth and city deals, where the two Governments have been working with local authorities and other local partners to develop deals that cover a range of reserved and devolved matters. Indeed, I liaise on a regular basis with Assembly Member Ken Skates on the mid-Wales growth deal, for example.

Perhaps the most striking example of closer engagement relates to the European Union and our preparations to leave. Over the last year we have seen unprecedented levels of engagement between the United Kingdom Government and the devolved Administrations, best exemplified by the First Ministers of Scotland and Wales attending UK Government Cabinet committee meetings.

As we look ahead, it is evident that our intergovernmental relations architecture needs to be refreshed to meet new challenges. We will need to build on existing relationships and work together more closely than we have before. We will also need to manage our new UK regulatory frameworks, developing structures that respect devolution and encourage still closer collaboration.

The UK Government have been clear that the devolved Administrations and legislatures will gain more decision-making powers as a result of the United Kingdom's exit from the EU. Powers previously exercised at EU level which intersect with devolved competence will, upon exit, flow back directly to Scotland, Wales and Northern Ireland. The Government have been working closely with the devolved Administrations to decide where it makes sense to do things differently in different parts of the UK, and where we will need to work on a United Kingdom or GB-wide basis—known as the common frameworks.

This process of co-operation and collaboration is helping to shape the post-exit devolution landscape, and demonstrates how the Scottish and Welsh Governments and, currently, the Northern Ireland Civil Service, together with the United Kingdom Government, are able

to work together to ensure a prosperous future for the United Kingdom outside the European Union. The publication of the third *European Union (Withdrawal) Act and Common Frameworks* report on 16 May is testament to the constructive work that the United Kingdom has undertaken, together with the devolved Administrations, to establish common frameworks.

There is great interest in intergovernmental relations at present, not least in light of the way the three Governments of the UK and the Northern Ireland Civil Service are working together on the UK's exit from the EU. Intergovernmental relations are vital to the effective functioning of devolution and, most importantly, to the delivery of services for all citizens across the UK. Our Governments might not always agree with one another on matters of policy, but we all agree that effective intergovernmental relations are key to delivering on behalf of the citizens of the UK.

Since the inception of devolution, intergovernmental relations have continued to evolve, to develop and, largely, to improve, to meet the needs of the various Administrations across the United Kingdom. The Prime Minister was clear in her meeting of the Joint Ministerial Committee plenary session on 14 March 2018 that a fresh look into the way our Governments work together was required, in light of the United Kingdom's exit from the EU. This work—reviewing the memorandum of understanding on devolution, known as the review of intergovernmental relations—has been ongoing between the four Administrations

Over the coming months, we need to ensure that we are considering proposals for the future delivery of our shared objectives. We want to do that coherently and in a way that provides for Governments to have effective relations but remains adaptable enough to suit their own requirements.

The devolution settlements have not been set in stone for the past 20 years. I will not go over all the changes made in that time, noble Lords will be relieved to hear, but it is worth noting the significant changes made to the Welsh Assembly under the Government of Wales Act, and the most recent further transfer of powers to the devolved legislatures and Administrations under the Scotland Act 2016 and the Wales Act 2017. Many noble Lords speaking in this debate have had a massive impact in this area.

First, in relation to the Scotland Act 2016, two decades on from the first Scotland Act, Holyrood has become one of the most powerful devolved parliaments in the world. Power and accountability are better balanced than ever before. The Scotland Act 2016 delivered in full the Smith commission agreement, reached by all five of Scotland's main political parties. The Act increased the financial accountability of the Scottish Parliament; increased responsibility for welfare in areas that complement the Scottish Parliament's existing powers; increased the scope for the Scottish Government to be more involved in the scrutiny of a range of public bodies; and gave significant new responsibility for roads, speed limits, onshore oil and gas extraction and consumer advocacy and advice.

This year saw an important landmark for the Scotland Act 2016, with all its sections that increase the powers of the Scottish Parliament now in force. This follows

the commencement of Section 27 on 8 February 2019, which devolves legislative competence to the Scottish Parliament for welfare food schemes. The Scottish Parliament will now be able to legislate in every area where the Scotland Act 2016 gave it the power to do so.

The Wales Act 2017, which I was very proud to pilot through this House, delivered clarity for Welsh devolution and accountability for the Welsh Government. It implemented the commitments in the St David's Day agreement that required primary legislation and transformed the Assembly into a fully fledged Parliament. The Act put in place a new, reserved powers model for Welsh devolution; it devolved additional powers in areas such as elections, energy and transport; and it enabled the Assembly to take control of its own affairs, including giving it the ability to decide its own name. I am pleased that the Presiding Officer is taking forward the necessary legislation, so that our Parliament will become the Senedd. The Wales Act provided a robust package that made the Welsh devolution settlement clear, sustainable and stable for the future. The devolution of tax and borrowing powers to Wales and Scotland has increased the accountability of the devolved Administrations as they have become responsible for how funding is raised, as well as how it is spent.

For Northern Ireland, this is not the 20th anniversary of devolution; there, the history of devolution goes back almost 100 years. Northern Ireland's most recent iteration of devolution stems from the 1998 Belfast agreement, or Good Friday agreement, which is quite simply one of the most important documents in the complex, intertwined and not always happy history of the United Kingdom and Ireland. Last year, of course, marked the 20th anniversary of the Good Friday agreement. The agreement was a historic landmark in the history of Northern Ireland, representing the triumph of politics over the division and destruction of the previous 30 years, which saw over 3,500 people tragically killed and countless more lives shattered by violence. Along with its successor agreements, it has been the foundation stone of all that has been achieved.

All of us who care deeply about Northern Ireland have an overriding responsibility to do all we can to protect, preserve and promote that agreement. For our part, the Government remain absolutely steadfast in our support for it and in upholding our commitments under it: to the constitutional principles it set out, to the institutions it establishes and to the rights it guarantees. As a result of the relative peace and stability that the agreement ushered in for so many people, Northern Ireland is a place transformed from what it was two decades ago. But the murder of Lyra McKee last month was a terrible personal tragedy, as well as a sober reminder of why we must not let things slide back to how they used to be. Since that sickening attack in Derry/Londonderry, Northern Ireland's political leaders have shown great leadership in standing together to reject violence, but it is now time for them and us to go further.

The best possible way of showing those who oppose peace and democracy that their efforts are futile is for all the political institutions of the Good Friday agreement to be fully restored and functioning, as was intended

[LORD BOURNE OF ABERYSTWYTH]

by those who reached that historic, epoch-making agreement 21 years ago. The stability and safety provided by the agreement have allowed Northern Ireland to thrive. Northern Ireland is now a leading destination for inward investment; unemployment is at a record low and employment at a record high. Northern Ireland now needs a devolved Government to allow for local decision-making, strengthen the economy and build a united and prosperous community, and to help guarantee continuing peace and better communal relations.

I turn to English votes and English decentralisation. The recent history of devolution is not exclusive to the devolved Administrations' relationship with the UK Government and Parliament. Devolution is an exercise of bringing power closer to the people, and this Government have moved quickly to bring about decentralised governance in England through the metro mayors. We now have nine metro mayors throughout the country, if one includes London in that tally, most recently in the North of Tyne region. We have also undertaken to come forward with a Statement on the future of metro mayors and devolution, which we will do shortly.

As noble Lords will know, changes have also been made to how Parliament operates to give effect to the principle of English consent, and sometimes English and Welsh consent, where votes concern only those nations. This approach seeks to address fairly the long-standing West Lothian question.

At the heart of the United Kingdom is the unity of our people: a unity of interests, outlook and principles. This transcends party politics and institutions, the constitution and the economy. It is about the values that we share in our family of nations.

Our union is strongest when each of its constituent parts is strong and working together; we are committed to the constitutional integrity of the United Kingdom. When we come together as one people, we benefit from the security and stability that come from being part of one of the largest economies in the world, pooling risks and sharing benefits.

Twenty years on, devolution is indeed the settled will of the people. The settlement has proved itself adaptable and strong. It has given the different nations of the United Kingdom the space to pursue different domestic policies while protecting and preserving the benefits of being part of the larger United Kingdom family of nations.

We remain focused on ensuring that the interests of each nation are fully represented within our union. In the short term, leaving the EU will have a great impact on the future of devolution, including increasing the powers of the devolved legislatures and Administrations. The review of intergovernmental relations will ensure that the way the Administrations work together is appropriate for these new developments.

I am grateful to have had the opportunity to open the debate today, to reflect on the achievements of devolution and to mark the 20th anniversary of the establishment of the National Assembly for Wales, the Scottish Parliament and the renewed Northern Ireland Assembly. Our commitment to devolution is total. The cause of bringing together our United Kingdom

is a noble one. It is a cause in which I know your Lordships' House will play its full part. I look forward to listening to the debate today on these important issues. I beg to move.

5.22 pm

**Lord Davidson of Glen Clova (Lab):** My Lords, 20 years of devolution over four nations is a substantial subject, and the initiators of this debate are to be congratulated on their choice of it. On 12 May, we marked the 20th anniversary of the first meeting of the Scottish Parliament. Up to now, this has been what many regard as the major implemented constitutional innovation for the UK of the past two decades. It was brought about by a Government who sought not to gain narrow party advantage but to improve the governance of the UK. Making government more responsive to the particular differences of the various parts of the UK was seen as a good in itself. It owed much to the foundational work of John Smith and later the constitutional convention, to the determination of the Blair/Brown Government and to the political skills of Donald Dewar.

This year is also the anniversary—the 40th—of the first Scottish referendum on devolution, when the vote, although in favour of devolution, was not considered sufficient to enable such a major constitutional change. It was 52% in favour and 48% against. Such was how the “will of the people” was interpreted 1979.

The Labour Government of 1997 introduced devolution not only to Scotland but of course to Wales, London and, in a new form, to Northern Ireland. It must be said that these innovations were not greeted with universal enthusiasm—I note that the Minister was one of those not expressing such enthusiasm—but, as time passed and the institutions matured, acceptance and popularity increased. Many of those who opposed the whole concept of devolution gradually warmed to it. In Scotland, for example, the Conservative Party that opposed devolution initially has since come to perceive the devolved Parliament's virtues—and not simply because it has become the largest opposition party of late.

Despite a somewhat uncertain start, devolution is now seen as a permanent part of the UK's constitution. The motive for devolution was indeed improving governance. The introduction of voting systems that did not entrench Labour recognised that minority views should not be ignored in favour of winner-takes-all outcomes. The refusal to gerrymander the electoral system in the devolved legislatures has, it must be recognised, not always been entirely comfortable for Labour, but it has promoted government more representative of the electorate. Sometimes Governments have to take decisions on the basis of national, not party interest.

Although the planning of devolution aimed at a relatively fixed set of arrangements, the reality has been an almost continuous process of evolution, with further powers being attached on the devolved legislatures. Wales voted in 2011 in favour of full legislative powers for the Assembly, shortly to be renamed the Senedd; Scotland, via the Scotland Acts 2012 and 2016, gained power over income tax; in Northern Ireland, despite the

problems with power-sharing, the Assembly remains the desired constitutional option for the majority. Of course, these Benches share the Minister's encouragement of the return of a working Assembly.

The creation of new legislatures in Scotland, Wales and Northern Ireland has unsurprisingly not been without problems. Government is difficult and devolved government was found to be more difficult than many expected, especially as most of the elected representatives were beginners in the business of legislating and governing. In addition, there are fewer legislators available than at Westminster to scrutinise legislation and, of course, there are no second chambers, of which we all recognise the benefit. The use of scrutiny committees was intended to improve the consideration of legislation but, at least in Scotland, this has not always proved to be the case. As my noble friend Lord McConnell has observed, scrutiny committees, when subject to party whipping, run the risk of becoming less effective. There is also a concern that capacity is stretched by the amount of legislation coming before the committees. This appears to be the case especially in Wales.

None the less, a real benefit of devolution has been the potential for experimentation with policy initiatives differing from those of the UK Parliament. Interestingly, these initiatives have sometimes been picked up by the UK Government: one example already referred to is the smoking ban in Scotland in 2006, which was followed not only by the UK Parliament but by the Welsh and Northern Irish Assemblies. Another example, again already referred to, is the Welsh Assembly's legislation to impose a levy on plastic bags in 2011, which has been followed by the rest of the UK. Experimentation in the nations of the UK introduced by the nations themselves avoids the democratic default when it is imposed by central government. Few in Scotland can forget the debacle when Scotland was used by central government as the experimental ground for the poll tax.

In the business of government there has been development to provide an arrangement more compatible with national requirements both in Scotland and in Wales. The 2007 reform of the Civil Service in Scotland to introduce collective rather than departmental objectives appears to have produced a more coherent, more flexible organisation more in keeping with the smaller scale of government. The Civil Service in Wales has adopted a similar structure. One complaint one hears, however, is that the past practice of moving civil servants from Edinburgh, Cardiff and Belfast to London and back again has been substantially reduced, with a concomitant loss of skills transfers to the devolved Administrations.

One development in recent years that was not foreseen by the proponents of devolution at the outset has been the degree of fiscal devolution. The power to spend being substantially divorced from revenue-raising created tensions across the devolution settlements. Devolved Governments of a different political stripe from the UK Government argued for tax-raising powers and central government, wishing to improve financial responsibility, tended to agree. The subsequent divergence of taxes within the UK may be said to encourage the experimentation that has occurred in other areas of policy,

but it has also shaken the coherence of the UK tax regime. Divergence has been most marked in Scotland with the introduction of a more progressive income tax structure and stamp duty rate than the rest of the UK. The one unforeseen consequence according to business—one assumes that it was unforeseen—has been the difficulty in attracting higher paid executives to Scotland from the rest of the UK. An employee earning £50,000 per annum currently pays £1,500 more income tax in Scotland than in the rest of the UK. The lower-paid have a lighter tax burden, which, of course, is a positive. It will be interesting to see how such divergence translates into the overall economy in the years to come.

Economic issues will doubtless become more pointed should the UK leave the EU. The EU funding of agriculture, rural development and structural funds benefits the devolved nations disproportionately. Her Majesty's Government's stated commitments for future post-Brexit funding are somewhat vague going into the medium term. This is self-evidently unsatisfactory. The absence of a coherent plan as to how EU funding would be replaced is likely to provoke not only continuing debate but new tensions.

The current proposal by Her Majesty's Government to retain powers over agriculture and fisheries, regional policy and some aspects of state aid for up to seven years seems to challenge the devolution settlements. An increase in centralisation of the UK goes against the grain of devolution, and to what end? One might hope that there would be a worked-out strategy for this aspect of devolution. An ad hoc approach to constitutional development carries many risks for the integrity of the UK. We have surely learned that lesson, at least over the last few years.

In looking at the last 20 years of devolution I have endeavoured to steer clear of the political disputes that have arisen both within the devolved legislatures and with the UK Parliament, but it goes without saying that there have been many such disputes. The demands for independence and the critiques of policies on health, education, housing, the environment, justice and so on have certainly contributed to lively debate. It could not be otherwise. Have there been mistakes, unforeseen consequences and tensions with the UK Government? But of course. It may be said, as Gordon Brown did on Monday, that non-stop constitutional argument in the Scottish Parliament does not favour good government. But it may also be said that, no matter what blunders there are, those errors are made by the devolved, elected representatives themselves. We make our own errors. Moreover, the devolved Administrations do not have a monopoly on error, as recent years have perhaps demonstrated here.

On balance, devolution has undeniably improved democratic accountability within the UK. At a time of unparalleled constitutional uncertainty, that must be one positive in the UK's governance.

5.32 pm

**Baroness Randerson (LD):** My Lords, I am delighted to see several old friends—I use that word deliberately—from across the parties who were there on that first day in May 1999 at the start of the Welsh Assembly. The fact that a significant number of us have been in

[BARONESS RANDEKSON]

the devolved institutions and are now here—and in one or two cases the reverse—strengthens both sets of institutions. It certainly means that our debates are enriched and informed in comparison with what would otherwise be the case.

I am sure that my colleagues from that time in Wales remember the sense of anticipation, challenge and excitement of being Members of the new Assembly that we worked together to create. It is important to remember what a challenge that was. Most of us did not know how it ought to work; we did not know how it would operate. In fact, we benefited from the experience of people such as the noble Lord, Lord Wigley, who had been in the other place and carried some of its basic rules with them. We also benefited from a lot of people who had been councillors and brought that experience with them.

The referendum was held very quickly in 1997. It is important to remember nowadays, as we talk about the practicality of a people's vote, how quickly that referendum was held after the Blair victory. There was a wafer-thin victory in Wales for the concept of an Assembly. The moment it was created, there was an active campaign to get it abolished. I congratulate the noble Lord, Lord Bourne, for his wholehearted conversion to the cause of devolution, which I know is totally genuine. It is a tribute to all Assembly Members that the extent of the success of devolution can be measured by the fact that, when we held a second referendum in 2011, there was an overwhelming majority in favour of the Assembly having more powers.

I will say a little about the history of liberalism in Wales, and support for devolution. My party is a firm and passionate supporter of devolution, believing that decisions are best made as close as possible to the people they affect. That has been the case ever since Lloyd George formed the Welsh Liberal Council in 1897. In 1967, on St David's Day, Emlyn Hooson MP, who later became a distinguished Member of this House, introduced a Government of Wales Bill in the other place which advocated a Welsh Parliament. It was roundly defeated by the combined votes of Conservative and Labour MPs. So it is no surprise that we as a party continued to campaign for a Welsh Assembly and were active participants from the start. I wanted to take part in this debate today because I have the privilege of being the only person from Wales to have been in government in both the Welsh Government and the UK Government—and my noble and learned friend Lord Wallace has the accompanying position and experience in relation to Scotland. If I may put it this way, I have seen it from both sides of the fence.

In 2000, the Liberal Democrats formed a partnership Government with the Labour Party in Cardiff Bay, and we had an ambitious programme for government that included a firm commitment to further devolution. That was tricky because there was still quite a lot of opposition from the Labour Party. But Rhodri Morgan, the First Minister, was in tune with further devolution. It is important to remember, as the noble Lord, Lord Bourne, pointed out, that the Assembly had very limited powers. We used to say that Cardiff City Council had much greater powers because it could raise taxes and borrow money. There were no lawmaking

powers for the Assembly and, as I say, no tax-raising or borrowing powers. Combined with having only 60 Assembly Members, that meant that the Assembly was dramatically underpowered. In addition, there was the funding problem of the Barnett formula, an enduring cause of anger in Wales that was understood way beyond the inner circles of politics. But we made the most of the powers we had. For example, as a Minister, I was able to introduce Cymru Creadigol, Creative Wales, and Iaith Pawb, Everyone's Language, which were the first strategies ever on the language and the arts in Wales.

Just as we discuss Brexit here, day after day, we had our own set of dominant popular topics in Cardiff in the Assembly: legislative powers, tax-raising powers, borrowing powers, enlarging the Assembly and abolishing the Barnett formula. I am pleased to say that, to a considerable extent, these issues have now been tackled, or the power to deal with them and tackle them now lies where it should—with Assembly Members. In 2006, a new Wales Act allowed the Assembly to pass legislation. I do not know whether any noble Lords remember a wonderful thing called Measures. We could pass legislation as long as Parliament gave its official seal of approval for what we agreed to do. That was done through legislative competence orders, and it was rather like Parliament marking our homework. We did not like it at all.

So, when the Conservative-Liberal Democrat coalition agreement was signed in 2010, it unlocked the door to much greater powers. As I mentioned, the 2011 referendum meant that the Assembly could pass its own Acts. It has used this power well; the Minister has illustrated that. It has been imaginative and bold. I was particularly involved in the very early days of the campaign for the change to presumed consent on organ donation. The Assembly has not been frightened to tackle new issues.

The coalition agreement also led to the Silk commission, with its recommendations for tax-raising and borrowing powers, and the move to a reserved powers model for the Assembly to tackle the ongoing confusion over exactly what powers it held. The Wales Act 2014, which I took through this House, came as a result of that. In due course, the second Silk report led to *Powers For A Purpose*, published in 2015 by the Secretary of State for Wales. That led to the Wales Act 2017, which included powers for the Assembly to change its name, its size, its voting system and the voting age. Looking back, it is ridiculous that the Assembly did not have those powers from the start.

Also during the coalition years, we took steps to deal with the problem of the Barnett formula. Some Members may remember the funding agreement signed by Danny Alexander, as Financial Secretary to the Treasury, and Jane Hutt, as the Welsh Finance Minister.

Finally, I want to comment on the EU's role in the devolved Administrations, particularly in relation to Wales. Today is the day before the EU elections, so it is appropriate to think about that. We still have uneven and, in my view, unsatisfactory devolution settlements across the UK. We still have a highly centralised form of government. When I was in the Wales Office, a major part of our work was reminding other Ministers and Whitehall civil servants to remember Wales. My job was to explain to them how devolution works. I hope that that strikes a chord with the Minister.

Over the past 20 years, the EU's powers have served to lessen tension between the two levels of government. The EU sets out high-level rules about how funds to deal with poverty, agriculture and environmental issues are to be disbursed. No one argues with those rules from a party-political perspective, because they are made on the basis of 28 countries far beyond the realm of narrow party politics. Although some of those EU powers will come down to the devolved Administrations, some of them will lie in the hands of the UK Government. The moment that happens, there will be arguments about the basic rules to be applied and which areas will be eligible for funding. I would predict that we will see a return to a lot of party-political wrangling. The Joint Ministerial Council was set up to try to deal with that wrangling. I do not think that it has ever been up to the job and I certainly agree with the Minister that it needs to be refreshed and modernised. It needs root and branch reform because we need to move to a proper federal system of devolution throughout the UK.

5.44 pm

**Lord Hope of Craighead (CB):** My Lords, I am grateful to the noble Lord, Lord Bourne, for his comprehensive introduction to this debate, covering the development of devolution across all parts of the United Kingdom and paying attention to the particular problems of how England fits into a structure that has been designed elsewhere.

I wish to say a bit about the legislation that was put together to create a reliable vehicle for this major alteration to our constitution. I should explain that my qualification for speaking is that I was involved in the legislative process in this House from the very start. I was one of the 40 or so hardy souls who worked late into the evening as the Bills were going through this House. Despite our protests, devolution always seemed to be taken as last business—and when I say that, I mean very last business. The Scotland Bill, which was my main concern, was given eight days in Committee, but the time allotted to us each evening was from around 10 pm onwards, so we were struggling with the need to complete the work while also finding time to sleep. I am not exaggerating—I am recorded in *Hansard* as speaking on the Scotland Bill at 2.30 am on one of those days. That was not the time at which we rose that night, and it was not the only time that we sat until the early hours.

That is one side of the picture. The other side is my interest in the legislation when sitting as a judge in the Appellate Committee of this House, in the Judicial Committee of the Privy Council and in the UK Supreme Court. Issues were brought before us such as whether the Scottish Parliament or Members of the Scottish Government, including the Lord Advocate, were acting within the powers that had been devolved to them; and, at a later stage in two cases that came before us, whether the Welsh Assembly had acted within the powers that had been devolved to it. I can claim credit for being the first judge to use the expression “Welsh law”, because it seemed to me that that was indeed what was developing at the time, and to my great pleasure it has developed much further since. This means that I was able to see how the system was working in practice.

Perhaps I may concentrate on the Scotland Act 1998. I agree with the word used earlier—challenge—because designing this legislation was a remarkable achievement. The political inspiration for Scotland came from Donald Dewar. I shall always remember his pride in the wording of Section 1(1) of the Scotland Act, which declares:

“There shall be a Scottish Parliament”.

He loved those words and he repeated them several times. But the architect was an exceptionally able civil servant in what was then the Scottish Office in Edinburgh, named Iain Jamieson. It was his scheme and it was built on three pillars around which the necessary machinery was constructed. The first pillar, of course, was that devolved competence was to be limited to the territory of Scotland and to functions exercisable in or as regards Scotland. The second—also a very important point—was that the sovereignty of the United Kingdom Parliament was to be respected, and a provision was included in the Act in those very terms. The devolution of powers to the Scottish Parliament was therefore not to affect the power of the UK Parliament to make laws for Scotland. Obviously, a balance was going to have to be struck in practice. The third pillar was that our international treaty obligations were to be respected, so it was to be outside competence to do anything incompatible with any of the rights set out in the European Convention on Human Rights or with Community law, which we now call EU law.

On that last point, Iain Jamieson was fortunate in two respects. At the same time as we were considering the devolution legislation for all three nations, Parliament was also being asked to approve the Human Rights Bill. That Act, as it became, was the outstanding achievement of the noble and learned Lord, Lord Irvine of Lairg, during his time as Lord Chancellor. It received its Royal Assent on 9 November 1998. Royal Assent to the Scotland Act followed 10 days later. As far as the Scotland Act was concerned, the work needed to bring human rights home—as it was put—was already being done. All that was needed in the Scotland Bill was to cross-refer to that other Bill.

As it happened, human rights came home to Scotland more than a year before England. The commencement date for Scotland was 1 July 1999. It was thought that England and Wales were not ready for such a revolution and that more time was needed for preparation, so the commencement of the Human Rights Act—which applies it all to England and Wales—was put off until 1 October 2000. But no one in Scotland seemed to mind. Unlike the adventure of the poll tax, which was introduced there first, Scotland did not seem to mind getting human rights in advance of anywhere else.

The second respect in which Iain Jamieson was so fortunate, as is now plain to see, was in regard to Community law. All he needed to do was to say what that expression meant. He did not have to wrestle with how to define Scotland's place in a single UK market, because we were already within the European Community.

I think it right to say that he was also fortunate he was not asked to provide for a second chamber. This point was raised when the noble Lord, Lord McConnell, was giving his lecture in the Robing Room last week. At the end of his excellent lecture he was asked whether there should have been a second chamber. His answer

[LORD HOPE OF CRAIGHEAD]  
was, “No, that would have been to create a republic”. Of course, creating a separate state was not the idea; the aim was intended to be devolution, not a stepping stone to independence.

Jamieson was fortunate in another respect too. In contrast to the earlier attempt at devolution to which the noble and learned Lord, Lord Davidson, referred—which failed because the vote was not big enough—the simple rule to which he was asked to work was that whatever was not reserved to the UK Parliament was devolved. Unfortunately, that was not the situation for Wales. It had to be dragged out of the UK—I remember this so well—step by step, as the noble Baroness, Lady Randerson, described, until eventually we have something fairly close to what we now have in Scotland, which makes the situation so much more acceptable.

So Jamieson was very fortunate. I remember spending many hours late at night in this Chamber going through the list of reserved matters, because it was so important to get these right. The remarkable thing is that in my time as a judge I can recall only one case in the Supreme Court where we had to examine that structure because it was under challenge, and it survived scrutiny. The scheme of the Act has performed remarkably well over these years.

I remember going to see Iain Jamieson with the late Lord Rodger of Earlsferry to discuss with him some points we thought needed clarification. We were put firmly in our place. He wanted to turn our conversation into a seminar and to explain the provisions we were there to scrutinise. It became clear that most of the passages that we thought were obscure were the result of prolonged and somewhat dogged arguments between him and the parliamentary draftsmen. That meant there was no discernible room for manoeuvre; we simply had to accept the package as it was.

However, in the end we were able to achieve one significant amendment. It was to a clause about the removal of judges, now Section 95. That same clause dealt with appointments, and there was no problem with that. The system was that this could be done by Her Majesty on the recommendation of the First Minister, but the scheme provided for removals to be exactly the same: the First Minister recommends removal and Her Majesty follows that recommendation. There was an objection to this, because the whole idea of convention rights was that the people of Scotland could challenge the Government as acting incompatibly with those. The First Minister and Scottish Government were people whose actions we had to scrutinise and criticise, and it was thought really quite dangerous to give the First Minister the power to direct our removal. So three of us—Lord Clyde, Lord McCluskey and I—eventually carried an amendment by 140 votes to 108 altering the system to provide for proper scrutiny of the removal process. It was to our great relief that the Government gave way on this point.

I do not want to go on too much longer, but there was one problem that we really did not foresee, which arose because of the jurisdiction we had over the criminal appeal court and the actions of the Lord Advocate. One of the consequences of requiring the Lord Advocate to act compatibly with the convention

rights was that we found ourselves dealing with issues about disclosure of evidence by the police and the right of an accused person to have a solicitor present during police questioning. Scots law at that time was somewhat behind English law, which had well-developed rules. We had other rules and were fenced in by many checks and balances. In the end we decided in our court that it did not measure up to the rulings of the Strasbourg court on what was necessary to achieve the right to a fair trial. Unfortunately the judges in Edinburgh took strong exception to what we were doing, especially when we exercised the power under our rules to quash convictions. Relations between the Supreme Court and the criminal appeal court in Edinburgh became very tense. In the end the situation was resolved by an amendment in the 2016 Act that confined the Supreme Court’s power simply to determining the issue, leaving the disposal of the case to be decided by the judges in Scotland. That was a sensible scheme that we should have thought about at the very beginning.

Of course, the architecture had one other feature that was not fully developed: the need to work out and respect the devolution system in the working of this Parliament at Westminster. There was the Sewel convention, now reproduced in statutory language in the 2016 Act, but perhaps we should have gone a bit further in developing the rules in that way. That might have saved quite a bit of time.

Overall, I think those pieces of legislation—the 1998 Act for Scotland, the Wales Act as it developed and the Northern Ireland Act—were all remarkable achievements. As in the case of the Human Rights Act, they all say a great deal in relatively simple and concise language. I hope that Iain Jamieson, to whose efforts the Scotland Act owes so much, derived much pleasure in seeing it put into effect.

5.56 pm

**The Earl of Lindsay (Con):** My Lords, I welcome today’s debate for a number of reasons, one being my involvement a decade ago in the Calman commission, which was tasked with carrying out an inquiry into the first 10 years of devolution in Scotland. It is interesting to reflect on what has been achieved a further 10 years since 2009.

In many respects, Scottish devolution can claim to have been a considerable success. The Scottish Parliament and Government are both central and well-established parts of Scottish life. As we have heard, additional powers have been devolved, including welfare powers. Most notably, and specifically mentioned by a number of speakers, tax-raising obligations have been established with the transfer of significant new tax powers to the Scottish Parliament.

Both the Calman and Smith commissions recommended improving the financial accountability of the Scottish Parliament, which was not previously accountable to the Scottish electorate for how revenue was raised in the same way it was for how revenue was spent. Greater financial accountability and revenue-raising responsibilities have now been achieved. It is with some misgivings that I acknowledge that important and necessary step, as I now find myself living in the highest-taxed part of the United Kingdom.

What has also gone well over the 20 years of devolution in Scotland, though this is less well-recognised north of the border, has been the continuing commitment of United Kingdom Governments to the future well-being of Scotland in not just reserved but devolved and shared matters. The current United Kingdom Government, for instance, have protected the Scottish Government budget, boosting the block grant budget and giving the Scottish Government more money to spend on schools and hospitals. The funding boost to the NHS alone is worth some £2 billion. The current Government are also investing in Scottish cities and elsewhere, with £1.2 billion committed to seven growth deals covering Glasgow, Edinburgh, Aberdeen, Ayrshire, Inverness, Stirling and Tay cities. There are more deals under negotiation, with respect to Moray and the Borderlands.

The UK Government are also supporting some of Scotland's most vital industries. The whisky industry is benefiting from the spirits duty being frozen for a second year in a row; the North Sea oil and gas industry is benefiting from a tax regime that aims to help its continued recovery from the 2014 oil price crash; tax barriers to new investment have been removed; and work is ongoing to further strengthen the position of Scotland and the UK as a global hub for decommissioning. The Scottish fishing industry is benefiting from the UK Government's £10 million fisheries technology fund, which aims to help transform the industry and make fishermen in Scotland world leaders in safe, sustainable and productive fishing.

How important is this continuing level of broad support for a devolved Scotland by successive United Kingdom Governments? The answer is that it is vital and will continue to be vital. Scotland's deficit is more than four times that of the United Kingdom's and larger than that of any other EU member state. In 2017-18, Scotland's deficit of £13.4 billion equated to 7.9% of its GDP, compared with the United Kingdom's deficit of 1.9% in the same period. It should therefore be recognised that, impactful as Scottish devolution has undoubtedly been in changing the political and civic landscape in Scotland over the past 20 years, it none the less owes much to the continuing underpinning strength and substantial support of the United Kingdom and successive United Kingdom Governments.

Mindful of the importance of this interrelationship, I want to touch on one dimension of the two decades of Scottish devolution that, to my mind, cannot be said to be a notable success. In 2009, on the 10th anniversary of Scottish devolution, the Calman commission reported that the need for greater intergovernmental and inter-parliamentary co-operation should be urgently addressed. All the evidence we had taken from other countries with more than one level of government pointed unequivocally to good intergovernmental and inter-parliamentary arrangements being an important element of a stable political constitution, as well as serving the public interest. For good reason, this issue prompted one of the longest chapters in our Calman commission report, and generated some 23 separate recommendations.

That was in 2009. In 2014, five years later, the noble Lord, Lord Smith of Kelvin, likewise called for better intergovernmental relations when launching the Smith commission report. He said:

“Both Governments need to work together to create a more productive, robust, visible and transparent relationship. There also needs to be greater respect between them”.

The following year, in 2015, the House's Constitution Committee published a report on intergovernmental relations in the United Kingdom. It was similarly concerned with what it found and, as with the Calman commission, produced a series of recommendations and urged that the issue be urgently addressed.

In a debate in this House in October 2017, after the Government had finally responded to the Constitution Committee's 2015 report, a number of noble Lords expressed disappointment that intergovernmental relations within the UK remained as much of a concern in 2017 as they had been in 2009. Here we are now, in 2019, still needing to see greater progress achieved in respect of intergovernmental and inter-parliamentary relations.

I do not underestimate the difficulty posed by those happy to see co-operation frustrated for their own party-political purposes; nor am I suggesting that there has been no progress whatever over the past 10 years in improving relations. My noble friend the Minister referred to the progress that has been achieved, but he also talked about the need to refresh and evolve relations. However, I am not quite sure whether refreshment and evolution by themselves go far enough.

If you consider the timeline and take account of the recommendations issued in 2009, 2014 and 2015, you have to be disappointed that we have not achieved more progress between the respective Governments and parliamentary authorities of the United Kingdom and Scotland. Many of the unimplemented recommendations from the past 10 years remain relevant today. Most are relatively modest, most are straightforward and few, if any, require legislation.

The evidence to the Calman commission on the 10th anniversary of Scottish devolution revealed a widely held expectation by business and civic interests that close co-operation between Governments, officials and Parliaments should and would be the norm. I suggest that the 20th anniversary of devolution in Scotland should be marked by a renewed determination by all concerned, on both sides of the border, to deliver the level of co-operation that people rightly deserve as the norm.

6.05 pm

**Lord Hain (Lab):** My Lords, I thank the noble Lord, Lord Bourne, for the generosity he showed in introducing this debate to a number of individuals in the Chamber who have made contributions over the past 20 years.

Having supported devolution all my political life, going back over 50 years, I was privileged to have organised the Government's and Welsh Labour's referendum campaign in 1997—though whether I should remind noble Lords of that, given the decimal-point narrowness of the win, is another matter entirely. My friend the noble Lord, Lord Wigley, will recall the drama of that night in the royal college of music, as the results came in to be centrally collated by my officials and those of Ron Davies and Win Griffiths. We had relays of depressing results, and then suddenly Carmarthenshire swept us past right at the last minute. I should point out for the

[LORD HAIN]  
 record that the biggest yes vote was in my own constituency of Neath, so I take Neath as the leader of that campaign.

The noble Lord, Lord Wigley, who has become a good friend and comrade—although I do not want to do him down in his own party—played a very important role in the campaign and fight for devolution in Wales over many decades. So too did my noble friend Lady Gale. She used to be my party boss, and will recall that I was always very obedient. But she had occasion to rap me over the knuckles when, in 1994, I attended a Parliament for Wales conference in Llandrindod Wells. It was attended by some Labour Party members, but mostly by members of Plaid Cymru, the Liberal Democrats and others, and I should not have been there, according to the Welsh executive—anyway, that is in the past.

As Welsh Minister, I helped take through the Government of Wales Act 1998. I also served as Secretary of State for Wales for seven years and was responsible for the Government of Wales Act 2006, which has been referred to by the noble Baroness, Lady Randerson, among others. It delivered the full lawmaking powers, subject to a referendum, which produced that verdict overwhelmingly in 2011.

The noble Lord, Lord Bourne, was straightforward enough to say that there was bitter Conservative opposition in the referendum campaign to both the 1998 Act and the 2006 Act. It is a great credit to the movement of opinion that we are having this commemorating debate. The case for devolution in Wales is now overwhelmingly supported, including by his party and to his credit. As Welsh Conservative leader in the Assembly, he played an important role in influencing his party to come around to accepting the critical importance of devolution to Wales. Imagine if we did not have the Welsh Assembly. Imagine where Wales would be now as the only nation in the United Kingdom without its own legislative Assembly. It would have been left behind. As the noble Baroness, Lady Randerson, reminded us, a lot of innovation through legislation has come through the Assembly, including the Children's Commissioner and the Older People's Commissioner, which were replicated in other parts of the UK later on. It is now unthinkable for anyone, even those in nearly half the voting electorate in 1997, to imagine the Welsh Assembly being abolished or devolution being reversed. Indeed, the progress has been to extend and empower Wales, Scotland and Northern Ireland.

As Secretary of State for Northern Ireland between 2005 and 2007, under Tony Blair, I helped to negotiate the settlement that brought Ian Paisley and Martin McGuinness into power—and they were real leaders. Whether we agree with their hinterland or their history, they were real leaders. We have a serious leadership vacuum in Northern Ireland's politics now. It is a real crisis. I understand why the noble Lord, Lord Bourne, referred in his speech to positive employment indices and so forth, but that does not even begin to get to grips with what is a serious crisis in Northern Ireland.

I am not the only Member of this House to have pointed that out. The noble and right reverend Lord, Lord Eames, with his powerful oratory, has emphasised

and underlined that it is a serious crisis. We have a palpable lack of leadership, not just among the political parties in Northern Ireland, particularly the DUP and Sinn Féin, but in No. 10 on the part of the Prime Minister. She does not really grip Northern Ireland in the way that other Prime Ministers have done, including Tony Blair and John Major. She does not give it priority. It is no excuse to say that Brexit overwhelms her as it is overwhelming our whole government system. I hope that the noble Lords, Lord Bourne and Lord Duncan, for whom I have a great respect, will take this message back: Northern Ireland must always be on the Prime Minister's mind. This is unfinished business and it is a really dangerous moment. The two major political parties are demonstrating a reckless political irresponsibility. It is no good them blaming each other. Quite honestly, both are to blame. Both leaderships are equally to blame. I say that to noble Lords from the DUP who are sitting in this Chamber as well. I get on very well with them as friends, but they have to sort it out. We need devolved government restored. Leadership needs to be restored in the Northern Ireland Office, in which I had the privilege to serve, and in No. 10 as well as in the major parties.

I wish the current talks well, but I urge the Secretary of State for Northern Ireland and the Prime Minister, through the noble Lord, Lord Duncan, that it is crucial to bring innovative proposals to these talks. I keep being told by leaders of the parties there that no fresh proposals are being put on the table. There is no proper guidance in those talks. You get views from one side of the argument and then put them to the other party and you find the middle point. That is how you negotiate. That is how we negotiated the 2007 settlement. That is how the Good Friday settlement was negotiated as well.

I am sorry for raising the passion of the debate, but there is a dangerous political vacuum, as the Victims' Commissioner has herself pointed out recently and as we saw in the tragic assassination of Lyra McKee. She was a brave investigative journalist—one of the finest in modern times in Northern Ireland—who was gunned down by IRA dissidents who have marginal and isolated support but are nevertheless very dangerous, as she tragically found out.

We have seen contradictory statements from the Secretary of State for Northern Ireland. I say that with no joy at all. I see it as my duty as a former Secretary of State, especially, to support her. But one minute we hear a statement on historical abuse cases and in another we hear that she wants to do something for victims of the legacy of the Troubles. The Government are completely failing one particular group for whom they made promises. I raised this in the House and the noble Lord, Lord Cormack, has raised it with some passion and conviction as well. This is a group of nearly 500 of the severely injured. Everyone knows who they are. They are represented by that admirable pressure group, the WAVE trauma group. They are very severely injured. I have cited cases in your Lordships' House in past debates, but I will give one example. There is a woman who lost both her legs in 1972 who still does not have any kind of recognition. She has no pension, for which she and her colleagues in the WAVE trauma group have been campaigning. They are not

asking for a lot—about £150 a week. They have never been able to earn over the course of their lives the kind of occupational pensions that people who have been in work can enjoy, because they have not been able to work. She cannot work.

This continues despite promises. I credit the noble Lord, Lord Duncan, with total support to the group when he was kind enough to meet them at my request relatively recently. They came across in their wheelchairs to lobby Parliament. Do we have to see them lobbying Parliament month after month with all the stress that that puts on them in order to get this House, the House of Commons and the Government to act? There is universal support for them. When I moved an amendment with cross-party support to a Northern Ireland Bill recently, it would have carried—I thank the noble Lord, Lord Duncan, for nodding in assent. He persuaded me to withdraw the amendment because he did not want the Bill to go back to the Commons and be delayed, so I withdrew it on the promise that the Government would legislate for it by the end of the summer. Will he give that assurance here tonight as well?

I hope that the Northern Ireland Office will speak with one voice, because I have heard reports of different views being given in Belfast from in London. I see nods across the Floor of the Chamber underlining that. There must be a total commitment to legislate for the severely injured. If the local parties will not get into government and do the job themselves, we must do it here and demonstrate to the people of Northern Ireland that we are on their side at least, even if their own elected representatives are not.

I ask for an urgent meeting with the Secretary of State and with the noble Lord, Lord Duncan, because we must see closure on this. We cannot keep saying that we are going to do something and nor can the Government without doing it. The Bill will go through both Houses to establish a pension in record time. There is no excuse because there is no serious business before either House at the moment, apart from Brexit, when that turns up or not.

In closing, I have a few points on the general picture. I remain suspicious of the implications of tax devolution. I know that it is in the legislation, but we have a United Kingdom that is deeply unbalanced in terms of its wealth. If Wales, the north-east of England, Scotland or Northern Ireland are not able to benefit from the redistributive effects of the 40% of GDP that is raised in the south-east of England, the unity of the UK is under threat, on top of the other threats that we face. I am really worried about it, especially against the background of austerity and big cuts in the Welsh Government's budget, for example, and in other budgets of devolved legislatures over the last nine years.

There is unfinished business of devolution in England outside London. That is not sustainable and the Government need to address it. I recommend the Bill introduced to this House by the noble Lord, Lord Lisvane, and the case made for it by the Constitution Reform Group, for whom he has been spokesperson, as I have, and which was chaired by the Marquess of Salisbury.

Devolution is here to stay. That is a great tribute to all who made it possible. The fact that it is now part of the constitutional architecture of the United Kingdom for good is very positive indeed.

6.19 pm

**Baroness Harris of Richmond (LD):** My Lords, it is a great pleasure to follow the noble Lord, Lord Hain, and his passionate pleading for the people of Northern Ireland. We thank him for that. I shall speak about the devolution of policing in Northern Ireland.

The devolution of policing and justice in Northern Ireland did not take place until 2010. It was called the final piece of the devolution jigsaw. The Good Friday agreement signed in 1998 envisaged that powers for policing would be devolved at some point in the future, but did not specify an exact date. It was to be done with the approval of all the political parties. In September 1999, the Patten report on the future of policing in Northern Ireland recommended major changes to the whole structure of policing. It made 175 recommendations in all.

When I first came to your Lordships' House 20 years ago this year, I was catapulted by my party to speak on most policing matters in England and Wales, so it was a bit of a shock to find myself thrust immediately into the cauldron of Northern Ireland policing under the beady eye of Lord Smith of Clifton, who was our spokesperson on Northern Ireland at that time. I should remind your Lordships of my interests as set out in the register, most of which are around policing issues, including chairing the North Yorkshire Police Authority for a number of years and being involved in national police authority work.

The Patten report received very mixed views from the public, politicians on most sides and the police themselves. Fundamental changes to policing were being proposed, and I well remember the fierce arguments that were taking place at that time about the very nature of how policing would be delivered. To refresh my memory, I went back to the Second Reading on the Police (Northern Ireland) Bill on 27 July 2000 to read again what we were discussing about the new beginning for policing. It makes fascinating reading in the light of our debate today. It reflected, at the time, the very real concerns we would later encounter in Committee on the Bill. How well I remember being loudly castigated by the late Lord Fitt when I made a contentious remark about policing in Northern Ireland with which he vehemently disagreed.

It is worth remembering some of the huge changes that Bill envisaged including the name change—perhaps the most contentious change, which took up hours of time in argument—from the RUC-GC to the Police Service of Northern Ireland and the creation of a policing board and district policing partnerships, which would include some balance of political party membership for the first time as well as other local consultative arrangements. The Bill also dealt with the registration of interests of police officers and the code of ethics, which eventually became the blueprint for all police forces in England and Wales. It dealt with flags and emblems—I remember that we had huge arguments about cap badges—and also with the arrangements for co-operation with the Garda Síochána.

A reading of that debate will tell your Lordships all you need to know about how far we have travelled since the Good Friday agreement proposals. Indeed, it was to take a further 10 years for the parties to sort

[BARONESS HARRIS OF RICHMOND]

out their differences in the overall devolution package, which eventually brought the devolution of policing forward, but not without Stormont having been suspended and then restored on a number of occasions.

Two years without a functioning Government in Northern Ireland has cast a pall over devolution, but devolution of policing powers has undoubtedly had a positive effect. The operation of locally controlled policing, including local decision-making and local accountable bodies, has resulted in increased levels of public confidence in policing since 2010. This has been evidenced through the Northern Ireland Policing Board's omnibus survey and the Department of Justice's Northern Ireland crime survey. However, recent trends from both these surveys have given some cause for concern, with early indications of confidence levels declining, in particular in relation to local neighbourhood policing.

While policing has clearly benefited from devolution, two key issues have stalled the continuation of this positive progress. First—this has been touched on—it is worth noting that a Government-led programme of austerity has been in operation since the devolution of policing powers to Northern Ireland, and the PSNI budget has declined by 25%, which is more than £210 million, since 2010. Secondly, there remains the inability of local political agreements to deal with key issues, including those associated with Northern Ireland's past and issues associated with identity. These alone, without dealing with the day-to-day dangerous work the police undertake, continue to place significant pressures on the organisation. Despite the excellent work undertaken by its soon-to-retire chief constable, George Hamilton, to whom I pay a very warm tribute, and who I am sure has the thanks of everyone in this House, there continues to be a huge challenge in the future of policing in Northern Ireland.

Devolution must be nurtured, watched over and cared for. Like the other constituent parts of our United Kingdom, we neglect this at our peril.

6.27 pm

**Lord Wigley (PC):** My Lords, I am delighted to follow the noble Baroness, Lady Harris of Richmond. I am in a unique position in this Chamber tonight—

**Lord Foulkes of Cumnock (Lab Co-op):** As always.

**Lord Wigley:** I thank the noble Lord, Lord Foulkes, for his constructive comments.

I am unique in that I am the only Member who has been a Member of both Chambers here and of the National Assembly for Wales. I immediately acknowledge that the noble Lord, Lord Foulkes, can boast the same in relation to Scotland. There are three Members in their places who were elected to the National Assembly for Wales on that day in May 1999: the noble Baroness, Lady Humphreys, the noble Baroness, Lady Randerson, who has already spoken, and who played a distinguished part as a Minister in Cardiff Bay and in this place, and the noble Lord, Lord Bourne. I, too, want to put on record our thanks for the way he steered and led the Conservative Party in Wales to take a positive attitude towards devolution, which was still in some doubt

20 years ago, but now is fairly clear-cut. I also thank him for his kind words today. I also thank the noble Lord, Lord Hain, not only for his words today but for the decisive role he played in 2006 in steering the Government of Wales Bill to the statute book and for persuading the Cabinet to find time for it. That is not perhaps totally appreciated.

I served as leader of the Opposition during that first year of devolution. At one point during the election count, I thought, with some trepidation, that I was heading to be First Minister, but when the final count was complete, although Plaid Cymru had 30% of the vote and 17 seats—a commendable achievement—it was not quite enough to form a Government. In fact, all five Administrations in the National Assembly have been Labour-led, and that is one of the problems of which Welsh voters have become aware. For any democratic system of government to work, it is essential for voters to feel that they can change the political complexion of the Administration. After 20 years, with some of the same Ministers in post in Cardiff Bay today as served in 1999, this is becoming a problem not just for Wales, which needs to feel that we have meaningful democracy, but, I suggest, equally for Labour. It might need a period in opposition to renew itself, to hone fresh policies and to bring in fresh blood.

However, some things have changed. The Assembly elected under the provisions of the Government of Wales Act 1998 was in many ways little more than a glorified county council. It had no primary law-making powers or tax-varying powers, or even control over all aspects of its own Administration. That most inane term—the Welsh Assembly Government—was devised, but it has now, rightly, long since been jettisoned into the dustbin of history.

Much has now changed. The National Assembly now has primary law-making powers over devolved matters. It also has the recently transferred tax-varying powers, and we wait to see the creative way in which these might be used. It is worth noting that, unlike the 1997 referendum, when the vote was very narrow, as the noble Lord, Lord Hain, mentioned a moment ago, in the 2011 referendum there was a landslide in favour of enhanced powers for the National Assembly, reflecting the extent to which the devolved system of government has been accepted by Welsh voters.

Successive opinion polls show that fewer than 20% of the voters would now opt to abolish the Assembly, and when they are asked whether they really want to revert to being governed by a Secretary of State like Mr Redwood, that figure rapidly shrinks. Of course, the Assembly has made mistakes over the years, one such being the disbanding of the Welsh Development Agency, which undertook excellent work. The noble Lord, Lord Rowe-Beattie, who was in his place a moment ago, played a vital part in the development of the WDA's work.

Of course people are critical, but nothing like as critical as they currently are of Westminster. That, no doubt, is the background to the independence rally, which attracted thousands of people to Cardiff earlier this month. The demand for independence is not as great in Wales as it clearly is in Scotland, but it is increasing, and the Brexit debacle is undoubtedly a

driving force for many people to look afresh at the independence question. If a hard Brexit comes about, the present trickle could well become a surge, and if Scotland becomes independent and Ireland is quite possibly reunited, leaving Wales as a very junior partner in a rump UK, the demand for independence in Wales will also rapidly grow. The prospect of a hard Brexit and an isolationist UK is a major driving force in that direction.

As the powers of the National Assembly have increased, the pressure on the 60-Member Chamber has become ever more acute. The need to scrutinise primary legislation, the need to hold the Executive more rigorously to account, and the need to engage with the implications of the new post-Brexit order, about which we heard a few moments ago, mean that a 60-Member Assembly is just too small. It compares with, I think, 108 Members of the Northern Ireland Assembly and 129 Members of the Scottish Parliament. The National Assembly is smaller than some county councils. Its needs to be increased for the next election to between 80 and 90 Members, who, to my mind, should be elected by the STV system of proportional representation. The additional list system currently used is seriously defective. It provides two classes of Member—one with intense constituency work and the other without the necessary focus that serving a constituency rightly imposes on AMs, as it does on MPs.

Fortunately, the design of the Senedd Chamber provides for such an increase at little cost. Incidentally, it is worth reminding the House that the cost of the Wales Senedd building—at around £60 million—compares rather favourably with that of the new Scottish Parliament building, but I will not follow that any further. In considering such electoral reform, I suggest that the Assembly would do well to enable young people aged 16 and 17 to become participant members of Welsh democracy.

Whatever criticism we might have of the Welsh Government in policy terms, they have overall been generally prudent in their use of resources, and, incredibly, were punished by the Westminster Government for being so. A decade ago, the Labour-Plaid coalition Government rightly decided to aggregate moneys which at the year end, for whatever reason, were not spent and to pool them into a fund for capital projects. The first such fund of some £400 million was used to invest in hospital and school buildings; the second fund, when it had reached some £300 million, was appropriated by the Treasury under the Conservative Government. That, frankly, was an absolute disgrace. What a way to reward financial probity.

While in theory the new constitutional settlement under which the National Assembly works, with a reserved power model replacing the conferred power model of the 1998 Act, is much more acceptable, as has been mentioned by a number of noble Lords, in practice the extent of exceptions and split authority renders it open to the same criticisms of opaqueness and uncertainty as was previously the case. You go around the square but in the opposite direction and sometimes arrive at the same point.

We get the impression in Wales that civil servants in Whitehall are still reluctant to recognise that in most devolved matters there should be a clean break to

facilitate clear lines of responsibility and answerability. Within the framework of a British state, which may or may not survive, there is a clear logic in having a federal model, with the clear-cut delineation of responsibility that that implies. This will become even more pressing if we leave the European Union, and powers—for example, over the UK single market or state aid—currently exercised in Brussels will in practice thereafter be centralised in London. That, frankly, is just not acceptable. It is as though EU responsibilities for the single market were put exclusively into the hands of Germany. Unless Westminster wakes up to this danger, it will become another driving force towards the break-up of Britain as we know it.

We need such a level playing field for a purpose: to trigger self-regenerative and sustainable economic growth in Wales that can at long last raise average incomes in Wales to an acceptable level. This has been one of the greatest disappointments of the economic failure of successive Governments both in Cardiff and in London. The ONS figures published today for gross disposable household income per head show that Wales is at the bottom of the UK table, both of nations and of regions. Our figure of under £16,000 per head compares with London standing at over £27,000 per head—an astounding 77% higher.

That is the pattern that we suffered before devolution and it persists. We desperately need a change of Government in Cardiff Bay to deliver economic regeneration for our country. In securing this, we need to see not just worthy plans, blueprints and initiatives, which the Assembly would be very good at; we need to ensure that these are turned into reality, which is sometimes more of a challenge.

Then there is the issue of which government functions are devolved and which, within the framework of the current devolution settlement, are best undertaken on a UK basis. This matter was addressed a few years ago by the Silk commission, of which the noble Lord, Lord Bourne, was a distinguished member. The commission recommended the devolution of police responsibilities to the National Assembly, and it did so after considering compelling reasons, including the fact that many responsibilities which impact on police work, such as highways, social work, community cohesion, mental health and local government, are all already devolved. Police and home affairs are devolved to Scotland and Northern Ireland, and I ask the Minister, in responding, to give some commitment that the Government might look again at this matter.

Finally, perhaps I may address an issue that is a challenge to the National Assembly: the erosion over the past 20 years of the media in Wales, as indeed elsewhere. The financial pressure on newspapers has led to a staggering reduction in the coverage of political and civic matters, and now we have the centralisation of commercial radio, with implicit uniformity of news coverage and the elimination of proper reporting of the National Assembly's work. The result is that the voting public are just not given in-depth analysis of the decisions and debates undertaken in the Assembly. Consequently, it is hardly surprising that turnout in elections has steadily reduced. This has to be addressed for the sake of effective democratic government.

[LORD WIGLEY]

The real test of the devolved system of government in Wales will come at the next election, when, for the first time since those heady days of 1999, there is a real possibility of the National Assembly not being governed by a Labour-led regime. Plaid Cymru and its new leader, Adam Price, in forming such a Government, will play a responsible part in improving the government of Wales within the present settlement, while of course seeking greater powers for the Assembly and seeking to retain Wales's essential links with Europe, which are so vital for our manufacturing and farming sectors, as well as for our cultural identity. This will inevitably lead to greater independence, but that should not frighten the citizens of our fellow nations in the UK. It is a matter of taking responsibility, and of mutual respect. It is a journey that we have already started, and it will go just as far and as fast as the people of Wales wish. It will be completed when we reach a stable, ongoing, harmonious relationship with our British neighbours and with the nations of the European mainland to which we belong.

Wales could do so much more to help itself, given a stable union of European nations within which to grow and flourish; given the powers to do everything we can to help ourselves; and given an appropriate voice within wider contexts, where decisions are taken further afield that influence our well-being and prospects. The step taken 20 years ago was in the right direction, but we have so much more to do. My party looks to an opportunity at the next election to lead Wales towards the self-fulfilment that is within our reach and thereby to contribute to our continent and to a wider world.

6.40 pm

**Baroness Bloomfield of Hinton Waldrist (Con):** My Lords, it is always a great pleasure to follow the noble Lord, Lord Wigley, whose long-term and passionate commitment to Wales and its interests is beyond compare. He was also very generous to me when he followed my maiden speech, I too having been catapulted into speaking in support of the Wales Bill on only my fourth day in your Lordships' House.

In the referendum of September 1997, having scraped over the necessary threshold of a 50% turnout, the Welsh people voted for the creation of a Welsh Assembly, now the Senedd. In fact, 6,721 people, or 0.6% of voters, determined the outcome. Some 20 years on, the existence of devolution is not in doubt. Indeed, it may have even assisted voter engagement. The turnout for the EU referendum was over 71%. This accords with the views of Raghuram Rajan in his recent book *The Third Pillar*—about different pillars from those of Iain Jamieson—that the decentralisation of powers and activities to communities draws them into political engagement.

But have these powers been used effectively? With power comes responsibility. I believe that, broadly, devolution has been a good thing for Wales—for the “civil and political landscape”, to borrow the phrase of my noble friend Lord Lindsay. However, despite the best efforts of successive Westminster Governments to cede further powers, it is still the weakest economy in the UK, bottom of the productivity league table and where income per head is still the lowest.

The Senedd itself has had some notable successes. As we have heard, Wales was the first part of the UK to charge for plastic carrier bags and it has pioneered a new approach to organ donation. Regarding energy, I am still hopeful that Wales will be the first country to pioneer a commercially viable way of harnessing its huge tidal range to generate electricity, and that the Trawsfynydd nuclear site will be used to trial a number of different small modular nuclear reactor technologies.

However, it is sometimes claimed that Wales is a series of artists' impressions: the Swansea tidal lagoon, the M4 relief road, the Circuit of Wales motor racing track in Ebbw Vale, and the electrification of the railway to Swansea. Some of these could have happened with more constructive support from the Senedd, but sometimes it appears that devolution stopped at Cardiff Bay.

We have watched as the Welsh Government have delivered a decade of underinvestment and underachievement in the education system; last year's GCSE results were the worst for a decade. Wales has the poorest educational outcomes in the UK and is now significantly behind many European countries. The per-pupil funding gap has widened with Welsh pupils receiving £645 less than their English counterparts. In the NHS, the Welsh Government are the only Government to have cut the health budget in modern times. The A&E target of seeing 95% of patients in the first four hours has never been met and the target of 95% of patients urgently diagnosed with cancer to start treatment within two months has not been achieved since 2010. All is not perfect in England, and I believe that social care provision in Wales is far superior, but it can no longer be argued that the funding is not there; the new settlement gives Wales £120 for every £100 spent in England.

It is of course essential that good, intergovernmental relations support the delivery of services and investment for all parts of the United Kingdom. The UK Government have played their part: scrapping the Severn Bridge tolls, investing £1 billion in defence spending supporting over 6,000 Welsh jobs, and delivering new funding from the city and growth deals for the whole of Wales. Major projects can and should happen; the M4 relief road, with £300 million of extra funding from the Conservatives, is vital for the future prosperity of south and wider Wales. Train journeys from Paddington to Wales will become 15 minutes shorter later this year, and there is the huge potential of building the West Wales Parkway station in Swansea, which could save a further 15 minutes on rail journeys to west Wales.

These projects should be the baseline of ambition for a great nation that has the funding and powers that it needs. We need a Government with the ambition to improve the lives of people in every corner of our wonderful country, because vibrant, economically strong and diverse communities all help to build a sense of identity and purpose in a world where global markets and remote governance have distorted the ambitions, hopes and expectations of the people they purport to serve.

6.45 pm

**Baroness Bryan of Partick (Lab):** My Lords, I very much welcome the opportunity to mark this historic moment, and I hope my voice will allow me to do so.

Looking back over 20 years of the Scottish Parliament gives us a reasonable perspective from which to consider the impact it has had. In the first Parliament, the Labour Party did its best to achieve equal representation of women by twinning the first past the post constituencies to ensure that 50% of its candidates were women. Even without the same level of commitment from the other parties, 37% of MSPs in the first Parliament were women. To put this in context, more women were elected on that one day than had been elected as MPs from Scotland in the House of Commons since 1918.

There has been much to celebrate but I share the worries of others, particularly about the increase in government centralisation at the expense of local government. In Scotland this centralisation includes police, fire and rescue and now schools. There has been a lack of courage to tackle some of the big problems, such as child poverty and falling life expectancy in some of our cities.

The groundwork for the new Scottish Parliament had of course been done by the Scottish Constitutional Convention, which spent much time trying to define the areas of competence that should be retained by the United Kingdom. They included defence, foreign affairs, central economic and fiscal responsibilities, social security and immigration. It gave the Scottish Parliament powers in relation to the Scottish economy and business, health, education, social welfare and the legal system. What this left out were issues where the European Union had primacy, such as the customs union, the single market—including procurement and competition rules—environmental issues, agriculture, fisheries and consumer protection.

Without the EU's regulations covering the whole UK, the 1998 Act would have had to specify which of those powers were to be retained and which were to be devolved. The discussion would have moved quickly to seeing the need for a cross-territorial body where the voices of the Scottish Parliament and the Welsh and Northern Irish assemblies could be heard. From there, it is likely that we would have been discussing the possibility of federalism.

While we are marking 20 years of the Scottish Parliament and Welsh Assembly and seeing changes in the Northern Ireland Assembly, it is an opportune moment to consider the constitution of the UK as a whole and how it has been affected by devolution. Since 1999, there have been a series of changes, with more powers being devolved to the Scottish Parliament and the Welsh Assembly. This did not stop in 1998.

As mentioned, across England, there are now nine metro mayors—all of them men—the London Assembly, police and crime commissioners, city deals, unitary authorities, metropolitan districts, county councils, district councils, London boroughs and, of course, the City of London. Since 2015, we have also had English votes for English laws. I appreciate that we do not necessarily want a one-size-fits-all approach, but we can probably accept that we have gone too far the other way.

The much-used quote from Ron Davies—that devolution is a process, not an event—has been proved right. The new powers gained by the Scottish Parliament over the years were not in response to any problem

with process, or due to the overwhelming demand from the electorate. Rather, they were a response to political problems. So it happened that more powers were devolved in 2012, when some of the original powers had never actually been used and, in 2016, the Scotland Act introduced extensive new powers when some of the powers provided in the 2012 Act had not even come into effect. We cannot just keep adding to the list of devolved powers without stopping to think of the impact on the UK as a whole.

Whatever the outcome of the withdrawal from the EU turns out to be, there is a need to look at how the parliaments, assemblies and regions of England interact with each other. The aim should be to promote a way of working that is not competitive but co-operative, and where cross-territorial issues can be discussed in an open, transparent and accountable forum, rather than being confined to intergovernmental or joint ministerial meetings.

In our devolved arrangements, we have the basis to give us the shape of a federal UK. I would hesitate to become involved in the discussion over the representation of English regions. Instead, I bow to Billy Bragg, who suggests that the European Parliament constituencies could be used to enable regional representation. Common interests will be found across borders between Scotland and the north of England. Rural communities, fishing communities and industrial centres will all find areas of shared interests and work together to improve their sectors. Such an arrangement would enable the redistribution of wealth throughout the UK, and relationships between the parliaments and assemblies would be based on partnership not hierarchy. I hope noble Lords will agree with me that this House could usefully be replaced by an elected Senate of the nations and regions.

6.53 pm

**Lord Thomas of Gresford (LD):** My Lords, I remember very well 18 September 1997, when the referendum result was announced. The cacophony were at the count in the College of Music and Drama. The rest of us—the workers—were at the Park Hotel. Tension mounted, because the yes vote was falling behind. Then the very last result was that Carmarthenshire had voted by 65.5% in favour of an assembly. That was 6,721 votes out of the well over 1 million cast altogether.

It was a consolation for the noble Lord, Lord Bourne, that it was as narrow as that. He was the chairman of the Just Say No campaign. For me, it was the end of a long campaign for devolution. My noble friend Lady Randerson referred to the Government of Wales Bill of 1967, presented in the House of Commons by Emylyn Hooson MP. Emylyn was a very good delegator. “Just draft a Government of Wales Bill for me, will you, Martin?” he said. That is how the Bill came into being. It was presented in this House by Lord Ogmores. It may interest the noble Lord, Lord Bourne, and other noble Lords to know that the assembly I proposed was called the Senedd. Now, 50 years later, we are finally getting there—I have always been 50 years ahead of my time.

My next memory is of 26 May 1999, the day the Assembly opened. I was there as a guest and was in the Assembly chamber. I had been invited by my noble

[LORD THOMAS OF GRESFORD]

friend Lady Humphreys, a new Member, to look at her desk and all the accoutrements there. I noticed on the television in the chamber that the Queen had just stopped outside the building in her landau. I thought I had better get out of there, so I went through the door. There was a long lobby, which had been very full, but was now completely empty. I saw 150 metres of red carpet, with the Queen at the far end being greeted by Dafydd Elis-Thomas, the then convenor. I wondered what to do. Should I go left or right? There was no exit, but there was a little alcove. In the alcove was the chorus of the Welsh National Opera, who were to sing a specially composed piece as the Queen went past. I joined the basses. I held out my programme and, as the Queen went past, John Redwood had nothing on me and the passion with which I delivered that piece, I can tell you.

The Assembly grew in prestige and embedded itself in the national life of Wales. Other noble Lords have spoken of its achievements and I will not repeat them. What was important was that the elections were based on a form of proportionality. It was not the most satisfactory one but it was the result of a compromise, a deal, between Labour, who were all for first past the post, the noble Lord, Lord Carlile of Berriew, for us, and the noble Lord, Lord Wigley, for Plaid Cymru. We had a degree of proportionality. Of course, this resulted in coalition Governments who were remarkably stable. Labour led every Administration and has continued to do so—I agree with the noble Lord, Lord Wigley, that there should be a change—but Liberal Democrat and Plaid Cymru Ministers acting in coalition, separately and at different times have made very significant contributions. Kirsty Williams, the current Liberal Democrat Member of the Assembly Government, is certainly making a magnificent contribution.

In 2011, the confidence of the Welsh people in the new Assembly was shown by the two-thirds majority who voted in the national referendum in favour of full legislative powers. That is not finished. We need, and have always needed, to expand the numbers from 60 to 90. Indeed, the Assembly building was built with that capacity, just in case we ever get round to increasing the number of Members. Accountability in the Welsh Assembly is not as strong because of this. Some 40% of the Members are Ministers of one sort or another.

I turn to the present. At the moment, it is like a car crash. I do not know if noble Lords have ever been in a car crash, but I remember two in particular, which happened when I was driving on ice. You have no control; you cannot steer or brake. All you can do is wait for the bang. In one of those crashes I hit a line of fence posts, two of which went through the windscreen with sufficient power to whistle past my ear and go out through the back. They went all the way through the car and another came in from the side. The feeling you cannot control is how I feel at the moment, considering where we are in politics: how have we got here?

What contribution have the devolved Administrations been asked to make to the negotiations? After the 2016 referendum, a joint ministerial council was established—the JMC (EU Negotiations). Its terms of reference were to,

“seek to agree a UK approach to, and objectives for, Article 50 negotiations”.

That was before the withdrawal process had even begun. It had a few preliminary meetings but did not meet at all between February and October 2017. Article 50 was invoked without any attempt to develop a common UK approach. The devolved Administrations were ignored. The European Union (Withdrawal) Bill was published without consulting Cardiff and Edinburgh at all. There was no attempt to involve Members or officials from the devolved Administrations in the negotiating team. Protests from Mark Drakeford for Wales and Mike Russell for Scotland to David Davis, who was then trying to negotiate, were ignored and not replied to.

After considerable pressure, including from this House, the JMC (EU Negotiations) met in October 2017 and agreed that powers repatriated from Brussels would in devolved areas pass to the devolved Administrations, but that new “common frameworks” would be required to limit policy divergence in the UK. A new inter-ministerial group was created in February 2019 on the key areas of environment, food and rural affairs. The analysis we saw last April shows that the Government expect there to be 21 areas where legislative frameworks may be required, chiefly in agriculture, fisheries, health and food standards.

But has there been any agreement between the UK Government and the devolved Administrations? Not at all. Scotland refused legislative consent to the European Union (Withdrawal) Bill and has indicated it will withhold consent from the Trade Bill, the Agriculture Bill, the Fisheries Bill and any other Brexit Bills, whenever they resume their stumbling progress. Two months ago, in March, Mike Russell, the Brexit chief in Scotland, said that,

“the Scottish Government is refusing to have any truck with the UK Government’s invented concept of the supposed needs of some non-existent ‘UK Single Market’”.

Noble Lords might think that there is a considerable amount of work to be done to get the Scots, and indeed the Welsh, on side. Never mind trade deals all around the world if Brexit goes through, with people shooting off to China or Australia; what about holding the United Kingdom together? I believe, and I have said in the House before, that Brexit means a united Ireland and an independent Scotland. The tectonic plates will move inexorably in that direction.

In Wales, there is particular concern about the loss of European structural and investment funds, which have been very important to Wales and made us net recipients of funds from Europe. The UK shared prosperity fund has been loudly trumpeted, but is it anything more than a name? Who is designing it? What are the criteria for eligibility? Will it be GVA per head, as now? The noble Lord, Lord Wigley, pointed out that Wales has the lowest GVA per head at I think £16,000, as opposed to the English £27,000. Will it be the regional human poverty index? Will it be measures of disposable income? In particular, how will this shared prosperity fund be shared? As a devolved matter, will it be administered by a Welsh, Scottish or Northern Irish Administration? If we crash out on 31 October, will this shared prosperity fund suddenly come into being on 1 November?

When you step out of the car crash and see the remains all around you, you look for help and guidance. Where will we find the vision, leadership and energy to deal with these internal pressures and tensions—never mind foreign trade—to manufacture the economic frameworks, to design the shared prosperity fund, and to reconcile the devolved Administrations and their Parliaments, which have been disgracefully overlooked in the negotiations? Will we look to Mr Nigel Farage and his cronies to provide that leadership, vision and reconciliation? I do not think so. He said this morning that he is looking forward to returning to the pub next week, where no doubt he will hold court about the great betrayal. There is the whole raft of Tory aspirants to leadership running around presenting their wares to their members. Which one of them, still declaring his or her eternal support for Theresa May while manning the telephone banks, has the courage and the ability to do what is so necessary for Wales, Scotland and Northern Ireland?

The debate is about the role of the devolved Administrations in the governance of this country. All I can say is, “Don’t panic! Don’t panic!”

7.06 pm

**Lord Bew (CB):** My Lords, this has been a very happy birthday party so far. I am almost reluctant to admit that 20 years ago I wrote a lead piece for the *Spectator* that was pro devolution but worried about some of the ways in which it might develop. In view of that, I stress that I am a strong supporter of devolution and was a strong supporter of the Good Friday agreement before it became quite the fashionable cause it has become, and I recognise that we need to have devolution in the United Kingdom. I absolutely take the points made very powerfully by the noble Baroness, Lady Bryan, about the promotion of women in politics—devolution has been a very positive thing in Scotland—and by the noble Baroness, Lady Bloomfield, on social care in Wales. None the less, as we have had quite a happy party, I want to draw attention to some of the less successful aspects of devolution, particularly in my own part of the United Kingdom—but I will talk a little about Scotland and Wales as well.

One of our 19th-century monarchs famously said that Catholic emancipation in 1829 was one of those issues on which all the fools and bigots had turned out to be right and all the intelligent wise men had turned out to be wrong—by which he meant that Catholic emancipation had not solved the Irish question and that Irish nationalism continued to be a very troublesome issue. It was a perfectly fair royal observation. If noble Lords look at the speeches during the Catholic emancipation debate they will discover all the wise men saying, “If we can only get our heads around this difficult issue, the world will be a vastly better place”. It did not actually really become a vastly better place.

If noble Lords look at the speeches when we decided 20 ago to go for devolution, one theme comes up again and again, in this House and the other place, repeated ad nauseam: “Get our heads around the question of Scottish devolution and I can assure you that Scottish nationalism and the thirst for Scottish independence is dead. Finito. We will never be bored again by the Scottish National Party”. Every wise man and wise

woman said that—but it did not turn out to be true. That is why sometimes 19th century kings have a point.

It very important to understand that, if I can say this more darkly, devolution was born out of our failure in this Parliament. In terms of the Celtic regions of the United Kingdom, we ceased to be an imaginative focus for a community. We must always remember that devolution is born out of a central failure. We are making the best of a bad job. It would have been better had we not failed in this way—but we did, and I accept that. It is the only way, and for a long time now I have been a strong supporter of it, particularly in the context of Northern Ireland. However, there is a rosy way of talking about devolution which means that we do not see its darker sides and its weaknesses, and then we are surprised when they turn up in the historical record—or we are surprised that, funnily enough, the SNP did not just go away, despite the appearance of devolution. We have to understand the springs of local nationalisms. Not all of them are easily placated in any given circumstance by any given devolution.

There is a way in which the wise, cultivated mind of the country has tended to deceive itself. The conventional wisdom of every single book of 20th century British history which discusses these matters, without exception, is that the failure by Conservatives and Ulster Unionists to grant home rule meant that Ireland left the United Kingdom, and the failure was responsible for the 1916 rising. Noble Lords can go to our excellent Library and will not find a historian who says anything else.

At this point, you might stop and think, “What does Scotland tell us?” Actually, that one can give devolution and then nationalism becomes even more intense, almost to the point of taking us out of the United Kingdom. I do not wish to insult Scottish nationalism, but the reasons for it, the historical legacy it draws upon, are as nothing compared to Irish nationalism. The poll tax is not the same as the famine; it is as nothing, and yet it almost took us out of the United Kingdom. Therefore, why for so long have we assumed that devolution for Ireland would have solved all the problems? It would not have—Scotland’s history over the last 20 years tells us that.

We want to believe these benign things about nationalism, but it is not always such a benign force, and not always as easily placated as we would like. All of this I say as somebody who now believes that this is a crucial moment in the history of our devolved settlement, because it is undoubtedly challenged by Brexit. There is no question about that. I hope that my friends in Dublin will not hear us—they would get quite a shock. It would cause a lot of indigestion tonight if they thought that they would be acquiring Northern Ireland any time soon—so I hope for their sake they are not paying too much attention to Lords debates.

There is no question but that Brexit is destabilising Northern Ireland, although the extent of that should not be exaggerated. The balance between unionism and nationalism is essentially the same as it was before Brexit—but none the less Brexit has destabilised the place, even if people tend to exaggerate that. It is remarkable to me how little traction Scottish nationalism

[LORD BEW]

has gained from Brexit, which is, in many respects, a wonderful issue for it—although that does not mean that the argument is over or closed.

There is no alternative to making this system work. I will simply advocate a slightly more cautious, less starry-eyed way of talking about it. The noble Baroness, Lady Randerson, rightly said that there are certain things that have flowed from the EU which we have accepted but which are now going to be contentious, precisely because of this. I was in Cardiff this week, at the National Assembly, as chair of the intra-UK allocations review, which is trying to take some of these incoming problems to a better place. I also met with the Welsh Assembly's environment committee, which is a clear-cut success for Wales. As has been said already, Wales has been ahead of UK policy in this respect and has set a fine example.

However, the noble Baroness, Lady Bloomfield, made a key point about Wales: the numbers and figures for Welsh educational achievement at any level are not impressive. That is putting it very kindly. This is part of the United Kingdom with a tremendous educational tradition. There is a problem with resources, which is also true of Scotland, which also had a tremendous educational tradition, and where again the numbers are not great. One would have thought that devolution in education and health would have been tremendously successful. It is often argued that in smaller countries in Europe the Education Minister can get a grip on what is required in terms of policy, can talk to a lot of headmasters and top people in education and push through a policy. There is a lot of evidence to suggest that a smaller country can get a good education policy going and introduce necessary reforms, but that does not seem to be happening in our devolved areas.

Northern Ireland also has a younger population than the rest of the United Kingdom. Therefore, why, even under devolution, are there longer hospital waiting lists and a general crisis in the National Health Service? Surely it is capable of some local policy-making to deal with the problem, since it does not have the ageing population which explains so many of the problems in the rest of the United Kingdom.

So it is important to retain a degree of balance when talking about devolution. There is no alternative to the Good Friday agreement in Northern Ireland. Everything that was said by the noble Lord, Lord Hain, was entirely correct, and I particularly support what he said about victims. I have one area of dissent in defence of Her Majesty's Government, which is that there is a double problem here. You can argue that the Prime Minister does not have a feel for Northern Ireland the way that recent Prime Ministers had, but we also have an Irish Prime Minister who has no feel for it in the way that other Irish Prime Ministers did. It is a double problem. These problems with devolution are not simply our Government's fault. However, there is more chance of a deal in the next few months. It will not happen quickly, but there is more of a chance, and a new mood. The local government elections clearly showed that there was a better mood and a desire for a return of the Assembly.

However, before we get there, the consequences of the RHI heating scandal will have to be sorted. I will make a couple of observations on this. First, was it really wise for the centre to say, six or seven years ago, "We don't need a Committee on Standards in Public Life in the devolved areas"? Are we sure that the Nolan principles have been respected more vigorously as a result of that decision in the devolved areas? Does this scandal—however you define it—suggest that the Nolan principles were really taken on board by many of the people in the Northern Irish Government?

Secondly, there is the major reform of the coalition period. The noble Lords, Lord McNally and Lord Lester—and, indeed, Lord Thomas—played a major role in libel law reform. That does not apply in Northern Ireland. The result is that we have a fantastically litigious local political class—our last remaining entrepreneurial activity is libel law. The achievement of the noble Lords was to open up a bias in favour of honest investigative reporting, making it easier to be an honest investigative reporter without being worried about landing up in court for libel—but it did not apply in Northern Ireland.

Is that unconnected with the fact that we had this scandal? Northern Ireland retained the old law, as, under devolution, it was perfectly entitled to do. It is a little example of the way in which devolution is sometimes not very progressive at all, while the things that come from the centre are that little bit more progressive. That is one of the things that stands in the way. The judge-led report will come out next month, and it will have to be cleared out of the way before we see a return of devolution. But there is significantly more chance of a return to power-sharing devolution than there was a few months ago. I think that is widely accepted, even though it is still a difficult path.

Perhaps by the time of the next birthday party for devolution that we have here 20 years from now I would like to see Scottish and Welsh education figures looking a lot better than they do today. That would be a tremendous, positive thing for devolution. As I mentioned, I would also like to see a better record on the health service in Northern Ireland. But above all, I would like Northern Ireland to make the transition from a form of devolved government that is—rightly and inevitably—essentially community psychotherapy in the form of a power-sharing Government, to something else. We will need a transition from that towards a form of devolved government that has as its main principle the objective of good government.

7.19 pm

**Baroness Gale (Lab):** My Lords, I thank the Minister very much for bringing this debate before us today, as we mark the 20th anniversary of devolution. I intend to speak on Welsh devolution, the impact on women in Wales and how the Welsh Assembly's actions have influenced not just Wales but the whole UK Government agenda.

At our first elections in May 1999, there were more women elected in one day than the total of Welsh women who have been elected to the House of Commons in the 101 years up to today. Twenty-four women were elected, while by that time only seven Welsh women in total had ever been elected to the House of Commons. At the time of the first elections to the Welsh Assembly

in 1999, there were only four women from Wales in the House of Commons. In the five elections to the Assembly over the last 20 years, 61 women have been elected as Assembly Members—as opposed to 20 Welsh women MPs in those 101 years. My honourable friend Ruth Jones MP became the 20th Welsh woman MP only a few weeks ago, after the Newport West by-election.

By the time of its second election in 2003, the Assembly had 30 women and 30 men. The *Guardian* reported on this event by saying:

“A world record was set yesterday when the Welsh assembly became the first legislative body with equal numbers of men and women. Women’s rights groups hailed the breakthrough after 30 women were elected to the 60-strong assembly—an increase of five. Labour did best, with 19 women and 11 men, allowing the Welsh assembly to overtake the Swedish parliament, where women account for 45.3% of members. The Liberal Democrats and Plaid Cymru both returned 50% women. The Tories, who have struggled to select women in winnable seats, also did better: two of their 11 assembly members are women”.

That was a great result for women in Wales, but the Assembly has been a pioneer in many other ways.

In 2000, the Welsh Cabinet became possibly the first executive body in the world to have a majority of women Ministers, with five in the nine-member Cabinet. It was regarded as a milestone in equal opportunities when, as First Minister, the late Rhodri Morgan made the appointments. The present First Minister, Mark Drakeford, has appointed eight women and six men to his Cabinet and he plans to have the first feminist-friendly Government in the UK. I am looking forward to seeing how this will progress.

Wales has led the way in equal representation for women. It is the best in the United Kingdom—47% of Assembly Members are women, compared with 35% in the Scottish Parliament, 32% in the Northern Ireland Assembly and 32% in the House of Commons. The House of Lords has the lowest representation, at 26%. Has the fact that there has been a good number of women in the Welsh Assembly made any difference? I believe it has. First, the Assembly looks more like the people it represents, while women are visible in a way that was not possible before devolution. They provide good role models for women in Wales and bring new and different ways of thinking to the legislative approach, and to what is needed in Wales. The pioneering role can be seen in many fields such as the Children’s Commissioner for Wales—the first in the United Kingdom. The Commissioner for Older People in Wales was the first such post, it is believed, in the world. The commission for future generations is the first appointment of its kind in the UK.

Passing the Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016 meant that, together, these Acts will change the way decisions are made in Wales, ensuring that we act in the interests of future generations and put sustainability at the heart of policy. The Environment (Wales) Act was described as “world-leading legislation” to tackle climate change. It contains strong environmental aims, puts sustainability at the heart of the decision-making by Natural Resources Wales, and has tough targets for reducing greenhouse gases and emissions and increasing recycling rates. Wales now has the third highest recycling rate in the world.

Wales has also led the way in the UK by passing the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act. This Act was designed to improve the responses of all public bodies in Wales to all forms of violence against women, domestic abuse and sexual violence. It has put a duty on Welsh Ministers to appoint a national adviser—again, the first of its kind in the UK. Under the Human Transplantation (Wales) Act 2013, Wales became the first country in the UK to introduce an opt-out system for organ donations when it came into force in December 2015. The Trade Union (Wales) Act 2017 and Agricultural Sector (Wales) Act 2014 demonstrated that the Welsh Government will take action to protect Welsh workers and their rights when they are threatened by the UK Government. The Trade Union (Wales) Act disapplies parts of the UK Government’s Trade Union Act from devolved Welsh public services; and the Agricultural Sector (Wales) Act established a scheme for the regulation of wages in the agricultural sector in Wales, after one was abolished for the United Kingdom.

We know that a number of other achievements have made such a difference to people’s lives. Examples include free bus travel for over-60s and disabled people; free swimming for children and older people; free school breakfasts; free prescriptions; free hospital parking; free entry to Cadw sites; and, really, importantly, free child burials. The ban on smoking in school grounds, hospital grounds and playgrounds was the first in the UK. As I said earlier, Wales has the third highest recycling rates in the world and almost half the electricity used in Wales in 2018 was generated from renewable sources.

I believe that a Welsh Government Bill will soon be presented to remove the defence of reasonable punishment and so protect children from assault. It is being considered by the National Assembly. There will also be votes for 16 and 17 year-olds in local government and Welsh government elections. For a small country such as Wales, with a population of just over 3 million, devolution has made a great impact on the lives of Welsh people, giving a big platform to women and allowing a bigger say on what happens in Wales. It brings decision-making closer to the people and allows minority voices to be heard, including the voices of children.

While devolution has been a great success, since 2010 the Welsh Government have experienced big cutbacks to their expenditure. When there are really big cuts, how difficult it is for the Government to carry out all the work they would love to do in Wales. I recently heard Mark Drakeford say how much these cutbacks had impacted on the work of the Welsh Government. I hope that something will be achieved by this debate emphasising what we have done in Wales, but we could have done a lot more if we had not had these drastic cutbacks in our expenditure.

However, we can be hopeful in looking ahead to what the next 20 years might bring. I hope that includes an enlarged Welsh Assembly with at least 80 Members. I agree with what the noble Lord, Lord Wigley, said about having a bigger Assembly. I think everybody agrees on that now—we need a debate on it. Perhaps it should have been bigger from day one. We can do something about that. We should have a big discussion

[BARONESS GALE]

on what voting method we have. All Members should be elected on the same basis and not with the two tiers that we have now. I am sure that that will come about.

I am looking forward to the next 20 years. I think that we shall see big improvements and we will continue to work for the benefit of Wales. I am sure that we will see a bigger Assembly and a much better voting method, which I think would reflect what the people of Wales want.

7.30 pm

**Baroness Humphreys (LD):** My Lords, I am delighted to take part in this debate and to join in the celebration of 20 years of devolution to Wales, Scotland and Northern Ireland. It is an issue that has been a massive part of my adult life, and I welcome the progress that I have seen.

For those of us of a political disposition in Wales, the defining question has always been: do you believe in independence or in home rule for all the nations of the UK, or do you believe in what used to be the status quo—government from London? In the late 1970s, when I was a political animal searching for a political home, even though I lived in Liverpool at the time I realised that that question would still define my decision. My political home became the then Liberal Party. The party of Lloyd George still carried his commitment to home rule and, to me, devolution of powers to the nations of the UK under a federal system was the most sensible and pragmatic way forward. I believe that it still is and hope that it still could be.

I was a Member of the National Assembly for Wales for a relatively short time in its first session in 1999. It was a heady, exciting but sometimes confusing time, as the dream was replaced by reality and the Assembly struggled to find its purpose. The initial settlement conferred on our National Assembly was different from that for Scotland. Without the ability to pass its own primary legislation, our new Assembly sometimes seemed a toothless dragon.

In 1997, the dragon had been ready to roar. The result of the referendum, narrow as it was, buoyed us all. The yes campaign had been well organised. I pay tribute to those Members of this House who led that campaign: my noble friends Lady Randerson and Lord German and the noble Lords, Lord Hain and Lord Wigley. Those of us who supported that campaign owe them our gratitude.

The first couple of years of the National Assembly were dogged by political instability and it was obvious that a partnership Government would be required. In 2000, the Liberal Democrats joined the Labour Party to form that partnership Government. My noble friend Lord German became Deputy First Minister and my noble friend Lady Randerson took on the role of Minister for Culture, Sport and the Welsh Language. This made my noble friend the first female Liberal in the party's history to hold ministerial office.

Both my noble friends made an impact on the Assembly, with my noble friend Lady Randerson introducing Iaith Pawb, the first attempt by the Welsh Assembly Government—apologies to the noble Lord, Lord Wigley, but it was the Welsh Assembly Government

at that time—at a policy on the Welsh language. This was introduced in March 2003 as *A National Action Plan for a Bilingual Wales*.

As we celebrate its 20th anniversary, the National Assembly for Wales is no longer a toothless dragon. As other speakers have pointed out, in 2007 it gained partial powers to pass primary legislation and gained full legislative powers in 2011 following a referendum where two-thirds voted in favour. The Wales Acts of 2014 and 2017 extended the range of policy areas over which the Welsh Assembly now has control, and I am proud that I was able to play a very small part in the debates on the two Bills.

It would be a mistake to think that everything in Wales is now perfect. Among some of the electorate, there is a lack of understanding and knowledge about the powers and responsibilities of the Assembly, with some still astounded that the Conservative Government in Westminster are no longer responsible for the NHS and education in Wales. Perhaps that could be put down to the lack of media presence in Welsh government talked about by the noble Lord, Lord Wigley.

Within the Assembly, there are issues still to be addressed. An expert panel led by Professor Laura McAllister of Cardiff University concluded that the Assembly needs another 20 to 30 Members to do its work effectively. It also recommended that 16 and 17 year-olds be allowed to vote in Assembly elections and that future elections be held under the more proportionate STV system.

The need for further Members is increasingly obvious: the Assembly is taking on more powers, leading to the need for more legislation. More legislation leads to the need for more scrutiny and the Assembly Members outside the Executive are already hard-pressed to meet the current scrutiny needs. Poor scrutiny, as those of us in this House know, leads to poor legislation.

Wales needs a different electoral system, and the power to change it now lies in the hands of the Assembly. The present system, where 40 constituency seats are decided by the first past the post method and 20 regional top-up seats are decided using the d'Hondt system, has resulted in 20 years of either a Labour-dominated or a Labour-led Assembly. This is set to continue, but one-party government in perpetuity is not good for the Assembly, the electorate or, I would argue, the Labour Party itself.

When Professor McAllister produced her report in 2017, its recommendations were widely welcomed and it was anticipated that they would be put in place for the next Assembly elections in 2021. Unfortunately, that timescale appears to have slipped. I urge the Welsh Government to take these recommendations forward and ensure that our future Assembly has the tools to do its job and is truly representative of the people of Wales.

In the referendum of 1997, the people of Wales—probably unknowingly—followed the advice of Lloyd George, who said:

“Don't be afraid to take a big step ... You can't cross a chasm in two small jumps”.

In voting for devolution, the people of Wales took that big step. I am convinced that those who voted for it do not regret their decision.

Like any other legislature, the Welsh Assembly will have its problems, but it will change, develop and grow. I wish it well for the next 20 years of its existence.

7.39 pm

**Lord Foulkes of Cumnock:** My Lords, it is a great pleasure to follow the noble Baroness, Lady Humphreys. This has been a good, friendly and respectful debate—until now, anyway, and after me is the noble Lord, Lord Cormack. I know that the noble Lord, Lord Steel, the noble and learned Lord, Lord Wallace, and my noble friend Lord McConnell would have liked to be here to take part, but unfortunately this debate coincides with a celebration in Holyrood of the 20 years of Scottish devolution, which is a pity. However, devolution in Scotland did not start 20 years ago. As the noble and learned Lord, Lord Hope, will remind us, after the Act of Union in 1707, because there was a recognition that Scotland had a separate legal system—something that has been maintained ever since—a Secretary for Scotland was created in 1707. Indeed, it was the Earl of Mar. It is a great pity that his descendant, the noble Countess, is not here today—it would show the whole lineage, all the way down.

In fact, there were Scottish Secretaries on and off for a while until, in 1885, the position of Scottish Secretary was recreated, becoming Secretary of State in the Cabinet in 1926. From then on, the functions of the Secretary of State—the functions now exercised by the Scottish Parliament—were carried out by one Secretary of State and three junior Ministers. That is astonishing. It was okay when it was Willie Ross in charge—he managed it well. There is the story of Frank McElhone, who, when he became Under-Secretary of State eventually got an audience with Willie Ross, great man that he was, and said, “Secretary of State, what do you want me to do?” to which Willie said, “You’ll do as you’re told”. And he did. I was going to say, “Ye’ll dae as yer telt”, but I thought I would say it in English so that others would understand.

There was no proper democratic accountability at that time. Those of us who were in the House of Commons will know that there was no real time for Scottish legislation—or indeed Welsh legislation when it was necessary, but particularly Scottish legislation. That is why some of us—Donald Dewar, Jim Boyack, my noble friends Lady Ramsay and Lady Adams, the noble Lord, Lord Elder, and many others—fought in the Labour campaign for a Scottish Assembly, as we called it. Eventually it became the campaign for a Scottish Parliament, of course.

Then we had the 1979 referendum, which we won, as my noble and learned friend on the Front Bench brilliantly said, by exactly the majority by which the leave campaign won. Of course, that was not considered a mandate for constitutional change and a Scottish Parliament, but now it seems that it is acceptable—to some. That was because of the George Cunningham 40% threshold. So devolution was strongly supported by Labour and the Liberal Democrats, by the trade unions and lots of others in civil society, but interestingly not at that time by the Conservatives, although the noble Lord, Lord Bourne, the noble Baroness, Lady Goldie, and others got behind it eventually, and it was not supported initially by the SNP.

From the 1997 referendum, of course, we got the first democratically elected Parliament in Scotland. I take issue with Winifred Ewing, a wonderful woman whom I greatly respect. She has done a lot for Scotland but when she said, as she took the Chair at Holyrood, “I declare Parliament reconvened”, it was not. It was the first democratically elected Scottish Parliament and to compare it with 1707, with all the Lairds who were in there and the undemocratic nature of that Parliament, was unfortunate. It was the first directly elected Scottish Parliament. Just at that time Salmond, wily old fish that he is, saw the opportunity of using devolution as a stepping stone or a slippery slope towards separation. My good friend the noble Lord, Lord Robertson, who was here earlier, thought devolution was a bulwark against separation: the jury is not completely finished yet on the outcome of that, because we do not yet have separation.

My first point is that devolution and separation are completely different concepts. Some people confuse them accidentally, others confuse them deliberately, to confuse people. They are fundamentally different. Devolution implies remaining part of the United Kingdom. I will come back to that. Separation, with no disrespect to my good friend the noble Lord, Lord Wigley, means being separate. There is an argument for that. I never argue that Scotland is too small, too wee or too poor to be separate, if you want to do that, but, like others, I want to remain part of the United Kingdom. Devolution implies remaining part of the United Kingdom and separation implies breaking up.

We have had devolution for 20 years and I think that in Scotland there have been two phases. In the first, we co-operated very much with the Liberal Democrats. I see that the noble and learned Lord, Lord Wallace, and my noble friend Lord McConnell have recently been quoted talking about how they worked together in a coalition. That was an effective coalition: some Liberal Democrats might know that not all coalitions are quite as constructive and effective. We saw the smoking ban, which I campaigned for strongly as a member of Action on Smoking and Health, and we saw free care for the elderly—at least some on aspects of care—and a lot of advances in services because of devolution.

Then, in 2007, there was a change in how the Parliament operated. Salmond and Sturgeon have clearly and unashamedly made the Scottish Parliament their platform for separation. They are using it as a campaign tool to get separation. Remember I told noble Lords about Willie Ross and his three Under-Secretaries of State running the Scotland Office? They now have 12 Cabinet Ministers and 14 other Ministers—26 Ministers in the Scottish Parliament out of only 62 SNP MSPs. When you think that some of the others are PPSs, you realise the grip that the SNP now has. Then there are dozens of special advisers. Millions of pounds are being spent. I say to my good friend the noble and learned Lord, Lord Hope, that some people in Scotland do not fully realise what is happening in Scotland at the moment. They are travelling around Scotland pursuing their case for independence, using everybody’s money, because it is not just Scottish taxpayers’ money. We pay more tax in Scotland now, but it is everybody’s money being spent to promote that case.

[LORD FOULKES OF CUMNOCK]

I want to deal with one or two other points that have come up. A number of Members have mentioned the electoral systems in Wales and in Scotland. There was supposed to be a review of the electoral system. My noble friends Lord Elder and Lady Ramsay will remember that that was one of the recommendations of the Scottish Constitutional Convention. No review has been undertaken and it is long overdue. I agree that to have two different kinds of elected Member is unfair. You have constituency Members working hard and list Members taking it easy. There is something else wrong with it as well. I was elected as a list Member doing very little—I was going to swear but I am not allowed to say “bugger all” in this place—and spending nothing, not a penny, in that campaign. That is how crazy the system is. I was top of the list in Lothian and the reason I got elected was that Labour lost two constituency seats and I just managed to scrape in at the bottom. I will say that I worked hard for the four years I was in the Scottish Parliament, but I could have got away with doing very little indeed.

Secondly, I am concerned that there is no revising procedure. We all thought—my noble friend Lady Ramsay will remember this—in the Scottish Constitutional Convention that the committee system, once we set it up, would act as a second look at legislation. It is just not working, and we need to review it. I am not suggesting that they should have a “House of Lairds” up there, but there needs to be some arrangement for scrutiny and we need to use it.

I will also mention the call for more powers. How many times do we hear that? Sturgeon and her lieutenants are saying it all the time, but they are unable to use the devolved powers for social security that they already have. They have headed the matter back to Westminster. That therefore needs very careful consideration. As someone else said, what we have seen in Scotland is not devolution but centralisation of not just the police force and fire brigade but many other things as well. Local government is also really suffering.

Others will touch on this, but we will regret moving out of the European Union. We could see the break-up of the United Kingdom. The case for an independent Scotland will grow and the case for a united Ireland will grow. It will be a terrible legacy for Cameron and May—Conservatives and, I am led to believe, unionists—to leave: architects of the break-up of the United Kingdom.

Last among this miscellany is the question of the British Transport Police, which I address to my really good friend, the noble Lord, Lord Duncan of Springbank. How are we doing on that? It shows how devolution can be done in two different ways: a right way and a wrong way. The wrong way was to break up the British Transport Police, which the SNP was proposing. The right way was what I, the noble Lord and others here today strongly advocated: keeping the British Transport Police operating effectively and efficiently, as it is at the moment, but responsible to Holyrood for operations in Scotland and to Westminster for operations in the rest of the United Kingdom.

How do we explain the SNP success in Scotland? I am told that confession is good for the soul—I have not found that yet, but maybe I will get it eventually—and

in this case it is because of the Labour Party’s failure on the constitution. We have not followed up devolution in the way that it should have been followed up. In particular, we have not understood what needs to be done for England and encouraged English people like the noble Lord, Lord Cormack, to look at England and find ways of giving power to its regions. I am not saying that it should be broken up, and there may be other ways of doing it. It is probably right that legislation be made on an all-English basis.

**Baroness Adams of Craigielea (Lab):** On that point about England not dealing with its own home affairs separately, when we had devolution the home affairs of everyone else were devolved to their institutions. England’s home affairs are still decided within a United Kingdom Cabinet. The argument should always have been that it is up to England how it settles its own home affairs.

**Lord Foulkes of Cumnock:** My noble friend is absolutely right. She has put her finger on it and I agree with her 100%. This supposed solution of English votes for English laws is entirely unworkable. We have already seen that.

What we need is proper devolution to the regions of England. To be fair, the Government are doing it for the cities, but what about the rural parts of England that are as important as London or Manchester? What about Lincolnshire, to take a random example? It may be asymmetric—I am not suggesting a uniform system—but it is not up to me anyway. It is up to English people, and we need to encourage them to have a mechanism for looking at it just as we did in Scotland with the Scottish Constitutional Convention. People tend to forget that the Scottish Constitutional Convention was set up by Labour, the Liberal Democrats and civic society in opposition; my noble friend Lady Ramsay was one of its joint chairs. It was not the Government who set it up, but when we came into government we used it as a blueprint. I have been asking the leader of the Labour Party and others for the last four years why we cannot do it for England as part of a settlement for the United Kingdom. That really needs to be done.

I want to see the kind of empowerment that we have seen in Scotland, Wales and Northern Ireland come to the people of England. Once we do that, devolution will have been concluded and will be successful.

7.55 pm

**Lord Cormack (Con):** It is conventional to say that it is an honour to follow—and it is always a joy to follow—my friend the noble Lord, Lord Foulkes, but I could not disagree with him more in what he said about England. I urge him to concentrate his ingenuity and endeavours on Scotland and his prodigious and valuable work here in your Lordships’ House.

I will try to be not quite as long as the noble Lord, but he tempts me to reminisce, as did the noble Lord, Lord Thomas of Gresford, and the noble Lord, Lord Bew, in his extremely thoughtful and reflective speech. One of my very first strong cross-party friendships was with the late, great Tam Dalyell. I felt privileged to be his friend. He led the charge against devolution in the first Parliament in which I sat in 1970, and then again

in the 1974 Parliaments. Tam always said that he was opposed to devolution because he was a patriotic Scot, because he believed so fundamentally in the United Kingdom and because, in his view, devolution would inevitably lead to separation.

Tam has still not been proved right on that. I hope he never will be. I spoke to him just a week before he died and he talked about it, hoping that he would be wrong. Of course, what has happened over the last three years has certainly, as the noble Lord, Lord Thomas of Gresford, pointed out, made it more rather than less likely that within the decade the United Kingdom we all know and love may be no more. I will do all I can, and I think that everyone in the Chamber tonight will do all that he or she can, to try to stop that, but it is a very present and great danger, and we have to be aware of it.

I would love to reminisce and talk about people such as Donald Stewart, former provost of Stornoway, who was the first Scottish nationalist I knew. We entered Parliament on the same day. I was also delighted to become a friend of the noble Lord, Lord Wigley, whose wife really won me over by her wonderful playing of the harp—one of the most civilised of all parliamentary wives.

However, tempted as I am, I will not talk in detail about Scotland or Wales, both of them countries that I love dearly. My Scottish ancestry has been traced back at least 500 years and my elder son lives in Scotland. He considers himself Scottish and fought hard in both referendum campaigns to keep the United Kingdom and to ensure that Scotland voted to remain. I am very proud of him for doing that, even though he deserted the Conservative Party and joined the Liberal Democrats.

I will concentrate tonight on that part of the United Kingdom which I have come to know and love over the last decade or more. During my last five years in the other place I was chairman of the Northern Ireland Affairs Committee, and I got to know that wonderful place very well indeed. I insisted that our committee travelled around Northern Ireland and did not, as had been the tendency, have all its meetings in Belfast. I shall always remember with great and fond affection the fact that I was able to take my committee and to address a meeting in Crossmaglen—a part of Northern Ireland where no committee had ventured before. I was told that I was the first Conservative Member of Parliament for over a century to speak in Crossmaglen village hall. In getting to know Northern Ireland at a seminal time in its history—I was there between 2005 and 2010—I became full of admiration for the Government of Tony Blair, building on the work of Sir John Major, which led to that extraordinary agreement which we often refer to as the Good Friday agreement.

During my time, the power-sharing Executive came into being, with two extraordinary men. If you had asked me four or five years before, I could not have said that I admired their pasts, but the chemistry that brought together Ian Paisley and Martin McGuinness was something extraordinary to behold. I shall certainly never forget being at the farewell dinner when Ian Paisley stood down as First Minister. A great dinner was given in Hillsborough, and the Prime Minister,

Gordon Brown, and the Taoiseach were there. But who delivered the panegyric, or eulogy, to Ian Paisley? It was Martin McGuinness, who talked about his mentor and his friend. I know that people joked about them, calling them the “Chuckle Brothers”, but there was something magic in the chemistry that brought those two men together.

I grieve that we have now had almost two and a half years without an Executive and without the Assembly meeting. I have said it in your Lordships’ House before in a different context but I do not apologise for repeating it now: I believe that the history of the last two and half years would have been very different if the Assembly had existed and the Executive had been functioning. The only representatives who take their seats in Westminster are those of the DUP, a party committed—I do not question its motives or sincerity—to Brexit, representing a country that voted 56% remain.

I believe that had the Assembly existed, and had there been an opportunity for those of other political persuasions to speak in Northern Ireland over the last couple of years or more, we would have gathered a different impression and would not have had all the heated debates we have had over the backstop in quite the same form. We might now have reached a settlement. I do not know—it is speculation. However, it underlines the great disappointment that we do not have an Executive or an Assembly. Time and time again in your Lordships’ House over the last couple of years—I am sure that my noble friend Lord Duncan is fed up with my worn record—I have said, “Can we please have the Assembly meeting and have a chairman or facilitator to perform the role that was performed by the American Senator George Mitchell?” Can we not try to bring the people together? It is wrong that it should just be civil servants, and it is particularly wrong—the noble Lord, Lord Hain, referred to this earlier—when the civil servants in London tend to disagree with those in Northern Ireland. We have an unfortunate, barren phase in Northern Ireland history at the moment.

I was glad when the noble Lord, Lord Hain, talked about that particularly deserving group of people: those who were injured, through no fault of their own, in the Troubles. Only very recently, the noble Lords, Lord Hain, Lord Murphy, Lord Browne of Ladyton, the noble and right reverend Lord, Lord Eames, and I, met with the victims’ commissioner, who talked movingly about various people. She mentioned one lady who had served in a voluntary capacity in the police force and who, in one of those terrible incidents, had been burned all over her body to such a degree that she could never work again. After a lot of struggle, she got a modest pension. But all over Northern Ireland, there are those who were mutilated and injured in the Troubles. Many of them are now in their 70s and 80s, and many have already died. My noble friend Lord Duncan promised in your Lordships’ House—the noble Lord, Lord Hain, reminded him of this—that he would try to get a move on with this.

The time for procrastination and prevarication is over, and we need to have prime ministerial engagement. I repeat the request of the noble Lord, Lord Hain, for another meeting with my noble friend Lord Duncan,

[LORD CORMACK]

and I hope that he will be accompanied by the Secretary of State. That is just one little thing that we in the Westminster Parliament can do. But of course the greater thing is that an injection of urgency may have been given—perhaps as a result of that ghastly murder of a few weeks ago of that able young woman and the stirring address of a Roman Catholic priest at her funeral. I know that we are all obsessed with Brexit, but this is part of our United Kingdom where devolution is not working, and where it must be made to work.

My firm plea to my noble friend is: let us make it a target that by the end of July at the latest, we have a proper formula. It may be necessary to bring in a facilitator or chairman, and I think that would be a good idea. As I have said before, because of the alliance with the DUP, the Government are not perceived as objective. I believe they are, but that is not the perception. I can think, for instance, of no better person to do this than Sir John Major, who did so much at the beginning. I merely offer that as a suggestion—I have not discussed it with Sir John, who will probably never speak to me again when he knows that I have mentioned it. However, as we celebrate devolution in Scotland and Wales, we need to prepare to celebrate it again in Northern Ireland.

8.08 pm

**Baroness Walmsley (LD):** My Lords, I am moved to preface my main remarks by strongly agreeing with the noble Lord, Lord Foulkes of Cumnock, in his belief that constitution matters. When the mess we are in at the moment is over and the dust has settled, we will need a UK constitutional commission. I believe that for many reasons. I do not have time to go into all of them but I will give you one: we are about to have a second Prime Minister imposed on us by 60 Conservative Members.

However, I will turn to my main comments. I am not Welsh but I live in Wales with my Welsh husband, who is sitting next to me, and I visit Scotland frequently. I want to make some remarks about the way in which devolution has allowed the Welsh and Scottish Governments to take a different approach. I will use as my example how they have dealt with the lives and well-being of children.

First, a word about Scotland. As with all Governments, the Scottish Government have to mind the pennies, but they found themselves with even wider inequalities than those in other parts of the UK. Therefore, in 2007, they commissioned some work about the cost-effectiveness of early interventions relating to children. Based on the analysis of cost, it became very clear that early intervention is not only cheaper but more effective than the cost of clearing up the mess later when everything has gone wrong.

The result was the policy paper *Early Years and Early Intervention*, published in 2008. It opens with the following statement:

“We have always known the earliest years of life are crucial to a child’s development. However, it is increasingly evident that it is in the first years of life that inequalities in health, education and employment opportunities are passed from one generation to another. The early years framework signals local and national government’s joint commitment to break this cycle through prevention and early intervention”.

The framework outlined in the paper marked a fundamental shift away from dealing with the symptoms of inequality—violence, poor physical and mental health, and low achievement and attainment at school—and aimed to focus on identifying and managing the risks that perpetuate inequality early in life by intervening early. Of course, the policy required resourcing, monitoring and follow-up, as well as partnerships and co-operation between local and national government and between different groups of professionals. Nobody expected it to happen overnight, but the principles underpinning the policy have been shown to be sound. The Scottish Government are rightly focusing on early action and tackling child poverty. I therefore congratulate them on taking the opportunity that devolution gave them to do things differently and show the way in this respect.

In 2002, the Welsh Government were the first in the world to establish a national play policy. I found that very heartening because it demonstrated a new and different approach to children, which recognised that they are not just small adults but are different because of their developmental stage. They learn through play; it is important for their well-being and healthy growth. The policy also recognised that all children are different from each other. It emphasised the importance of allowing children to make choices, providing appropriate protection and safeguarding while offering an appropriate level of challenge. Implementation required safe places and facilities for play, time for children to play and training for play workers to supervise. To me, the policy was significant because it was based on the reality of what children are, how they learn, their rights and how provision for them is central to communities.

That has led to other welcome child-centred policies. In 2011, the Welsh Government passed the Rights of Children and Young Persons (Wales) Measure, the purpose of which was to impose a duty on Welsh Ministers and the First Minister to have due regard to the rights and obligations in the United Nations Convention on the Rights of the Child and its optional protocols when making decisions of a strategic nature about how to exercise their functions. This incorporation of the UNCRC into the Welsh Government’s obligations is something for which I have long campaigned in England. Unfortunately, my efforts to get successive UK Governments to agree to incorporate the UNCRC into UK law have fallen on deaf ears, despite many criticisms every five years by the UN committee that reviews compliance with the convention. However, I am not aware of the Welsh Government being inundated with complaints and court cases about Welsh children’s rights not having been upheld, so the UK Government’s fears appear groundless. This is just another example of where a devolved Government can be courageous and try something out on a smaller scale.

Of course, it has not ended there because, to comply with the convention, the Welsh Government needed to scrutinise their other laws and ensure that they were compliant. As the noble Baroness, Lady Gale, mentioned earlier, that led to the introduction into the Senedd of the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill in March this year. The Bill’s purpose is to abolish the common-law defence of reasonable punishment so that it is no longer available

in Wales to parents, or those acting in loco parentis, as a defence for assault or battery against a child. The Bill supports children's rights by prohibiting the use of physical punishment through removal of this defence. As I heard it described on Welsh television, Wales cannot ban smacking by parents, which is legal in the UK, but it can take away the defence on which parents could depend if they were to physically assault their children. The intended effect of the Bill, together with an awareness-raising campaign and support for parents, is to bring about a further reduction in the use and tolerance of the physical punishment of children in Wales.

Again, I tried unsuccessfully in this very Chamber, under the Labour Government, to ban the use of physical assault by parents against their children. I was foiled in this attempt by the continued existence of this discriminatory defence, which is unhelpful to parents and undermines the rights of their children. I therefore heartily congratulate the Welsh Government on what they are doing. As it currently exists, the defence allows a parent to smack a child as long as they do not leave a mark. This discriminates against children with dark skin and does nothing to guide a parent as to what sort of force can legally be used. Who knows whether a sharp slap will leave a mark or not? Of course, the safest thing is not to smack at all but to use more positive parenting methods of discipline. Clearly, the Welsh Government have come to the conclusion that the only thing smacking teaches children is that violence can make people do what you want. I wish the Bill well as it passes through the Senedd and is implemented across Wales. It will send a powerful signal.

Wales also appointed the first Children's Commissioner, sadly as a result of some terrible cases of child abuse at children's homes in Wales. Of course, all the devolved Administrations now have a Children's Commissioner, with varying powers, but the most recent is the Children's Commissioner for Jersey, who was also created as a result of some appalling child abuse cases on the island. However, something very interesting happened in the creation of this latest devolved Children's Commissioner. Her powers were put together as a result of consultation with, among others, the other four commissioners; as a result, her powers are more comprehensive than those of any of them. One unique power of the new commissioner is the power to instruct deliverers of services to follow her advice on what is best for the welfare of the children in their care. None of the other commissioners has that power. They can report and write letters and demand a response but they cannot insist that best practice is followed. I very much welcome this new power for this new devolved officer. When will the operation of this power be reviewed? Will the Government consider strengthening the powers of the other commissioners in the same way if they prove useful in protecting children?

My remarks have not been party political so far but I hope that I will be forgiven for saying a few complimentary words about Kirsty Williams, the Liberal Democrat Education Minister in Wales. Kirsty has been a pioneering Minister. She introduced a new system of student funding for full and part-time students in which all can obtain a loan to pay tuition fees and

receive a combination of grants and loans for living expenses up to the level of the minimum wage. Kirsty introduced the new scheme with the support of the National Union of Students. It knows that living costs are a great worry for students and can get in the way of effective learning. All students in Wales get a minimum of £1,000 per year living grant no matter what their parents' income may be. This recognises the fact that students are independent people. Kirsty has also introduced a radical new school curriculum.

On this 20th anniversary of devolution I should like to use children's policy in Wales and Scotland as a good example of the benefits of devolution, and I look forward to the day when the UK Government follow some of the very good examples shown by the devolved Administrations.

8.20 pm

**Baroness Adams of Craigielea:** My Lords, it is a pleasure to follow the noble Baroness, Lady Walmsley. I agree with her and my noble friend Lord Foulkes that we need some kind of constitutional commission to look at the devolution of the whole UK. One of the problems with devolution is that we have taken it piece by piece, area by area and country by country, but we have never looked at the whole. This has caused grievances in England because the English feel that Scotland, Wales and Northern Ireland have their own parliaments or assemblies while they have purely Westminster, where their issues are decided on along with those of every other part of the UK. This means that voters in England think that they are badly done by, while voters in Scotland and Wales think that Westminster is an English Parliament. No one wins until you look at the whole and make sure that there is fairness in that for everyone.

How did we get to this situation in Scotland? For me, it was never about nationalism; it was always about democracy. When I was first elected to the other place in 1990 after a very hard-fought by-election with the SNP barking at my heels, I came to a House where my party was sitting on the Opposition Benches along with the Liberal Democrats and the SNP with 61 Members in Scotland. On the Government Benches the then Conservative Government had 10 Members for Scotland. Ten Members out of 71 in Scotland were taking all the decisions for Scotland, no matter what was said. This was not a matter of nationalism, it was a matter of democracy, and people were feeling it. They were pushing further and harder for some kind of democratic solution. The Scottish Constitutional Convention had already been set up and was doing a good job. Together with the Liberal Democrats, civic Scotland and the churches, we were discussing all the ways to resolve the problem. Unfortunately the Conservatives refused to take part, which was a great pity, as did the SNP, which I am not convinced was such a great pity because its whole thing was separation not devolution.

Did devolution block the road to independence, and was it meant to do so? When Donald Dewar said that devolution was a process, I think that he was often misquoted. People saw the process as one leading to separation, but I think that he was talking about further devolution. By that I mean devolution down to

[BARONESS ADAMS OF CRAIGIELEA]

the point nearest to the people, not up to the centre. The Scottish Parliament was never meant to create another centre which would suck more powers up to itself instead of spreading more powers to local authorities. Local authorities have been drained of most of their powers and certainly most of their money because it is being sucked into the centre. If the Scottish Parliament has one big fault, it is that. It is not talking about democracy, it is still concentrating solely on independence.

Good things have happened and a lot of them have been mentioned, and there have been bad things. One of the first things the Scottish Parliament did was to change street names into Gaelic. Anyone who lives in Scotland knows that Gaelic was never the language of southern Scotland, of lowland Scots or of the north-east, which was Doric. In fact, if it had wanted to reflect the second most widely spoken language in Scotland at the time, it would have been Polish. It has been the second most commonly spoken language in Scotland since 1940 when the Free French, the Polish navy and army settled into various parts of Scotland, particularly where I live in Renfrewshire and in Dundee. Since then the population has remained pretty static. It is Polish that should have been put on to the street signs, not Gaelic, which most of the population has never spoken.

One of the things the Scottish convention agreed to was a 50:50 Parliament—a Parliament that would represent 50% women and 50% men. Unfortunately we did not quite achieve that, but we are at 35% and I hope that that will rise as time goes on. Members are continuously asking for more powers. They have not used the powers they have but they have sucked powers away from local government. It is time for them to look at how their powers should be devolved.

I have some fears for the future because, while I hate to mention Brexit, I should say that it is not going down well in Scotland; it is going down very badly indeed. People who have been friends of mine for years and members of my family who are totally opposed to nationalism—they do not like it one bit—are now telling me that if there is another referendum in Scotland, they will vote yes this time because they have had enough. They now think that this union is an unfair marriage with a subordinate partner. No matter what the subordinate partner says, because it is smaller, the bigger partner wins every time. That is not going down well and it is forcing people down a road that they never wanted to take. That is something we have to take into account if we do not want independence in Scotland within the next half dozen years. It is also spilling over into Ireland, where undoubtedly people, particularly young people, are now saying, “No more, we have had enough. We do not want the old things that divided us. We want the things that will bring us together”. The only thing I can say in defence of people in the SNP is that they are not isolationist. They want to be part of the European Union, so if they do not remain part of this union, I fear that that will be the fault of this Parliament, not the SNP.

8.27 pm

**Lord Purvis of Tweed (LD):** My Lords, it is a pleasure to follow the noble Baroness. Her contribution reflects a realistic debate that has been sweetened by a

courtesy. The tone was set by the contribution of the noble Lord, Lord Bourne, who is greatly respected in this House. The manner in which he introduced this debate has been greatly appreciated by all sides. Even the contribution of my friend the noble Lord, Lord Foulkes, from the Labour Benches, had that element of humour which he brought to the Scottish Parliament while I served there with him. I have to say that I admire his campaigning technique, which reminded me a little of Gilbert and Sullivan’s description of this House. He,

“Did nothing in particular. And did it very well”.

He was an active Member of the Parliament and brought great humour to it. Humour is a major part of Scottish politics in particular. Colleagues who have succeeded me in the Scottish Parliament tell me that there is less humour in that institution than there was a few years ago, which is a shame.

One hundred and thirty years ago, in April 1889, the Liberal MP for Caithness moved a home rule for Scotland resolution in the other place. That resolution in 1889 was:

“That, in the opinion of this House, it is desirable that arrangements be made for giving to the people of Scotland, by their representatives in a National Parliament, the management and control of Scottish affairs”.—[*Official Report, Commons, 9/4/1889; col. 74.*]

Making his case, he said:

“Everybody, even old Tories on the other side, must admit that some change is necessary. Then what is the remedy to be? It must, I think, take the form of devolution”.—[*Official Report, Commons, 9/4/1889; col. 71.*]

He added:

“The Scotch are a separate nation; we have our separate laws, our separate methods of jurisprudence and administration, and our special technical language, which English lawyers cannot understand”.

I am not sure if the noble and learned Lord, Lord Hope, will concur or disagree with that. He went on:

“Now, is it not far better that our business should be transacted by a body which has some knowledge of these matters than by others who frankly admit they have no knowledge at all on the subject?”—[*Official Report, Commons, 9/4/1889; col. 73.*]

Over that 100-odd years, many with limited knowledge thwarted the case for devolution. But he said something to them in the debate that has a degree of prescience:

“In moving the Resolution that stands in my name let me say at once that that Resolution does not mean separation. I have no desire to repeal the Union between England and Scotland, and I think that Union has been mutually beneficial—a good thing for Scotland, but a better thing for England”.—[*Official Report, Commons, 9/4/1889; cols. 68-69.*]

I greatly enjoyed the contribution from the noble Lord, Lord Bew—I am a great admirer of his—but I feel he perhaps made a subtly flawed argument in suggesting that the whole argument for devolution for Scotland was predicted on a defence against nationalism. Nor do we see it as always benign—that devolution can automatically, de facto, bring about improved services.

I am a Borderer. I was born in a town that changed hands 13 times between England and Scotland. I represented the constituency where the River Tweed has its source and the border between the two countries. The common riding season is coming up in the Borders, and I will make speeches commemorating the conflicts

of 500 years ago. It is now part of our folk memory, but it did not undermine the case—as my noble friend Lady Randerson said—that, where practicable and beneficial for decision-making, it is better if that decision-making can be closer to the people affected by it, who then have an opportunity through good governance to hold to account those who make the decision. That might mean that bad, flawed or ineffective decisions are made. As others have said—the noble Lord, Lord Foulkes, and the noble Baroness, Lady Adams—it may create a platform for those who wish to see it ultimately lead to independence. Liberals and many in Labour and other parties have seen devolution as a platform for better governance within the union. We are not naive to think that devolution will simply be the end result. If that were the case, the experiment in Canada would have stopped many years ago with Québec and the experiments of other decentralised countries would not have delivered the more local decision-making that is appropriate.

I was present in the General Assembly Hall for the convening of the new Parliament—a modern Parliament with much greater gender balance—and in the gallery for the royal opening. I was witness to the emotion of the noble Lord, Lord Steel, in the Chair and exhilarated by the soaring oratory of Donald Dewar as the new First Minister. I was subsequently proud to serve in this new, modern legislature based on such old, liberal foundations and principles. I was also the last parliamentarian for the now abolished constituency of Tweeddale, Ettrick and Lauderdale—in my humble opinion as poetic a constituency name as ever there was. It is a bit of a mouthful for some, though: on a visit to Boston I was introduced to the members of the Massachusetts state assembly by the Speaker as, “Jimmy Purve from Twiddle, Ettick and Louder”.

Having served in the Parliament and then chaired the devo plus campaign, I got to know the noble Lord, Lord Bourne, who was then not only a supporter of devolution but recognised the need to enhance that devolution to strengthen it and make it more sustainable. That devo-plus campaign was successfully led to a cross-party consensus via the Smith commission for further reforms.

Like the noble Lord, Lord Foulkes, I have seen devolution in these last 20 years broadly in two halves. The first half made the case to a sometimes confused electorate what devolution was and the distinction between an MP and an MSP. There were many disputes, teething problems and difficulties, not least the construction of a building to house this group of MSPs. My predecessor Ian Jenkins and my neighbouring MSP Euan Robson successfully made sure that new devolution would deliver for an area such as the Scottish Borders—a large part of Scotland that had been neglected by distant Governments. Ian helped persuade Jim Wallace—the noble and learned Lord, Lord Wallace—and others to devolve government staff and offices in Scotland. The pensions agency was relocated out of Edinburgh into Tweedbank in the Scottish Borders. Euan Robson was active and made sure that EU structural funds—so critical to investment and infrastructure in the Borders—were protected. I was able to work very closely with Frances Renton in Berwickshire, Alec Nichol in Kelso, Jim Hume in Selkirkshire and Graham Garvey in Tweeddale—local councillors with a team

of local representatives and their Member of the Scottish Parliament acting collectively for the area—and we were able to deliver.

Above the desk in my office I have a poster from the *Scotsman* newspaper that I nicked from a newsagent in the Royal Mile on the day we got the Borders rail link approach through. The headline was, “Borders rail link gets the green light”. I was able to persuade Nicol Stephen, the Transport Minister, that reconstituting the Borders Railway—which has been a phenomenal success—would be a priority of a Scottish Government, when it had always languished down the line in a UK-wide infrastructure programme. It was the decision-making closer to the people that was necessary.

When Heriot-Watt proposed leaving the Borders campus and removing higher education from the entire Borders, I chaired a local campaign group and, with others, persuaded it to stay and get funding for higher and further education, which was a priority of the then Scottish Government.

These are just two examples of which I am proud, but others have mentioned how the Welsh Administration were able to respond to foot and mouth in the early days. In a Scottish context, as Minister, Ross Finnie was able to respond from a position much closer to the farmers at that critical time. Indeed, for many people in rural Scotland and Wales who were sceptical about devolution, it was perhaps the response to the foot and mouth crisis that showed the benefit of having representatives closer to them.

Other noble Lords have mentioned the decisions on plastic bags, smoking and public health, the abolition of tuition fees and free personal care. There are elements of Lib Dem achievements there, working in partnership with others. Look also at PR for local government, and the ultimately successful campaigns for votes at 16. There have been good elements of devolution.

The problem, however, is the second half of this 10 years, where devolution seems to have stopped in Edinburgh. The new and greatly enhanced powers of the Scottish Parliament have stayed with the Scottish Government and Executive. We have seen powers stripped away from the health boards and centralised in Edinburgh; the removal of local enterprise companies, now based in Edinburgh; and the removal of the local tourism boards, now based in Edinburgh. We have seen a council tax freeze that, although popular with some, ultimately strips powers from local authorities, meaning that fiscal powers in Scotland are now primarily in Edinburgh. I have to say that the Liberals were the only ones who stood against the creation of Police Scotland, which now others regret, because powers have been centralised, away from the local police boards.

As the noble Lord, Lord Foulkes, indicated, this all added to a far more dominant Executive, with a large Cabinet and ministerial aides. As the noble and learned Lord, Lord Hope, indicated, part of the design of the Parliament was that it would have strong committees which would fill the dual roles of pre and post-legislative scrutiny. But the reluctance to do what the House of Commons has done—to have directly elected committee convenors to give an independence to committees—means that the institution has now become dominated by an Executive. And when that Executive have as their *raison d’être* independence, it is perhaps no surprise.

[LORD PURVIS OF TWEED]

I wish to touch on the wider context that colleagues have mentioned: the asymmetrical element of devolution across the United Kingdom. Liberals argued for the Scottish Parliament but, at the same time, for the United Kingdom to also be reformed. The continuing difficulty of the UK Government also being the Government of England, and a limited English votes for English laws approach and the piecemeal, top-down, selective approach for regional and city devolution, means that that asymmetry has become even more pronounced.

Little has been said of London in the contributions to the debate. Devolution was for not just the nations but for the capital city. It is interesting that, in many respects, devolution is thought about only for Wales and Scotland, or in relation to the challenges ahead for Northern Ireland. However, for the capital and other cities, it is worth referencing.

The Minister mentioned an intergovernmental review, which is welcome. It was a consistent element of both the Silk and Smith processes that this would be carried out, but it will prove insufficient if it is simply about internal government co-operation or consultation. As the Minister said, we have seen how sketchy the Trade Bill has been without a proper structured process which other institutions in this Parliament can then hold to account. Simply the Executive dealing with other Executives, without parliamentary scrutiny of that process, would be insufficient.

That is why we on these Benches, and the noble Lord, Lord Foulkes, and other like-minded colleagues, have been arguing—as I did when I called for a British constitutional convention in my Private Member's Bill two Sessions ago—that part of this consideration should be that this House becomes a federal Chamber; a modern House of union. That is not necessarily a brand new idea. We can refer to the 1918 Speaker's commission, which concluded that this House would better be served if it was an indirectly elected Chamber of those from Wales, Scotland and the regions of England. That may well be the glue that this rather fractious union needs.

To conclude, incremental devolution and piecemeal asymmetry have brought about a far better system of government now than we had prior to devolution, and many people need to be commended for that progress. Many have served in those institutions who perhaps would never have wanted to be in the House of Commons or the House of Lords, or indeed would ever have been elected to them. Systems of proportional representation have been problematic, and to have the single transferable vote system all round would be far preferable. Nevertheless, we are where we are. But to get to where we want to be—to a more united kingdom—will require a more federal approach.

Dr Clark, the MP for Caithness, was right in 1889. The union has been mutually beneficial, but its continuing benefit will be if we see either Brexit or no Brexit as the necessity for reform, to modernise. I am deeply proud of the small part I have played, as the last Member for the beautiful area of Tweeddale, Ettrick and Lauderdale.

8.43 pm

**Baroness Ramsay of Cartvale (Lab):** My Lords, it is a pleasure to follow the noble Lord, Lord Purvis, with whose views on constitutional matters I usually find myself very much in agreement. We are indeed at point in devolution when it is a good time to take a look at the past 20 years and to contemplate the future, not least in the light of developments such as Brexit. The aspect that I know best, of course, is Scottish devolution.

Most Labour student politicians of my generation strongly believed in the ideal of a Scottish Parliament. Some of us, such as my old friends John Smith and Donald Dewar, carried that into their political careers. We all suffered the disappointment of the 1979 referendum when, although Scotland voted yes by a margin of more than 77,000 votes, it was only 32.9% of the electorate, not the 40% required at that time. In parentheses, one cannot help thinking and saying, “Why on earth was a threshold not required for the Brexit referendum?”

After the 1979 referendum, John Smith always spoke of devolution as the “settled will of the Scottish people”, and he always called it “unfinished business”. The Scottish Constitutional Convention was set up in 1989 and issued its report on 30 November—St Andrew's Day—in 1995. This was the blueprint for a Scottish Parliament, and it also helped lead to every area in Scotland voting in favour of a Parliament with tax-varying powers in the referendum of September 1997.

The Scottish Constitutional Convention is important not only because its 1989 report, *Scotland's Parliament: Scotland's Right* was the blueprint for the Scotland Bill, but because it can serve as an example of how to approach fundamental constitutional change in the United Kingdom. The convention consisted of very diverse elements—the majority of local authorities, two political parties, Labour and the Liberal Democrats, and some smaller parties. All parties were invited. The Conservatives refused from the beginning to take part and the SNP came in initially but did not continue for long. Then, as now, it favoured independence, not devolution.

But 80% of Scotland's MPs and MEPs of the time were present in the convention, plus all important elements of Scottish civic society, including the STUC, the churches, ethnic minority groups, women's movements and sections of the business and industrial communities. There were two co-chairs—one Lib Dem and one Labour. I had the privilege of succeeding the late Lord Ewing of Kirkford as the last Labour co-chair, along with my old friend from student politics the noble Lord, Lord Steel of Aikwood, who I know would be speaking tonight had he not had to be in Edinburgh at the events taking place in the Scottish Parliament.

Later I was one of the three, along with Lord Sewel and the noble and learned Lord, Lord Hardie, who took the Scotland Bill through this House and through its marathon of many nights and days in this House—and, as the noble and learned Lord, Lord Hope, explained, nights really meant nights. All in all, the Scotland Act has served Scotland well. Of course, not everything that we expounded worked out exactly as we had envisaged, but, as Donald Dewar often said, devolution is a process, not an end, so it was always going to find its own way of developing.

But we must face up to something that has already been referred to in tonight's debate—the serious and pressing constitutional problem of a democratic deficit for England. From Scotland's experience, I believe that what is needed is an equivalent of the Scottish Constitutional Convention—not a copy, but following the same principles of wide and diverse membership, including all the English regions, representation of local and national elected members, civil society and the wider public, exactly as was done in Scotland, but in ways to suit England. My noble friend Lord Foulkes and the noble Lord, Lord Purvis, should be congratulated on all the imaginative initiatives that they have been taking over the past couple of years to try to get the issue of a UK constitutional convention raised. But all the reasons they advance for that are now more than ever justified by the urgent need for an English convention—not a UK convention but a convention for England, to tackle the English deficit.

An additional positive result of an English convention would be to produce a structure that would allow our constitution to change to deal with reform of the House of Lords. I do not think that anyone can deny that we ought to be looking at the structure of our House. However much we love its traditions and however well, in some cases, it does its job, it is not really fit for this century. I think that the House of Lords should look at reforming itself on the basis of Scottish, English, Welsh and Northern Irish components. That has been mentioned by other people; it is not an original idea, it keeps coming up. It could be dealt with by having a convention in England, for England to find a way of sorting out its democratic deficit in the system and coming towards a federal situation. Whether Members would be directly or indirectly elected is to be settled. The second House in Westminster could be called anything that people want: Senate, Upper House or whatever.

I do not want to be a Cassandra, but unless urgent action is taken the UK will fall apart. In any case, one needs to take notice of the elephant in the room: Brexit. I am very sorry not to be able to end my contribution in a happy and upbeat way, but I am afraid that I predict that, if the UK leaves the European Union, in a short period—even shorter than the two to three years that another noble Lord mentioned—Scotland will be independent and will join the European Union. In Scotland 62% to 38% voted to remain in the European Union, with every single region of Scotland separately voting in favour of remain. It is pretty unanswerable.

Ireland will be united. I will not go into that now, and I know that there are different opinions. But, like my noble friend Lady Adams, I have links to both communities in Northern Ireland, and I know that there has been a sea change in views in Ireland about a reunited Ireland. It is coming, and Ireland will automatically be in the European Union once it is united.

That leaves England and Wales alone outside the European Union, and we have to ask ourselves whether that is what anyone really wants for the United Kingdom. That might not be averted by trying to solve England's democratic deficit by a radical move such as a constitutional convention—but without such an attempt, the break-up is absolutely inevitable.

8.52 pm

**Lord Bruce of Bennachie (LD):** My Lords, this has been a fascinating debate, not least because of the wide range of contributions from noble Lords who have actively participated in all aspects of devolution across the United Kingdom. I join other noble Lords in commending the noble Lord, Lord Bourne, for setting the tone at the start of the debate as a celebration of devolution and an invitation for an honest appraisal of what has gone right, what has gone wrong and where we are heading. All the contributions have reflected that spirit. In some ways, I feel I have a walk-on part compared with the substantial participation of other noble Lords.

I have been a passionate home-ruler all my life and joined the Liberal Party at the age of 17 partly with a mission to try to secure a Parliament for Scotland. When I was leader of the Scottish Liberal Democrats between 1988 and 1992, I was able to lead the party in the Scottish Constitutional Convention which was preceded by the reassertion of the Claim of Right which declared that it was basically the right of the Scottish people to decide how they should be governed. I say to the noble Lord, Lord Bew, that that of course is the right to be independent but it is also the right to choose not to be independent and to find some other means of governing within the framework of the United Kingdom. So far, that is what the people of Scotland have chosen to do. I am proud of the fact that I am the fourth signatory to *A Claim of Right for Scotland* after Harry Ewing, David Steel—now the noble Lord, Lord Steel—and Donald Dewar. It was a particularly proud day, because we were making a declaration that we were about to do something, not just talk about it.

It is worth recording that the Scottish Constitutional Convention was derided and sneered at when it was set up. It was considered to be a waste of time by opposition parties frustrated by defeat in the election. We were frustrated by our defeat but it was anything but a waste of time—a great deal of work was carried out. I was proud to be part of the first half of it, for the first three years, during which time we agreed that we were campaigning for a Parliament, not an Assembly; we were campaigning for all the powers of the Scottish Office, at least, if not more; and we agreed, with some degree of argument, about having a voting system that would be representative of the people of Scotland. I commend the Labour Party for recognising that that was necessary if we were to secure the unity of the people of Scotland behind the convention, given the problems that we had had in 1978.

The noble and learned Lord, Lord Davidson, said that fiscal issues were not thought about. They absolutely were, and indeed we worked out proposals. I have to be honest and say that Donald Dewar renewed his passport simply to go to Germany to discuss the revenue powers of the Länder. He became committed to what was subsequently delivered by Gordon Brown only a few years ago but who had vetoed those proposals when they came from the convention. Time moves on and people change their minds. We were there first.

I should like to comment on something that has been mentioned in relation to the Welsh Assembly. We agreed a proportional system—the d'Hondt system.

[LORD BRUCE OF BENNACHIE]

Those of us who had fought hard to get agreement on PR did not feel that we could dig our heels in for a particular system. The single transferable vote is an electoral system made in Britain, whereas the d'Hondt system, as its name implies, was made in Belgium. I argue that the time is now right to consider for both the Welsh Assembly and the Scottish Parliament the single transferable vote system, not just because it is a bit more proportional, although that is one reason, but because it creates one category of Members. I think that two categories of Members create a problem.

I do not agree with the noble Lord, Lord Foulkes, that it necessarily means that list Members do not work hard. Some of them have an obligation to cover nine constituencies, particularly if their party has only the list Member and no constituency Members. It depends on the circumstances, but I think that it would be much better if every Member were elected under the same voting system. I get the feeling that we are moving towards a consensus on that and I hope that it might be brought about.

Other speakers have given many examples of the achievements of the devolved Administrations in a whole variety of areas, so I shall not reiterate them, but they include social issues, the smoking ban, land reform, and so on. They speak for themselves. Mistakes have been made and things have not always been done properly, but the reality was that we had the space, the time and the means to do things that, under the unitary Parliament at Westminster, simply were not possible and for which there was no democratic accountability to the people. That is a vast transformation that has genuinely enriched our democracy, even if there is an awful lot of work in progress still to be completed.

The noble and learned Lord, Lord Hope, in passing reference to the noble Lord, Lord McConnell, said that he did not particularly address the question of a second Chamber, but he has now done so. Quite sensibly, he is starting off small in the sense of suggesting that maybe it should be an indirectly elected second Chamber, drawn from councils and other bodies across Scotland or Wales. There are good examples of where a second Chamber would have been beneficial to the Scottish Parliament—the committees have not always worked. I suggest, for example, that police reform might not have happened in the way it did had we had a second Chamber. Certainly the named person scheme would not have got into the trouble it did if we had had a second Chamber. I suspect that some of the arguments over the withdrawal of corroboration might also have found a different venue. The merits of having at least a second look at legislation before it is implemented are worthy of consideration; I suggest that is something we could look at further.

Many people have spoken with first-hand knowledge of the Welsh Assembly. I am delighted that the Welsh Assembly has been allowed to grow up, having been at the beginning little more than a glorified council; it is right and proper that it has done so. But I would support those who say that 60 Members is no longer adequate. There is almost a critical minimum for any legislature below which it cannot function: it cannot man the committees or carry out the work. So that is a

perfectly legitimate argument. Of course, having more Members would be contentious as it would cost more, so the necessity for it needs to be properly explained.

We have had, and will continue to have, regular debates on the crisis in Northern Ireland. I have contributed to those and will not repeat much of what I have said before, which has been eloquently said by others. I hope that the events in Northern Ireland have got to a point where everybody now recognises that what was already a crisis is now a crisis reaching dangerous proportions and needs to be addressed. I hope the House will forgive me for saying that one change came about through the local elections, where a strong swing to the Alliance Party—contrary even to its best hopes and expectations—can legitimately be interpreted as the expression of at least a section of people in Northern Ireland that they did not want the peripheral extremes to be in control but wanted to pull back to a rational, common-sense, centre. I am proud that our sister party is part of that. We should not overplay that hand but, equally, I hope that other parties will not underestimate the significance of that development. It is significant, and we will see whether it might even be followed through in the coming two or three days.

I echo the concern expressed by the noble Lord, Lord Cormack, about lack of leadership. I do not want to go into whether this is the fault of the Prime Minister, the Taoiseach or the Secretary of State; it is everybody's fault. Somebody somewhere has to show an understanding of leadership. This is not just a Northern Ireland question. What we have now is a collision of nationalisms, which threatens to explode the United Kingdom. Let us be honest: Brexit is English nationalism, which is in collision with Scottish nationalism, Welsh nationalism and Irish nationalism. I have much respect for the noble Lord, Lord Wigley, who is the most moderate, constructive and sensible nationalist I know, but nationalism can lead to destructive extremes; that is all I wish to say. Therefore, I want people to realise that we need to pull this back. My belief is that, if we do not stop Brexit—certainly if it goes ahead with any kind of hard edge—we will not save the United Kingdom. It is not as clear-cut as people think. There is an idea that Scotland will just vote for independence tomorrow, but we all know that it is more complicated than that. It is worse, because Scotland may not vote for independence but will fulminate because it cannot get into the EU and is stuck in the UK. It makes everybody more destructively angry that their democratic system has comprehensively failed to deliver anything that takes the country forward in a constructive direction.

As a state, the United Kingdom is facing an existential crisis of our own making and we have to confront it. At the same time, I accept that, however untidy devolution has been, trying to bring decision-making closer to the people has been a positive thing. What we need now is a comprehensive review of what we have learned. I do not want it to be uniformly applied, but we should take the best bits and cross-fertilise them. What Wales has learned can teach Scotland, Northern Ireland and England, and all these lessons should somehow be put into the mix.

I agree with my noble friend Lord Purvis about having a constitutional convention of some kind, but I also agree about having an English convention. Maybe we need a British convention and an English convention running simultaneously to try to address these issues. Local government underpins all democracy and it is being systematically destroyed by all Governments. The freezing of council tax and the creation of the poll tax were two pretty lousy systems of financing local government. Then, local councils were not even able to operate them effectively.

As the noble Earl, Lord Lindsay, said, the Scottish Government have consistently had additional money from the United Kingdom, but have used it to finance the campaign for independence, as the noble Lord, Lord Foulkes, said, while squeezing local government to death. I will give one simple, practical example. Teachers have been in dispute with the Scottish Government, and the Government have agreed a 3% pay rise, even though they have not finally accepted it. They have told the councils which employ the teachers that they will fund only a 2% pay rise. What kind of Government does that, knowing perfectly well that these councils are struggling to provide their basic services? The negotiation was done between the Government and the teaching unions, yet it is the councils that actually employ the teachers. That is a fundamental miscarriage of any kind of good governance.

Devolution was not only desirable but necessary. If it had not happened, we would have reached a crunch point earlier. However, we are where we are. I suggest that the recommendations about constitutional conventions should be taken on. There should be a proper, objective overview with not only all the political parties but all civic institutions, which are not necessarily politicised, taking part and trying to come up with a viable, workable system that will provide a sound basis for the future and which can be written, if not in stone, in some form of constitution that is a little less woolly than the British one, so that it might last for decades to come. Devolution is something to celebrate but, against the background of Brexit, it will not be enough to hold our country together.

9.07 pm

**Lord Griffiths of Burry Port (Lab):** My Lords, the conclusion of a debate of this kind leaves those who stand here feeling that their thunder has been stolen and their diamonds have been mined. With sleep making the eyelids ever heavier, they do not want to contribute to that process any further. To be placed as I am among four Scots—squeezed by the Scots, which many people would give money for—seems to leave me needing to add the music of the valleys and seashores of the Principality, as leaven in the lump.

I will begin by taking Members of your Lordships' House to south-west Wales, where there is a tiny, tiny village called Betws. It is near Ammanford and there is a bridge linking the two. The bridge has a signpost, which points in two directions. One side says "Betws" and the other "a'r byd"—the rest of the world. The choice that devolution offered was precisely between those two possibilities. One was a way back to the narrow, parochial living of a tiny place such as Betws. The other was a springboard to get on in relationships

with the rest of the world. We could remain shut up in our little corners, or feel free to build bridges with the rest of the world.

Far from throwing Northern Ireland, Scotland and Wales back on themselves, it seems to me that the settlements we are commemorating today were intended to be springboards towards the rest of the world. Trade, culture, creative activity, tourism and so much else would ensure that each country had the possibility of reaching out beyond itself to London, of course, but also to Brussels and, as was always supposed and hoped for, through Brussels to the furthest ends of the world. Would devolution have happened at all, I wonder, if the European Union had not been the context within which we sought to achieve it? What role did the EU play in creating the conditions out of which we could move in this direction?

It has been said by many noble Lords in the course of the debate that devolution has come in different ways. It has had distinctive characteristics in each of the nations where it was established. Just last week my noble friend Lord McConnell of Glenscorrodale gave us a graphic picture of the heady and troubled days of devolution in its first beginnings in Scotland. In Northern Ireland, as many have said, the Good Friday agreement got things launched. Wales, in comparison, seemed to totter awkwardly as it found its way forward. The people's endorsement for it was so feeble, the powers granted to it so slim, the support for it from Members of this Parliament were only lukewarm and it did not immediately capture the electorate's imagination.

With all these things in mind, it is important to recognise the hurdles that have been overcome. The Minister has been generous in letting us into the change that all this has effected in himself. I know that, through him, we can see others for whom similar movements of the spirit have occurred. It is important to recognise the persistence displayed as this new way of doing things has settled in.

Now we dare to declare that devolution, despite its slow beginnings, is here to stay. We have heard Member after Member say that. Much has happened: elections, the extension of powers, Acts of this Parliament, changes in Government, coalitions of interest, custom and expectation have all played their part. All this has embedded the still new arrangements—it is only 20 years—firmly in the minds of every part of our United Kingdom. It has given a sharper edge, which many have referred to, to the thorny English question, which one day soon we will all have to deal with.

I say that this is embedded, and so it is, but last year's battles over the infamous Clause 11 of the then European Union (Withdrawal) Bill revealed what might constitute a fatal flaw in the way we do things. The United Kingdom Government sought to repatriate powers from Brussels to Westminster, including those vested at that time in the devolved Governments, without any kind of consultation with those bodies. The Scottish Government did not hesitate to call it "a power grab". Northern Ireland, already isolated from the debate by the regrettable breakdown of its power-sharing Government, had just to watch as a spectator. But Wales, which I believe was already far ahead of the game with the publication of its splendid policy

[LORD GRIFFITHS OF BURRY PORT]

paper *Securing Wales' Future*, which we all ought to read, protested furiously. So too did the Bar Council, the Hansard Society, the Law Society, the Constitution Committee of this House, Uncle Tom Cobbleigh and all.

After long debate, and in the end without the consent of the Scottish Government, the ill-fated clause was entirely rewritten. Existing powers would largely continue to be exercised in the devolved Governments. We have heard mention of that. We were told that the Joint Ministerial Council would be beefed up and oversee the management of all policy areas with a UK-wide sphere of operation. Frameworks would be defined and drawn up to manage the coming into being of a United Kingdom common market. With these significant and radical alterations, the Bill was eventually passed.

I believe that the jury is still out on the JMC. I have seen reports and minutes of meetings, and I am persuaded that there has been progress, but it all feels rather tentative. I think that it got five out of 10 for its work when we were committedly in the European Union. It remains to be seen how it will operate, as has been alluded to in the debate, once we are out of the European Union, where there will not be that mollifying, contextual element to modify and moderate our debates together—a backcloth against which to look at the pictures we want to explore.

Last year's Bill was the first time I ever stood at the Dispatch Box. I was quaking like I don't know what, but it was awful. I mention the Bill and Clause 11 not to rehearse a sorry story from the past but to point to a potentially fatal flaw in the whole process of devolution. While so much work has been and is being done in Scotland, Wales and Northern Ireland to turn policies into action and to create a public ethos of trust and ownership of their still-newish institutions, they have to contend with a Westminster mindset that has not yet absorbed devolution into the fibre of its being. Unthinkingly, insensitively, sometimes cold-heartedly, blindly and deaf to the cries of dismay generated, measures can be brought forward which, if implemented, would strike the brave vessels of devolution below the waterline. It can sometimes feel like insouciance on steroids. This lack of awareness on the part of the parent body is the biggest danger to the future of devolution. I dare to suggest that unless and until there is an awakening of conscience on the part of this Westminster Parliament, the devolved Governments will go on harbouring at best suspicions and at worst paranoid feelings of possible betrayal.

I am aware that while standing across from the noble Lord, Lord Bourne of Aberystwyth, I am not speaking to the person who embodies the dangers I am talking about. A more reasonable man you could not get. However, I believe that we deal tangentially, sometimes at arm's length, and without feeling for the regions that are governed in this devolved way.

The noble Baroness, Lady O'Neill of Bengarve, has written about the relationship between principles and practice. I hope she will not look askance at me if I invoke her work to underline a fundamental point in today's debate. The laudable efforts to bring new institutions of government into being, the creation of

a new culture of regional power-holding, the evolution from a mother-child relationship, or even a master-vassal relationship, so that it becomes one between siblings—a relationship built on reciprocity and trust—is a far more challenging affair than the mere passing of a piece of legislation, or the mouthing of honeyed words.

I was part of the leadership of a consultation to develop the relationship of Methodist churches in Nigeria, Sierra Leone and Ghana, which had been daughter churches to the British Methodist Church, so that they could become sister churches. I am aware of the sorts of issues raised in those kinds of discussions. We sat around a table for days on end working things out and establishing not only that we passed over a dowry and did certain physical things, but that we heard each other, understood each other and saw clearly the issues that made each side work and which they were looking to take forward into the future. In terms of developing the relationship between this Parliament and the devolved parliaments, I am asking for something along those lines. Subconsciously, this Parliament can still be wedded to a now outdated way of conducting our affairs. We need to wake up to this challenge, and soon.

I started in Betws. So too did Ivor Richard, who for a while was Leader of this House. He started in that tiny village which, until 1892, you had to reach by mountains or very complicated roadways—tracks. Once the bridge was in and you could cross that bridge, the world was at your fingertips and at your disposal. Ivor Richard was our envoy to the United Nations, a Commissioner in Brussels, Leader of this House and the convenor of the commission that made recommendations about the development of the Welsh Government. He certainly recommended 80 rather than 60 Members—the only recommendation that yet awaits implementation. Betws was in the genes of Ivor Richard, but he was a man of far wider sensibilities in everything he did. I believe that it is up to us to see devolution not as a paternalistic giving-away of power to a child who has not yet learned to walk, but as creating a partner—a sister parliament and collaborator—in the great exercise of rebuilding governance fit for a country like ours.

Our commemoration today is very apposite. I am delighted at the way it was introduced and it has a star-studded cast of people, most of whom had a hands-on relationship to the developments. I feel like a black hole in such a constellation. The achievements of the last 20 years will prove to have been the harbingers of a reimagined, reconfigured model for our entire national constitutional and corporate life. I, for one, cannot wait to see that new shape come into being.

9.20 pm

**The Parliamentary Under-Secretary of State, Northern Ireland Office and Scotland Office (Lord Duncan of Springbank) (Con):** My Lords, it has been a wide-ranging debate. I hope I can do it justice this evening but I will exercise ministerial priority in addressing two points which need to be drawn out of the overall discussion.

I address my first point to the noble Lord, Lord Hain. He raises important issues regarding our wider legacy question but also, specifically, about pensions for those who have suffered in the Troubles in Northern Ireland. I was genuinely privileged to meet the same group who

he brought across and they made me think. We still await the views of the victims' commissioner, which we anticipate imminently, but I give the noble Lord my word that we will act on them as quickly as we can. These people have waited too long and it is right that we begin the discussion tonight on that point. It is important that they hear clearly from us that they have not been forgotten and that we will move forward—within the constraints, of course, of the victims' commissioner's views—as best we can to address that issue.

The second issue concerns the points raised by the noble Baroness, Lady Harris, regarding police funding in the Province of Northern Ireland. I have some exact figures on that but I am aware of the late hour. It might be better to send, if I may—I see a noble Lord nodding—those figures to the noble Baroness. I will lodge the same figures in the Library, so that all can see exactly how the UK Government have responded to the needs of the security forces in Northern Ireland to address these issues. I believe they are of particular importance but I will not detain us too long this evening.

This has been a wide-ranging discussion and I will start on what is perhaps the darkest aspect of what your Lordships have touched on this evening. It concerns Northern Ireland, which is the part where devolution is not working as it should. We see the consequence of that failure of devolution day after day. I have stood here on a number of occasions and listened to noble Lords explaining and exploring the realities of an absent Executive and a dysfunctional Assembly. That reality is palpable and it is felt. It is a reminder of how important devolution is and of how important it needs to be to work well.

The noble Lord, Lord Bew, is right to remind us that there are challenges in the working of devolution. Not everything is full of smiles and roses and there is no doubt that some of the challenges in Northern Ireland bedevilled the previous Executive. A number of the big questions that they had the opportunity to address and resolve were left unresolved. I am thinking of issues around the wider abortion question and same-sex marriage, and of some of the legacy questions themselves. These were great challenges, which would have challenged the greatest minds, so perhaps it is not surprising that they have not been resolved. But it is a reminder that devolution itself does not offer a solution to all the problems, only an arena in which they can be addressed. Northern Ireland needs that arena now more than ever.

I am reminded again of the comments made on more than one occasion that had there been a functioning Executive, the comments on Brexit would have been quite different. The voices that we hear would have been different and the discussion on the elusive backstop may well have taken on a very different colour. We have missed that, which is a great tragedy not just for Northern Ireland but for everybody here in these islands. I will not comment too much on the talks, which are ongoing, but there is a hint of progress. There is a belief that we are perhaps on the track of reaching that elusive resolution to bring the Assembly and the Executive into being once again. We need to pay tribute of course to Lyra McKee. That is why the

people of Northern Ireland have begun again to remind their politicians that they are but temps—that they are there for a short time and have a job to do, and that it is critical that that job be done.

A number of noble Lords have said that devolution is not a destination but a journey. It is important as we look at that journey to recognise how we came to be there. I shall not spend too long examining the history—a number of noble Lords have done that eloquently today—but it is important to remember the challenges that brought about the need for devolution: the belief that there was a disconnect between the people and those governing them. It was almost as simple as that. I listened avidly to the noble Baroness, Lady Adams, when she talked about the situation she encountered when there were only a handful of Conservative MPs in Scotland, who were at that point seeking to move things forward there. There were two ways to look at that. One was at the number but the other was at the proportion of the vote. A number of noble Lords today have noted that the systems of voting carry with them large responsibility for where we are. In the election of 1992, the SNP secured 21.5% of the vote in Scotland and got three MPs; the Labour Party gained 39% of the vote and got 50 MPs, and the Conservative Party won 25% of the vote and got only 11 MPs. So the voting procedures carry with them a high degree of problems.

A number of voting systems can be used. There is no doubt that some are more believable than others. In these islands, I think people quite like to vote people out; they like to get rid of politicians they feel have wearied them for too long. I found myself standing for the Scottish Parliament in the early 2000s. Of the six candidates, I was the only one who did not enter the Scottish Parliament; the other five did—I felt a little left out.

When I was a clerk in the Scottish Parliament, I remember an MSP telling me that he had been elected by STD. I thought, “That means sexually transmitted disease and I am nearly certain that we were not elected by that method”. STV is a complicated system; I do not think the people of the country fully understand how it works. If we are to move forward on reinvigorating devolution, we need to make sure that the process and procedures that put people into office are understood and believed in by the people. That is critical. I think it is sometimes not understood and we end up with a challenge.

It would be wrong of me to suggest that devolution has not carried with it consequences that were not perhaps foreseen. One touched on by several noble Lords today is the impact on local authorities. Across this kingdom, there have been significant impacts on local authorities as a consequence of the functioning—sometimes the dysfunctioning—of some of the Administrations. A number of noble Lords have spoken about the centralising instinct of certain Administrations, who draw in to their capital city the very thing that they have sought to take away from the capital city of London. As someone who comes from Perthshire, which is approaching the Scottish Highlands, I was always lamenting the fact that all the good things happened in Edinburgh and never seemed to get across

[LORD DUNCAN OF SPRINGBANK]

the Tay to where I lived. Then I remember my mother telling me that everybody in Blairgowrie had something but the people in Alyth did not. It is just a matter of scale—people are always fearful that something is going on—but it is a reminder that local authorities have been squeezed in this process. We need to consider that carefully as we examine the wider devolution question.

My noble friend Lord Lindsay raised an important point: the notion of intergovernmental and inter-parliamentary connection. He strikes a chord. These are things which, on a parliamentary basis, we could take forward now. There should be opportunities not just for Members to exchange views but for members of staff, who can experience the different methods of the different institutions, also to begin that journey. There is much to be learned by that conversation. As a former MEP, I have a strong memory of how important those shadowing systems were and how important it was to be able to trade different members of staff so that they could explain to Members, who were sometimes—as we often are—a little in the dark, how an institution worked. It is important to bring about that sort of intergovernmental and inter-parliamentary approach. Much can be learned and we can avoid some of the bigger problems.

I want to touch on the wider questions of where we go next, because a lot of the discussion today has been historic, and rightly so—we are celebrating a 20th anniversary—but the question is what comes next. A number of noble Lords made the point that the devolution framework broadly existed within the EU context. There is no doubt that, as the noble and learned Lord, Lord Hope, said, things might have looked different had there not been the EU, giving a certain permission for things to be devolved and others to be retained. Again, we will have to begin to think afresh. The Government have begun this approach, we have looked at these common frameworks, and there will need to be, across a whole range of areas, functional relationships between the different Administrations to make sure that there is seamless government and that the best policies are able to be achieved and the best outcomes delivered. We are working on that process; it is not always easy.

Without wishing to delve too far into the politics, certain Administrations are less inclined toward co-operation for very difficult and very distinct reasons, and it is not always easy to bring them alongside. That is why, when we have been seeking the legislative consent Motions, we have had greater success with the Welsh Government than with the Scottish Government. We should be able to see that for what it is, and not be dismissive of the reason behind it. It is hardly surprising that a nationalist Government in Scotland would wish to see things quite differently from a more unionist-minded Government in Wales. But we need to recognise that that creates a tension within the various fora and within the different structures. We need to be aware of that and not see it as a failure of the system but recognise that, in fact, it is because different individuals in a room see an outcome quite distinctly and differently.

A number of noble Lords asked whether the British state can survive. I am much more optimistic about that. I know that we are bedevilled by Brexit just now;

the challenges are real and there is no point in pretending otherwise. But the UK has undergone fundamental constitutional change over the last 20 years, and sometimes we forget how resilient it has been. We often talk about the fact that there is no single UK written constitution, and of course that is accurate, but in truth there are a number of written documents from which our powers and our rights are drawn. That can be remarkably flexible in the way we move forward.

Some of the biggest changes we have seen in our lifetime are indeed the devolution approaches that have happened. Again, recognising the distinctions between the different parts of this kingdom, the same was not applied to each. They were allowed to grow and evolve in ways that were particular to those areas and entities. I think, therefore, that it is indeed a process; it is a journey, and we will not reach the end point. We have to ask ourselves how, then, those entities work together to make sure that the United Kingdom continues to survive and thrive and prosper, and of course allow for those who would wish it to exist in a very different format to make their points known carefully and comfortably within the systems we have created.

I am aware of a number of individuals who have constructed the system we have today. I am always reminded of Donald Dewar. I met Donald Dewar once and he was an extraordinary individual. He was very unhappy that day because fishermen had just dumped a very large bundle of rotting fish just in front of the Parliament. He was not overly impressed at meeting me because I represented Scottish fishermen. At the same time, he recognised that we were trying to make a particular point. “There shall be a Scottish Parliament” was his oft-repeated statement, but my favourite part of his opening speech to the Scottish Parliament was what came next: “I like that”. That was a nice way of putting it. It was a recognition that there was now a different way of doing things.

It is right that we are critical. We cannot and should not simply accept and celebrate devolution as if it has been a unified and wholesome success. The noble Lord, Lord Foulkes, has made a number of interventions in this House regarding the British Transport Police and he and I have been overt allies in this regard, recognising that devolution itself does not need to be a great stake through the heart of co-operation: sometimes it is about working together to find the right solution, but being accountable to the democratic bodies, whether it be in Edinburgh, Cardiff, Stormont or indeed here. If you approach the argument with a simple position, which is that, irrespective of the argument, we must have it separate, with a wall around it, you are always going to get the same outcome, which will never be satisfactory within the devolution settlement.

That is one of the great failings that we experience on a daily basis: if you simply believe that independence is the answer to every question, you are never really going to get the functioning devolution you want. If all you have is a hammer, everything looks like a nail. If all you believe in is independence, every answer will give you the same outcome. Trying to marshal that is one of the greater challenges, particularly when we are seeing some of the great difficulties that Brexit has

cast on us. I am fully aware, as a number of noble Lords here will be happy to attest, that the time ahead will be most challenging. There is no point pretending otherwise. We have in our devolution structure enough robustness to allow serious debate to take place. That is important, but we must recognise that it will be tested to the extreme. That is simply a statement of fact.

I have a couple of minor points on the ongoing intergovernmental review. It is important to recognise that this is a collaboration between each of the devolved Administrations and the UK Government. That is an important point, because we are trying to find the right way of creating the right sorts of structures. As a clerk in the Scottish Parliament, I always found the JMC structures frustrating because they were so secret; you could never find out what was going on behind closed doors. I am now on the other side of the doors and I wish that there was a secret. Sometimes it is not actually as exciting as it would seem. The reality is that the JMC structures will be one of the evolving aspects of this. People need to have greater confidence that their elected representatives are doing the right thing, and transparency and accountability will be at the heart of that.

That will be particularly important as we look at the common frameworks going forward. On the magical date when we move from this limbo world to the next stage, they will become critical as we try to make sure that our United Kingdom remains united and that we are able to focus on the bread and butter issues, as we know people want. Time and time again as I stand here representing Northern Ireland I am fully aware that those issues have been set aside because the devolution settlement of Northern Ireland is not working. We are ultimately tested on how we deliver well-being and results for the people we represent. It is important that we get the right system and that we get it working well.

**Lord Purvis of Tweed:** I do not wish to detain the Chamber, nor bring in any kind of division, and it is very welcome to hear that this relationship is progressing at an executive level. But would the Government be open to entertaining the possibility that there could be Members of the legislatures also involved in some of these discussions about what comes with the accountability to some of these ministerial or cross-executive discussions? Even if there are other intergovernmental relationships, there are still very few formal links between the parliaments, either in Cardiff, Edinburgh or Westminster,

for parliamentarians. I know that the noble Lord cannot speak on behalf of the legislatures, but if these discussions are ongoing and the Government are willing to be open to the idea of like-minded parliamentarians, that may be positive.

**Lord Duncan of Springbank:** The noble Lord is right to raise the point, but I am probably not the right person to answer it. That is a parliamentary issue, which I imagine can be taken forward if the noble Lord is minded to write to the parliamentary authorities. That might be an approach. I know that noble Lords will be very pleased to hear that I am drawing my remarks to a close—or at least I was drawing my remarks to a close.

**Lord Hain:** I will make a brief point, and I am grateful to the noble Lord for accepting my intervention. It strikes me on Northern Ireland that half of the community is not represented in Parliament. It is not represented in your Lordships' House and it is not represented in the House of Commons. That is partly because Sinn Féin will not take its seats—we understand that. But can the Government—and whoever is the Prime Minister when the next set of appointments is made—think about this? I would certainly be willing to talk privately. It is really important for balanced debate that this is redressed.

**Lord Duncan of Springbank:** The noble Lord makes a very valid point. Now more than ever, if Sinn Féin were to have taken its seats, the difference it could have made in the other place would have been palpable. There is no question about that. The point he raises needs careful consideration. We are, I hope, a diverse Parliament in terms of representing that—particularly this House, which has history behind it. I am not saying that noble Lords are all historical, but they certainly have pedigree on the issues, and there are opportunities here that do not exist in the other place. I will reflect on that and bring it to the attention of the Secretary of State for Northern Ireland.

On that point, I hope that noble Lords will forgive me. We have had a very good discussion—but, again, it is a journey and not a destination. I am sure we will revisit this on a number of occasions in the future.

*Motion agreed.*

*House adjourned at 9.39 pm.*





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