

Vol. 801
No. 7



Monday
13 January 2020

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS

OFFICIAL REPORT

ORDER OF BUSINESS

Introductions: Baroness Morgan of Cotes, Lord Goldsmith of Richmond Park	441
Retirement of a Member: Lord Vallance of Tummel	441
Questions	
Low-income Families: Benefits Freeze	441
Young Carers: Health and Well-being	444
UK Aid: Nutrition-sensitive Programmes	446
D-day Landings Memorial: Education	449
Clean Air (Human Rights) Bill [HL]	
<i>First Reading</i>	451
Unpaid Work Experience (Prohibition) Bill [HL]	
<i>First Reading</i>	451
Criminal Records Bill [HL]	
<i>First Reading</i>	452
Emissions Reduction (Local Authorities in London) Bill [HL]	
<i>First Reading</i>	452
Modern Slavery (Victim Support) Bill [HL]	
<i>First Reading</i>	452
European Union (Withdrawal Agreement) Bill	
<i>Second Reading</i>	452

Lords wishing to be supplied with these Daily Reports should give notice to this effect to the Printed Paper Office.

No proofs of Daily Reports are provided. Corrections for the bound volume which Lords wish to suggest to the report of their speeches should be clearly indicated in a copy of the Daily Report, which, with the column numbers concerned shown on the front cover, should be sent to the Editor of Debates, House of Lords, within 14 days of the date of the Daily Report.

*This issue of the Official Report is also available on the Internet at
<https://hansard.parliament.uk/lords/2020-01-13>*

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

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

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

© Parliamentary Copyright House of Lords 2020,
*this publication may be reproduced under the terms of the Open Parliament licence,
which is published at www.parliament.uk/site-information/copyright/.*

House of Lords

Monday 13 January 2020

2.30 pm

Prayers—read by the Lord Bishop of Worcester.

Introduction: Baroness Morgan of Cotes

2.39 pm

The right honourable Nicola Ann Morgan, having been created Baroness Morgan of Cotes, of Cotes in the County of Leicestershire, was introduced and took the oath, supported by Baroness Verma and Lord Young of Cookham, and signed an undertaking to abide by the Code of Conduct.

Introduction: Lord Goldsmith of Richmond Park

2.42 pm

The right honourable Frank Zacharias Robin Goldsmith, having been created Lord Goldsmith of Richmond Park, of Richmond Park in the London Borough of Richmond upon Thames, was introduced and took the oath, supported by Lord True and Lord Randall of Uxbridge, and signed an undertaking to abide by the Code of Conduct.

Oaths and Affirmations

2.47 pm

Several noble Lords took the oath or made the solemn affirmation, and signed an undertaking to abide by the Code of Conduct.

Retirement of a Member: Lord Vallance of Tummel

Announcement

2.52 pm

The Lord Speaker (Lord Fowler): My Lords, I should like to notify the House of the retirement, with effect from today, of the noble Lord, Lord Vallance of Tummel, pursuant to Section 1 of the House of Lords Reform Act 2014. On behalf of the House, I should like to thank the noble Lord for his much-valued service to the House.

Low-income Families: Benefits Freeze

Question

2.53 pm

Asked by Baroness Lister of Burtersett

To ask Her Majesty's Government what assessment they have made of the impact on low-income families of the four-year freeze in working age and children's benefits.

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Stedman-Scott) (Con): My Lords, the benefit freeze was designed to put welfare on a sustainable footing, incentivising work and making welfare fairer. We conducted a number of assessments at the time of the Welfare Reform and Work Act in 2016; it was estimated that 30% of households would be affected by the policy, but that no one should

take a direct cash loss as a result of the freeze. We have continued to monitor the impact of our policies through publications such as the annual release on households below average income. The latest available stats show that the number of people in absolute poverty in 2017 and 2018 was lower than in 2010. The benefit freeze will come to an end in April 2020, benefiting more than 10 million people.

Baroness Lister of Burtersett (Lab): My Lords, welcome as the end of the freeze—as required by law—is, it will do nothing to restore the significant losses suffered by millions in poverty, which are, on average, nearly £400 this year for families with children. Those losses have contributed to increased homelessness, reliance on food banks, and general poverty and hardship. Will the Minister, who I know cares about such matters, therefore undertake to press on the Chancellor the case for an above-inflation increase as a tangible and immediate way of making good the Prime Minister's "one nation" election pledges to level up and help those reliant on food banks with the cost of living?

Baroness Stedman-Scott: I understand the points that the noble Baroness has raised—you cannot argue with them. One of the major contributing factors was that inflation was twice what we thought it was going to be. It is no excuse, but that was it. I am touched that she thinks I can influence the Chancellor; I will have a really good go and keep her posted. My door is open to talk about this further.

Lord Farmer (Con): My Lords, over a decade ago the Joseph Rowntree Foundation proved that the tax credits approach to child poverty had run out of steam. How are this Government following the evidence on the root causes of child poverty, which include family breakdown?

Baroness Stedman-Scott: My noble friend makes a point about tax credits. While I have no doubt that they did a lot of good, some of their ramifications caused difficulty, in that we had an annual rather than a monthly reconciliation, as we are trying to have under universal credit. I believe that the monthly reconciliation under universal credit, while not perfect, is much better than waiting until the end of the year. On child poverty and family breakdown, obviously there are families who have great difficulty fiscally, and we have to try to help them, but the evidence shows that helping parents to move into and remain in work is the best option for moving them out of poverty. We want to see child poverty fall and remain determined to tackle it. My door is open for further discussion on this; I will do anything I can to move things forward.

Baroness Janke (LD): My Lords, is the Minister aware that in August 2018, two-thirds of those who had benefits cut were single parents? Single parents in the bottom 20% income bracket will have lost 25% of their 2010 income by 2021-22. Ending the benefit freeze will not restore this, and half of the total number in single-parent families are in poverty. Does the noble Baroness agree that children in single-parent families are doubly disadvantaged as a result of government policies?

[BARONESS JANKE]

What plans do the Government have to end this glaring injustice and to ensure that these children get a fair deal?

Baroness Stedman-Scott: Again, I understand the points that the noble Baroness makes. We can all recall incidents in our families—I can in my own; my niece is a single parent, and life is a challenge at the best of times. The benefit cap levels were put in place to try to restore some fairness to the system. Due to the election taking place, the levels were not reviewed in the last Parliament, but there remains a statutory duty to look at them, which will be done at an appropriate time.

Baroness Sherlock (Lab): My Lords, the benefit freeze was not a reform but a straightforward cut: it simply cuts the value of certain benefits every single year, year on year, for five years. The result is that the welfare state, the point of which is to support children and families when the parents cannot earn money, is now providing a record low level of benefits compared to average wages. The basic JSA of £73 a week is just 14% of average earnings, according to the Resolution Foundation. When Beveridge started his system, the figure was 27%. We cannot have a welfare state in which, if you find yourself unable to work, you are literally thrown on to the scrapheap and become dependent on food banks. Therefore, if the Prime Minister, as he said, believes that austerity was the wrong choice, is not the logical step to accept that, since these cuts should not have been made, they should now be made good?

Baroness Stedman-Scott: I would not want to contradict the noble Baroness—I have the greatest respect for her—but I think the Prime Minister said that austerity must stop, and that it was necessary at the time. I do not want to go over all those arguments again. In the eight years following the financial crisis and leading up to the benefits freeze, jobseeker's allowance grew by 21%, whereas median earnings grew by only 12%. We want a welfare state that works for people and enables them to have a decent way of life, but the legacy benefit system was unsustainable, and I am afraid we have taken very difficult decisions to try to balance it out and to make work pay for people. I know that the noble Baroness does not agree with me, but we now have more people in work than we have ever had—

Noble Lords: No.

Baroness Stedman-Scott: We have. I am sorry—it is a fact. We have more people in work than ever before, and—

Baroness Jones of Moulsecoomb (GP): Zero hours.

Baroness Stedman-Scott: I can answer that one too. While noble Lords will not want me to read out a shopping list of things we have done—I know that it does not go down well—I will mention three things: reducing UC debt deductions from 40% to 30%, increasing the national minimum wage and cutting income tax.

I am assured by officials that that has put another £2 billion per annum into people's pockets.

The Lord Bishop of Durham: My Lords, in the coming years, the main driver in increasing child poverty will be the two-child limit. Low-income families are particularly detrimentally impacted by this. It is predicted that, by 2023-24, this policy will tip 300,000 children into poverty. What plans do Her Majesty's Government have to stem the rising child poverty levels caused by current policies, primarily the two-child limit?

Baroness Stedman-Scott: The right reverend Prelate has been absolutely consistent on the issues around this particular benefit. I was delighted that he could come to our office to talk about them; he put the case to the Minister for Welfare eloquently. We have to keep on, okay? I stand by the right reverend Prelate in doing that. We must also keep on looking at other benefits to make sure that we make life better.

Young Carers: Health and Well-being Question

3.02 pm

Asked by **Baroness Wheeler**

To ask Her Majesty's Government what plans they have to ensure that young carers receive the social care, family, mental health and financial support they need to ensure their own health, development and well-being.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Baroness Blackwood of North Oxford) (Con): My Lords, we are committed to supporting young carers to ensure that they maintain their health and well-being and have the same life chances as their peers. We will continue to carry out the commitments made in the *Carers Action Plan*. These aim to increase the identification, support and recognition of young carers. This year, we will publish reports on young carers identification and work on carers from seldom-heard groups.

Baroness Wheeler (Lab): My Lords, there are now an estimated 800,000 young carers delivering care to family members, and there has been an alarming 83% increase in children as young as five, six and seven undertaking this role. Is it not clear that the Government's continued failure to tackle the social care funding crisis means young carers having to undertake care and support, at great cost to their own well-being, education and mental health, that should be available in the social care system? In particular, short breaks for respite care funded by local authorities are vital for disabled children and their families, including their siblings, many of whom are young carers. What action are the Government taking to make sure that they fill the annual £434 million funding gap in local authority funding for social care for disabled children in England, identified by the Disabled Children's Partnership?

Baroness Blackwood of North Oxford: The noble Baroness will know that we take with the utmost seriousness the need to put social care funding on a sustainable footing. I heard the serious debate about

this that we had on Thursday in the Queen's Speech debate, and took back the seriousness with which this place takes those issues. On carers' leave, the Government want to combine rewarding careers and the education of young carers with being able to care, and do not want young carers to take on inappropriate levels of caring. Therefore, the Government have committed to supporting unpaid carers with a leave entitlement of one week per year, which will be taken up in the employment Bill. In addition, I take the noble Baroness's point about respite care and I will provide her with further detail in a note.

Lord Mackay of Clashfern (Con): The Minister referred to the recognition of children giving this care. What provision is there for finding out the children who are subject to caring for adults or siblings in their family?

Baroness Blackwood of North Oxford: I thank my noble and learned friend for his question. The Government changed the law to improve how young carers and their families are identified and supported, to simplify the legislation relating to this. In addition, in 2016 we funded the Carers Trust to develop and run the Making a Step Change project for young carers and their families. It was designed to embed best practice to champion and identify support for young carers and their families and to provide an effective and integrated way for voluntary and statutory sector partners to identify young carers. We are working even harder to make sure that GPs and other professionals do the best for young carers. NHS England has recently introduced a new framework of quality markers in when identifying carers for GP practices so that they can improve both their health and their well-being throughout the care pathway.

Baroness Pitkeathley (Lab): My Lords, the noble Baroness will remember from her previous role at the Department for Health and Social Care that, when carers were consulted prior to the *Carers Action Plan*, 67% of young carers said that they were not receiving any support at all. Does she have any statistics to show that this situation is improving?

Baroness Blackwood of North Oxford: We have now delivered all 12 of the commitments and recommendations in the *Carers Action Plan* to improve the situation for young carers, but the noble Baroness is absolutely right that the way we will improve on that is by improving identification. As I have said, with support from the Carers Trust and the Children's Society, we are focusing on making sure that we embed not only early identification but also the right support throughout our work with young carers. We know that we have further to go but we are determined to do so.

Baroness Brinton (LD): My Lords, the Children and Families Act 2014 made a very clear link between the Department for Health and Social Care working with other government departments to ensure that young carers got support, specifically the Department for Education. Also in that Act is a young carer's assessment that every young carer is entitled to. What are the Government doing to ensure that every school

identifies such young carers and makes sure that a referral is made to other support mechanisms elsewhere, including health?

Baroness Blackwood of North Oxford: This is a hugely important point, because obviously sometimes young carers are not necessarily identified by health professionals. In 2019 the Department for Education carried out a review of the educational outcomes of children who need or have had need of a social worker, and obviously young carers are identified in that cohort, where they represent around 3% or 16,500 of them. The department has identified the barriers that they face and the best practice needed to help leaders and front-line practitioners overcome them. Work is ongoing in how we respond to that. In addition, the DfE has worked to improve information sharing to safeguard vulnerable children, which would include carers, to make sure that they are picked up and given the support they need and thus ensure that they have the best life chances.

Lord Watts (Lab): My Lords, how do the school attendance records of children who are carers compare with the average?

Baroness Blackwood of North Oxford: The noble Lord has asked a specific statistical question which I want to provide an accurate answer to, so I will write to him.

Baroness Finlay of Llandaff (CB): My Lords, do the Government recognise that the shortage of beds which is being experienced across the NHS is having an adverse effect on the ability to provide respite admissions when young carers find that they are literally at breaking point? Funded beds in hospices, nursing homes and other places can be essential to maintaining the cohesiveness of a family unit that is under extreme strain.

Baroness Blackwood of North Oxford: Obviously, pressure on the wider NHS and on social care can have a knock-on effect on unpaid carers who provide an enormous and valuable contribution to our health system, and also on those who care for them. I think that many of us in this Chamber will have personal and direct experience of that. That is why we have provided an extra £33.9 billion of funding for the NHS to ease those pressures, why we are working hard to find a sustainable solution to social care reform, and why we want to make sure that we provide carers of all ages with the support they need, first through identification and later by making sure that they have joined-up support right through the system.

[BARONESS BLACKWOOD OF NORTH OXFORD]
UK Aid: Nutrition-sensitive Programmes
Question

3.09 pm

Asked by Lord Collins of Highbury

To ask Her Majesty's Government what assessment they have made of UK Aid's nutrition-sensitive programmes, and what steps they are taking to ensure that high-impact nutrition sensitivity is embedded across UK Aid's portfolio.

The Minister of State, Department for International Development (Baroness Sugg) (Con): My Lords, DfID reviews and assesses programming on an annual basis and, since hosting the 2013 Nutrition for Growth summit, we have exceeded our commitment to invest in nutrition-sensitive programmes. Where possible, we integrate nutrition objectives into our work on health, social protection, climate adaptation and agriculture, all of which is essential for tackling the underlying causes of malnutrition. We will continue to work to embed high-impact nutrition sensitivity across UK aid's portfolio.

Lord Collins of Highbury (Lab): I thank the Minister for that response and certainly welcome the Government's actions since 2013. I declare an interest as vice-chair of the All-Party Parliamentary Group on nutrition. The OECD policy marker on nutrition provides an opportunity to better capture the impact of DfID's nutrition-sensitive programmes. Although approved, it has not been incorporated into DfID's reporting systems. Can the Minister ensure that this is done, to improve accountability and outcomes for both nutrition and DfID's wider objectives?

Baroness Sugg: My Lords, the UK has been a proud global leader on nutrition since hosting the summit in 2013. Since 2015 we have reached more than 60 million women, adolescent girls and young children with nutrition services in 25 countries. The noble Lord is right to point out the advantage of the new OECD policy marker. Indeed, the UK worked with donors and other Governments to develop the guidance for that marker and supported its adoption at the OECD. The new marker gives a big improvement in our ability to track aid spending on nutrition. We are exploring options to ensure that we use that policy marker to its best effect in DfID.

Baroness Manzoor (Con): My Lords, the Government are doing some excellent work on nutrition and there is a very expert team in DfID. I co-chair the APPG on Nutrition for Growth and, as my noble friend the Minister knows, there is to be a summit in Tokyo later in the year. Will she agree to meet me and other members of the APPG to discuss Her Majesty's Government's commitments to the summit?

Baroness Sugg: My Lords, I pay tribute to the work of my noble friend and the noble Lord, Lord Collins, in co-chairing the APPG, an important body. Our current commitments to nutrition will come to an end in 2020, so the Tokyo Nutrition for Growth summit in

December will really be a key moment in making sure that progress continues. We have bold ambitions for the summit. We are working closely with the Government of Japan to ensure that it is a success. We are looking to strengthen health systems, to come up with longer-term funding and to ensure that Governments, donors and businesses take positive action to improve access to nutritious and sustainable diets. I would be delighted to come along to the APPG with officials to provide further briefing.

Baroness Sheehan (LD): My Lords, last year the Government made an announcement of £61 million to be invested in supporting crops that can help to prevent food insecurity as a result of climate change. Such climate-resilient crops really should pack a punch and contribute well to a healthy, nutritious diet, so will the Minister commit to ensuring that nutrition sensitivity is embedded throughout DfID's climate and food and agriculture portfolio?

Baroness Sugg: My Lords, climate modelling shows that the additional deaths that will stem from climate change will be largely due to undernutrition, so it is absolutely right that we focus on this. There are two ways in which we need to do that: through both the quantity of food available—we are looking at investing in flood-tolerant rice and drought-tolerant maize, for example—and the quality, ensuring that healthier, nutritious diets are affordable and accessible. We are looking at nutrient-rich, biofortified staples such as vitamin A-enriched sweet potato or zinc-enriched maize. We will continue to ensure that we invest properly in new agricultural technologies so that the quality of the diet is available as well as the quantity.

Baroness Tonge (Non-Aff): My Lords, does the Minister agree with me that good nutrition is far easier to achieve in smaller than in larger families? Will she therefore renew the Government's pledge to concentrate on delivering voluntary family planning to as many women in the world as possible? There are still 220 million women in the world who cannot access family planning.

Baroness Sugg: My Lords, malnutrition affects women and girls more seriously, and I will be delighted to reaffirm the commitment to ensuring that we are able to give women and girls across the world access to voluntary family planning when and how they need it.

Baroness Prosser (Lab): My Lords, we on these Benches of course welcome the commitment made in the Queen's Speech for 12 years of education for girls. We know that malnutrition hits girls and women rather more than men, to the extent that girls are sometimes so malnourished that they are unable to attend education. What plans do the Government have to deal with that?

Baroness Sugg: As the noble Baroness highlights, we are committed to helping poor countries provide 12 years of good-quality education, particularly for girls. She is also right to point out that, to learn, children need the right nutrients. Malnutrition prevents many girls attending school and hinders the potential of those who do. We are committed to ensuring that we deliver early education and nutrition interventions together, and our DfID 2018 education policy states

that. When children get the basic nutrition they need in the first 1,000 days of life, they do better at school and earn more as adults.

Baroness Boycott (CB): My Lords, without good nutrition at key points in a child's growth, it is impossible for them to develop a healthy immune system, and, nowadays, malnutrition is the number one cause of TB worldwide. I know that a lot of DfID's work is channelled through multilaterals, such as the Global Fund to Fight AIDS, Tuberculosis and Malaria. Will the Government give us an assurance that they will deal effectively with malnutrition, so that the impact these organisations have can be maximised?

Baroness Sugg: My Lords, I am very happy to give that commitment. In our engagement with all the global funds, we have championed the need to focus more on prevention and addressing the underlying causes of AIDS, TB and malaria, as part of an integrated approach to universal health coverage. That includes addressing malnutrition. We also provided an additional £50 million of funding to the Global Financing Facility, which was contingent on demonstrating a strong commitment to nutrition, as well as other health issues. We will continue to champion this issue and influence the approach taken by all our multilateral partners.

D-day Landings Memorial: Education *Question*

3.16 pm

Asked by Lord Selkirk of Douglas

To ask Her Majesty's Government what plans they have to support the establishment of educational provision at the planned memorial at Ver-sur-Mer to those under British command at the D-Day landings.

The Minister of State, Ministry of Defence (Baroness Goldie) (Con): My Lords, Her Majesty's Government have been and remain wholly supportive of the Normandy Memorial Trust's plans for the site of the Normandy memorial at Ver-sur-Mer. The £27 million of funding provided by the Government demonstrates our commitment to ensuring that the legacy of the Normandy campaign, and of those who fought and gave their lives, is there not only for this generation but for all future generations.

Lord Selkirk of Douglas (Con): Does the Minister agree that the trustees of the Normandy Memorial Trust—including its chairman, the noble Lord, Lord Ricketts—and the Government should be warmly congratulated on their successful efforts in raising funds for this long-awaited tribute? Does she accept that the provision of an education centre close to the site of the memorial should help future generations understand fully the importance of the contributions made by those serving under British command in the battle for Normandy, a ferocious struggle after D-day

which secured the liberation of Paris in weeks and helped bring victory in Europe in less than one year?

Baroness Goldie: I thank my noble friend for his kind comments. I too pay tribute to the noble Lord, Lord Ricketts, and his colleagues at the Normandy Memorial Trust for their unstinting work. My noble friend is correct to identify that the putative education centre will have an important role to play in remembering D-day. The trust's plan to create a visitor and education centre is an intention to increase public awareness of the full scope of the campaign in Normandy, starting with the initial landings, and to capture the spirit of that tremendous campaign, which was a pivotal part of the change of fortunes in the Second World War.

Lord Anderson of Swansea (Lab): Congratulations are due, but does the Minister agree that, apart from our dwindling band of veterans and their families, a major target group of visitors must be local people in Normandy, particularly French schoolchildren? Will she therefore ensure that all the material is bilingual and uses, so far as is possible, memories of those who were there at the time? Having been a student working on a farm on the plain of Caen, I know that there is tremendous enthusiasm for the role which we in Britain played in the liberation of Normandy.

Baroness Goldie: The noble Lord makes an important point. It will of course be for the trustees to determine how they administer and run the education centre, but I am sure that they will pay close attention to his observations.

Lord Trefgarne (Con): My Lords, cannot the Government make a specific contribution to the educational facilities of the memorial, to which my noble friend referred, particularly those aimed at younger visitors?

Baroness Goldie: My noble friend may be aware that the Government have already been generous, as acknowledged by my noble friend Lord Selkirk. Initially, they made available a £20 million grant from Libor funds. On receiving the entreaties of the noble Lord, Lord Ricketts, they made available a further £7 million. The trustees are now deployed to secure the remaining funds which they require. I understand that they are energetically engaged in pursuing that objective and have engaged the services of a professional fundraiser.

Lord Stoneham of Droxford (LD): My Lords, I draw the House's attention to my interest as a trustee of the Portsmouth D-day museum. As we are discussing the educational work that is being done to commemorate D-day, will the Minister ensure that when her department comes to sell the Southwick military estate near Portsmouth, Southwick House—the naval HQ of Admiral Ramsay—will be preserved for the nation and used as an important education centre on the preparations and lessons for D-day, to complement those facilities that already exist in Normandy?

Baroness Goldie: The noble Lord raises an issue somewhat outwith the spectrum of my brief. I apologise

[BARONESS GOLDIE]

for having no specific information about the property to which he refers. I shall look at his question and see whether I can respond.

Lord West of Spithead (Lab): My Lords, the Minister will be aware that in 1944 the Royal Navy had 1,500 major warships, hundreds of which took part in D-day. Can she confirm that any educational package will include the importance of maritime power for any island nation? Also, how will we explain that today this great maritime nation has 13 frigates—fewer than at any time since the reign of Charles I?

Baroness Goldie: I never cease to be surprised by the ingenuity of the noble Lord in insinuating into his questions important matters of our maritime capability. The content of programmes within the education centre will be for the trustees to determine. On his wider point, he will be aware that, more than 70 years on, we face changed circumstances and different challenges, and we have the advantage of vastly improved technology. The ships that we are now constructing are state-of-the-art in terms of technology. They are flexible, resilient ships, with versatile purpose and versatile use. The Government can be congratulated on a very innovative programme of naval shipbuilding.

Lord Reid of Cardowan (Lab): My Lords, I declare a personal interest. Like many others, my father took part in the battle for Normandy in June 1944. Given all the events of the past few years, is it not particularly important that the educational aspects of this very worthy venture should stress the awful cost of conflict in Europe for ourselves and others on the European continent? This was the fourth great war to have taken place in a century, with a terrible cost in blood and for families. Should it not remind us that, whatever our exact constitutional arrangements with the other European countries, it is in all our interests to work as closely as possible, for ourselves and for future generations?

Baroness Goldie: The noble Lord makes a point of fundamental importance, which nobody could disagree with. The mere physical presence of the memorial at Ver-sur-Mer, and the proposed education centre, are in themselves testament to what happens when countries engage in war. Again, as for the content of any programmes, I am sure that the trustees will take careful note of what the noble Lord has said.

Clean Air (Human Rights) Bill [HL]

First Reading

3.24 pm

A Bill to establish the right to breathe clean air; to require the Secretary of State to achieve and maintain clean air in England and Wales; to involve Public Health England in setting and reviewing pollutants and their limits; to enhance the powers, duties and functions of the Environment Agency, the Committee on Climate Change, local authorities (including port authorities), the Civil Aviation Authority, Highways England, Historic England and Natural England in relation to air pollution; to establish the Citizens' Commission for Clean Air with powers to institute or intervene in legal proceedings; to

require the Secretary of State and the relevant national authorities to apply environmental principles in carrying out their duties under this Act and the clean air enactments; and for connected purposes.

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

Unpaid Work Experience (Prohibition) Bill [HL]

First Reading

3.25 pm

A Bill to make provision for the prohibition of unpaid work experience exceeding four weeks; and for connected purposes.

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

Criminal Records Bill [HL]

First Reading

3.26 pm

A Bill to amend the length of time for which an individual may have a criminal record under the Rehabilitation of Offenders Act 1974.

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

Emissions Reduction (Local Authorities in London) Bill [HL]

First Reading

3.26 pm

A Bill to enable London Borough Councils and the Common Council of the City of London to achieve reductions in airborne emissions from specified plant in their areas and to make provision for the Secretary of State to set emission limits for such plant; to provide for fixed penalty notices in specified circumstances; and for connected purposes.

The Bill was introduced by Baroness Doocey (on behalf of Lord Tope), read a first time and ordered to be printed.

Modern Slavery (Victim Support) Bill [HL]

First Reading

3.27 pm

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

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

European Union (Withdrawal Agreement) Bill

Second Reading

3.27 pm

Moved by **Lord Callanan**

That the Bill be now read a second time.

The Minister of State, Department for Exiting the European Union (Lord Callanan) (Con): My Lords, it is indeed an honour to open today's debate on a Bill of such historical significance and I am delighted that we have been able to secure our departure from the EU with a deal that gives certainty to businesses, protects the rights of citizens and ensures that we regain control of our money, our borders and our laws.

This Bill, which has passed its stages in the other place with a substantial majority, prepares our country to leave the EU at the end of this month by implementing the withdrawal agreement in domestic law and ensuring that the Government can honour our international obligations. It also allows us to meet our commitments in the separation agreement we have concluded with EEA EFTA states and the agreement on citizens' rights with Switzerland.

Before I turn to the Bill in more detail, I would like to take this opportunity to pay tribute to the valuable work of the Select Committees of this House that have now re-formed. Their work throughout the EU exit process has been insightful and I look forward to engaging constructively with them during the passage of the Bill. I am also grateful to those Peers across the House who have already taken the opportunity to engage with myself and ministerial colleagues on this important legislation.

Part 1 of the Bill covers the implementation period. The withdrawal agreement sets out that, during the implementation period, EU law will generally continue to apply in the UK as it does in member states, thereby providing certainty to businesses and citizens as they will have to prepare for only one set of changes. The Bill will save and modify the legal effect of the European Communities Act 1972 for the duration of that period; it will preserve EU-derived domestic legislation and ensure that it continues to operate properly during the implementation period; and it provides a supplementary power to make any further technical modifications that may be needed.

The Bill prohibits an extension of the implementation period: it will end on 31 December 2020. With clarity on the timetable that we are working to, the UK and the EU will be able to progress negotiations and use the implementation period in order to secure the future relationship. This Government will work with the scrutiny committees in both Houses to ensure appropriate parliamentary scrutiny of new EU law made or proposed during this period.

Part 2 gives the withdrawal agreement the same legal effect in UK law as it will have in EU law, as required by Article 4 of the withdrawal agreement. It means that individuals and businesses will be able to rely directly on the withdrawal agreement as a matter

of domestic law. This is replicated for the EEA EFTA and Swiss separation agreements.

Citizens' rights have been our greatest priority throughout the EU exit process. Giving legal effect to the agreements is a critical step in providing certainty to those who have chosen to make the UK their home. This Bill also takes a number of delegated powers to allow for changes to be made in relevant areas; for example, enabling the establishment of a permit system for frontier workers, providing for routes of appeal and ensuring that professional qualifications continue to be recognised and that social security co-ordination operates for those covered by the agreements. I reassure noble Lords that these powers are tied to the relevant articles of the agreements which they implement.

The Bill will also formally establish the independent monitoring authority which will oversee the rights of EU citizens and citizens of Norway, Iceland and Liechtenstein who reside in the UK. This new UK-wide public body will be able to launch inquiries, receive complaints and bring legal action. It will be fully independent of government. The Bill requires that the IMA's board must contain appropriate expertise on citizens' rights in relation to Scotland, Wales and Northern Ireland, and the devolved Administrations will play a central role in appointing those board members.

The Bill also provides the mechanism to pay the negotiated financial settlement. This will take the form of a standing service provision until 31 March 2021. The majority of the remaining obligations will then be met through the annual supply process, bringing it in line with other government expenditure.

In addition, the Bill covers other separation issues. These provide clarity about what happens to processes and arrangements that are ongoing at the end of the implementation period. Many of the details give effect through the main provisions delivering the agreements in Clauses 5 and 6. However, technical changes will need to be made in certain scenarios. We have therefore taken a delegated power, limited to being able to implement Part 3 of the withdrawal agreement and the EEA EFTA agreement only, which ensures that, for example, our rulebook works for goods being placed on the market before the implementation period concludes.

The withdrawal agreement Bill will make provisions to deliver the protocol on Ireland and Northern Ireland. The deal that the Government have negotiated with the EU protects the constitutional and economic integrity of the United Kingdom. It ensures that the whole United Kingdom leaves the EU customs union and that Northern Ireland remains in the UK customs territory. It also upholds the Belfast/Good Friday agreement. I know that the issue of the access of Northern Ireland goods to the rest of the UK is of great concern to many Members of this House and the other place. The protocol is clear that there is nothing in it which prevents the UK ensuring the unfettered access of Northern Ireland goods to the rest of the UK. Let me reassure the House that the Prime Minister's commitments in this regard, as well as the commitments made in our manifesto, are clear and that the Government stand by them. Indeed, these commitments were reiterated in last week's joint

[LORD CALLANAN]

UK-Ireland publication *New Decade, New Approach*, which laid the foundation for the restoration of the Northern Ireland Executive over the weekend, something which I am sure noble Lords agree is a very positive event.

I would like to take a moment to focus on the powers in the Bill, and in doing so I thank the Delegated Powers and Regulatory Reform Committee for its report. In particular, I am pleased that the committee agrees with the Government's use of the word "appropriate" rather than "necessary" in the construction of the powers. I seem to remember that this was a subject of much debate in this House during the passage of the withdrawal Act in 2018. In fact, I am reliably informed that it even sparked a fashion trend among our department's lawyers who had tote bags produced bearing the word "necessary" on one side and "appropriate" on the other. Never let it be said that lawyers do not have a sense of humour.

The Government understand the remaining concerns around the use of delegated powers across the Bill and note the committee's recommendation regarding a sifting mechanism. However, I hope that noble Lords will see that the circumstances are very different from those we found ourselves in with the European Union (Withdrawal) Act 2018.

First, the volume of statutory instruments made under this Bill will be significantly lower than that under the 2018 Act, meaning that there will be sufficient time for the normal scrutiny procedures to apply and for debates to be held, should noble Lords find them helpful.

Secondly, as the committee's report recognises, the scope of each power is naturally constrained by the articles of the withdrawal agreement that it seeks to implement. For example, the power at Clause 7 can be used only in relation to setting the deadline for the grace period. The Government have also noted the concerns raised by the DPRRC about the clauses to implement the protocol. I understand noble Lords' concerns but we are confident that our approach is the best way to ensure that the UK can fully implement the protocol and fulfil its international obligations.

The DPRRC has recommended that the consequential power at Clause 41 be moved to the affirmative procedure to enable Parliament to scrutinise any amendments to primary or retained direct principal EU legislation. However, I remind noble Lords that the negative resolution procedure does not prevent such scrutiny taking place and that Members will still have the opportunity to pray against such regulations, should they consider them inappropriate. Members can see examples of the kinds of consequential amendments that will be made to legislation in Part 1 of Schedule 5 to the Bill.

I should now like to focus on the question of legislative consent. The Bill touches on a number of areas of devolved competence, including important powers granted to the devolved Administrations to protect citizens' rights. We have sought legislative consent from the devolved legislatures in Scotland and Wales for those areas, in line with the Sewel convention.

It is indeed disappointing that the Scottish Parliament has already refused its consent to the Bill, particularly

as the vote took place even before the Bill had completed its Commons stages. I should note that the Scottish and Welsh Governments' consideration of whether to recommend consent to this Bill turns not on the clauses for which we have sought legislative consent but on reserved matters. I reassure noble Lords that there has been substantial engagement with the Scottish and Welsh Governments before and throughout the legislative consent process, and we are committed to continuing to work collaboratively with all the devolved Administrations.

I turn to Clause 26 on the subject of historic CJEU case law, which I know has raised some interest, particularly among noble and learned Lords. We want to provide legal clarity. We have no intention of undermining the fundamental principles of hierarchy, precedent and judicial independence that are so central to our world-renowned legal system. Nor is this about giving the Government a permanent power to review this matter; the power will expire at the end of this year. My noble and learned friend Lord Keen is of course prepared to respond to any points raised on this subject when he closes the debate later.

I take this opportunity to reassure noble Lords—in particular, the noble Lord, Lord Dubs—that the Government are fully committed to the principle of family unity and to helping and supporting the most vulnerable children. Our policy on this has not changed. That is why the Bill places an obligation on the Government to lay a policy statement before Parliament in relation to a future arrangement between the UK and the EU regarding family reunion of unaccompanied children seeking international protection.

This country receives approximately 15% of all asylum claims from unaccompanied children in the EU, making the UK the third-highest intake country. The Bill does not change that. Our policy is unchanged, but the Bill removes a statutory requirement to negotiate. That is entirely appropriate because these negotiations have already been initiated. Clause 37 makes it clear that supporting the most vulnerable children remains of the utmost priority.

With approximately 80 contributors on the speakers' list—although that has now come down to about 72—I will draw my remarks to a close. As always, my noble and learned friend Lord Keen is here and stands ready to address noble Lords' contributions at the end of the debate. Passing this Bill will allow us to honour the result of the 2016 referendum, get Brexit done and focus on our other national priorities. I beg to move that the Bill now be read a second time.

3.40 pm

Baroness Hayter of Kentish Town (Lab): My Lords, today will be a bit like a wedding, where brides are encouraged to wear something old and something new for luck. Today we have the return of that old double act, the noble Lord, Lord Callanan, and the noble and learned Lord, Lord Keen, so no change there, but appropriately perhaps, with brides in mind, we have two maiden speeches. The first is from someone I have known and worked alongside for 30 or even 40 years: the former MP and my noble friend Lord Mann, whose work on tackling anti-Semitism has rightly brought him to this House. The other is from the new

noble Lord, Lord Barwell. I have great hopes of him, given how well he responded as Housing Minister to my pleas and those of this House to make client-money protection compulsory for letting agents. He heard the arguments, made a decision and made it happen. If only the current Government were as good.

Before us we have a very poor Bill, and one that is being rushed through Parliament. The rush is perhaps understandable, as 31 Jan is fast approaching, but it is not being just rushed but rammed through. The Government are determined to allow no change whatever, even if deficiencies are identified. This is both stupid, as corrections will have to be made later, and arrogant, with scant regard to our normal, democratic method of law-making.

Lord Forsyth of Drumlean (Con): That is a bit uncharitable. How can the noble Baroness say that this is being rushed through when the House of Commons did not take the time allocated to discuss it?

Baroness Hayter of Kentish Town: I was saying that it is being rammed through, because no changes will be contemplated. That was the distinction I was trying—obviously unsuccessfully—to make. The issue is that our normal democratic method of law-making is for this Chamber to give serious consideration, and then for any amendments to be seriously debated in the other place to assess their worth and, where necessary, adapt accordingly.

Stephen Barclay, in the other place, warned and threatened us not to defy the will of the country. That reflects a complete—I hope not deliberate—misunderstanding of our role in a bicameral democracy. But it is not just Lords whom Ministers want to ignore. We have heard via the Speaker some serious concerns from the Welsh Government, which are not addressed by what the Minister has just said. Their concerns may lead to the likelihood—for the first time ever and risking the devolution settlement that has worked so well—of the Welsh Assembly denying legislative consent to a Bill; and still Ministers will not listen. A party with “Unionist” in its name should think twice before undermining a shared approach to making the devolution settlement work.

The Bill is also a bit strange. Clause 38 specifically recognises that the Parliament of the UK is sovereign, but the rest of the Bill proceeds to strip powers away from Parliament. It repeals the Benn/Cooper requirements to report to Parliament, disapplies CRaG, abolishes the meaningful vote for the withdrawal and final deals, and deprives Parliament of its say as to whether the implementation period should be extended, despite, as recently as October, Robert Buckland promising the other place that it would

“have its say on the merits of an extension of the implementation period”—[*Official Report*, Commons, 22/10/19; col. 915]

The Minister might say, “Ah, but that is what Clause 33 of the Bill—agreed by the Commons last week—does”. But the decision for no extension has been taken before we have even left, before we have seen any negotiating mandate either from the EU or from our own Government and before we know how such negotiations are progressing or what obstacles,

from Northern Ireland or elsewhere, may stand in the way of a satisfactory agreement.

I have to tell the Minister that we are not going to try to save the Government from having a red face in the summer by giving them wriggle room now, but the chance of a deal, the implementation legislation and all the infrastructure being in place by December is frankly for the birds. I have waiting here my “I told you so” speaking notes, ready for when, in six months’ time, the Minister has to be here saying, “Oops. Can we change what we’ve just agreed?” We will leave that for him to do.

Our worries about the Bill stem from the Government’s own slogan, repeated just now, “Get Brexit done”. The electorate quite rightly judged that to mean “Come out by 31 January”. It did not mean “and do so by government diktat rather than by parliamentary process”, but that is what the Bill allows. There is no say over the implementation of our withdrawal, the objectives for the future relationship or the progress of those talks.

The Government say the Bill will

“ensure Ministerial oversight of the Joint Committee”

that deals with the withdrawal, but it will not ensure parliamentary oversight of what our EU Committee calls a

“uniquely powerful and influential body”

with

“significant responsibilities in relation to the Protocol on Ireland/Northern Ireland”

and with the power to amend the withdrawal agreement, a power immune from

“clear scrutiny procedures or parliamentary oversight”.

So, without UK MEPs, there will be no British parliamentarians able to scrutinise the decisions of government, whether over how we come out or, crucially, over the negotiations for our future relationship, because the Bill removes what was there before: our role on the mandate for and progress of negotiations on our trading, diplomatic, cultural, consumer, environmental and security relations with the EU. The Government have stripped out undertakings that Parliament would have an input into and oversight of these talks. Instead we will be left with a few “take note” debates and responses to Ministerial Statements. That is not proper scrutiny—

Lord Pearson of Rannoch (Non-Affl): My Lords—

Baroness Hayter of Kentish Town: —and excludes the devolved authorities altogether. I think the noble Lord has his name down to speak, so I am sure he can come in later.

These EU negotiations are vital to the UK’s security and well-being. Those talks will not be easy or fast but, despite expert advice to the contrary, government Ministers continue to maintain that they can complete them all without even considering a longer negotiating period, or indeed a transition period to introduce whatever new agreement is then signed.

Eleven months is unrealistic for the negotiation, conclusion and ratification of a free trade agreement, a security agreement and all the other agreements envisaged in the political declaration. Our concern is that, without proper scrutiny over the coming months,

[BARONESS HAYTER OF KENTISH TOWN]

and without any possibility of an extension to the transition period, the Government might just turn around in the autumn and say, “Sorry guys, no deal is possible”, and Parliament would be powerless to act.

Even now, as the Prime Minister formulates his objectives for the negotiations, he is refusing via this Bill to put his mandate to the Commons for approval, fuelling fears that it might include no deal—in other words, coming out on WTO terms—although I have to say that, with the schedules yet to be agreed and the WTO in some disarray, even that would be problematic.

The political declaration of 17 October signed by the Prime Minister sets out the framework for a deal, aiming at a

“comprehensive and balanced Free Trade Agreement”

and tariff-free trade in goods. If this is cast aside as the basis for the negotiation, despite Article 184 of the withdrawal agreement, this would be contrary to the spirit of the Vienna convention that:

“Every treaty in force is binding upon the parties to it and must be performed by them in good faith.”

Good faith seems in rather short supply just now.

Without any prior discussion, the Government have dropped the new ministerial power into the Bill in Clause 26; we will hear about this shortly from the noble Lord, Lord Anderson of Ipswich, and, I imagine, other noble and learned Lords. Clause 26 would enable Ministers to allow lower courts, not simply the Supreme Court, to decide not to be bound by ECJ rulings on the EU law that has now been put on to our statute book, risking legal uncertainty and possible divergence between English and Scottish jurisdiction, within the English and Scottish interpretation of law, within our UK-wide single market.

Sadly, in this Bill, we have seen a shameful disregard of the rights of vulnerable refugee children to be reunited with their families here. It is not enough to say, “We still believe in their rights.” Why take this from the Bill? There is insufficient fulfilment of guarantees given to EU residents, about which we will hear more from my noble friend Lord McNicol of West Kilbride towards the end of this debate. In each case—whether to children, citizens or Parliament—the Government have back-tracked on promises made. This is a Bill of which they are proud, but of which they should be ashamed.

3.52 pm

Lord Newby (LD): As your Lordships’ House knows, I and my colleagues on these Benches have spent the last three and a half years arguing that Brexit was not in the best interests of the British people and that they should have the opportunity to have a further say, in the light of the evidence available, on whether they really wished to leave the EU. We reluctantly came to the conclusion last October that, the withdrawal agreement Bill having secured its Second Reading, and in the absence of a majority in the Commons for a confirmatory referendum, a general election was the last and only way in which Brexit by Christmas could be avoided. We knew that this was a second-best way forward—from our perspective, a referendum would have been far

preferable—and we knew that it was a risk. We took the risk, but we did not succeed.

I realise that there are many people who fervently believe that we should remain in the EU who would now try to undermine the legitimacy of the current Bill by saying either that the original referendum result itself was flawed or that, given that all the polling shows that the majority of the British people would still like to remain in the EU, there is not a proper democratic mandate for Brexit. I am afraid I disagree. Everybody who voted last month knew that the election was, in reality, a proxy referendum on Brexit. There were of course other factors, notably the quality of the leadership of the Labour Party, but having fought the election on the slogan “Get Brexit done” and having won that election, the Prime Minister has the mandate and the votes in the Commons to take Britain out of the EU.

This does not change my belief that there is no such thing as a good or sensible Brexit. We on these Benches continue to believe that it will damage our economy, our security and our international reputation, but we are now faced with this Bill, which will indeed take us out of the EU. It does not, of course, get Brexit done, but it starts the process—a process which the Prime Minister will oversee with a solid Commons majority behind him. It is his Brexit. He owns it, and he will be judged by its successes and failures. The fact that the Government have a large majority and have indicated that they have no intention of accepting any changes whatever to the Bill is no excuse for your Lordships’ House to fail to scrutinise and challenge its detailed provisions, nor to vote to secure changes which we believe are in the interests of individuals or the country as a whole. This is what we will seek to do.

This is, of course, the second withdrawal agreement Bill presented to Parliament. The first version got its Second Reading in October but was superseded by the election. At that point, the Government lacked a secure majority and were prepared to make sensible concessions to get that Bill through. Now, free from such a constraint, they have removed all these concessions, however sensible or uncontroversial they were. They have in their place inserted some new and contentious provisions. Amendments to reverse some of these changes are the principal area in which we will seek to improve the Bill. We will also seek to consider elements of the Government’s negotiating mandate which we believe the Bill should cover.

The removed concessions are, first, the so-called Dubs amendment on allowing unaccompanied refugee children to join family members in the UK. The Bill simply requires the Government to report on their policy in this area and undermines the substance of their earlier commitment. The Government may say, as the Minister has this afternoon, that this will make no practical difference. But if that is so, there is no reason for changing the original provision and we will support the noble Lord, Lord Dubs, in trying to reinsert it.

Secondly, the original Bill had sensible and detailed provisions for parliamentary oversight of the negotiating process. These have been deleted. They provided for Parliament to consider and approve the Government’s negotiating objectives, to report back to Parliament

on the progress made in the negotiations and to require Parliament to approve any negotiated future relationship treaty. The only possible reason for the Government to delete these provisions is that they wish to avoid being held to account by Parliament, and to conduct and conclude negotiations with the EU with as little parliamentary scrutiny as they deem fit. We know that in practice this means as little scrutiny as they can possibly get away with. The original provisions should be reinserted.

Thirdly, the original WAB had provisions to protect workers' rights. This Bill does not, and they should also be inserted.

Of the new provisions in the Bill compared to its predecessor, the most politically significant is Clause 33, which prohibits any extension of the implementation period beyond the end of 2020. This provision means either that the Government are relaxed about the possibility of having no trade agreement in place and operating on WTO terms from next January, or that the provision is a negotiating ploy which will be ditched if and when it proves impossible to reach a quick agreement. Your Lordships' House has expressed its view on the undesirability of leaving with no deal on numerous occasions. The Prime Minister's breezy self-confidence will not make such a course any less damaging. Putting a clause in a Bill as a negotiating ploy is simply not what legislation is for. The clause should be deleted.

A second series of new provisions relates to the ongoing rights of EU citizens in the UK. The Government have put in place a system under which all EU citizens currently resident in the UK can apply for and receive new permanent residence status. This is welcome and uncontroversial. Concerns remain, however, about how the system will be managed; for example, on how to avoid EU citizens being deprived of their current rights by default if they do not register in time and on the provisions for appeals. There remain great concerns among EU citizens in the UK on these and other points, and we should take this opportunity to ease them.

Thirdly, in respect of the powers given to Ministers, there are several respects in which the spectre of Henry VIII hovers over this Bill. For example, in Clause 27, it is proposed that Ministers should be able to amend retained EU legislation by secondary legislation under a worryingly broader definition of what constitutes a deficiency in the legislation in the first place. There are also the new proposed powers in Clause 26, which allow Ministers to direct an unspecified range of courts and tribunals on which aspects of EU retained case law they must follow. This is a most extraordinary and unsatisfactory power, and we will support the amendment in the names of the noble Lords, Lord Pannick and Lord Anderson, and indeed my noble friend Lord Beith, to delete it.

Moving on from the changes to the previous withdrawal agreement Bill, there are issues relating to the Government's negotiating mandate which need to be considered and inserted in this Bill. When we debated the withdrawal Bill in 2018, we sought to include provisions which related to the Government's negotiating mandate—issues which were covered by the political

declaration but which we thought so fundamental that they should be included in that legislation. We will want to discuss some of these issues again and try to include them in this legislation. They include participation in EU programmes including Erasmus and Horizon and the European medicines regulatory framework. They include maintenance of environmental and animal welfare standards. They include the nature of a security partnership. This Bill should cover them all.

We at least have somewhat longer to scrutinise the Bill than was the case in another place. We need to make sure that we use this time wisely to limit the damage which Brexit could do to our economy, our constitution and our values as a liberal democracy.

4.02 pm

The Earl of Kinnoull (Non-Affl): My Lords, annexed to the EU Committee's report of last Friday is the letter that the committee sent to the Leader of House on 4 November last year, setting out our questions about the Bill's provisions on parliamentary oversight. I draw the House's attention to the Government's response to that letter of last Friday afternoon, 10 January, for which I thank the noble Lord, Lord Callanan.

I want to make just two points concerning Parliament's role, first, in overseeing the withdrawal agreement's implementation and, secondly, in scrutinising the next round of negotiations. The Bill leaves much to be desired in both areas.

I turn to the Joint Committee that will oversee the implementation of the agreement post Brexit. There will be much for the Joint Committee to do, particularly on Northern Ireland, where the revised protocol is little more than a sketch plan. I note particularly, as did the noble Baroness, Lady Hayter, that the Joint Committee can amend the withdrawal agreement itself. The Bill, however, provides no mechanism for parliamentary oversight of the Joint Committee. There is no statutory requirement to publish decisions, documents or agendas, to report back to the House, or anything else.

Our letter to the Leader last November urged the Government

"to bring forward amendments to provide for appropriate parliamentary oversight and scrutiny of the Joint Committee".

No such amendments have been forthcoming. In his letter to me of last Friday, the noble Lord, Lord Callanan, said that Clause 34, which requires a Minister to co-chair the Joint Committee, was intended to enhance parliamentary oversight. He continued by saying that "members from both Houses will be able to hold Ministers to account for actions taken at the Joint Committee. In due course, we would be keen to explore with individual members or committees how we can further strengthen ministerial accountability."

I confess that I do not quite understand that logic. Ministers are anyway accountable to Parliament, including for the actions of civil servants. It is difficult to see how Clause 34 addresses the issue that we have raised, to which I am sure we shall return in later stages of the Bill. In any event, I ask the Minister whether he will agree to meet me shortly, as part of his exploration of strengthening ministerial accountability.

I turn to parliamentary oversight of the negotiations on the future UK-EU relationship. Clause 31 of the

[THE EARL OF KINNOULL]

October 2019 text of the Bill provided for this. A resolution of the Commons—and a debate in the Lords—would have been required to approve the negotiating mandate and the final treaty. In between there would have been quarterly reports on progress. Clause 31 has disappeared from the new Bill. There is now no formal mechanism ensuring parliamentary oversight of the future relationship negotiations. There is still the Constitutional Reform and Governance Act, but that is a weak power at the end of the matter only, and it can anyway be set aside by a Minister. Accordingly, the Bill means that there would be no legal barrier to the Government negotiating and ratifying the future UK-EU relationship treaty without any parliamentary involvement, other than in passing any implementing legislation.

It is worth contrasting that with the position in the EU. Negotiations under an Article 218 legal base require extensive consultation with the European Parliament and, potentially, its consent. Thus, there will be close parliamentary oversight on the EU side but, as things stand, next to nothing on the UK side. In summer 2016, the then Secretary of State, David Davis,

commenting on whether the UK Parliament would enjoy parity with the European Parliament during the withdrawal negotiations, said:

“We will certainly match and, hopefully, improve on what the European Parliament sees.”

In the light of that, why was Clause 31 of the October 2019 Bill removed?

In his letter to me of last Friday, the noble Lord, Lord Callanan, said:

“The Government will however take its obligations to Parliament seriously. We look forward to discussing this role, and the role of Parliament more generally, with both Houses during passage of the Bill.”

I anticipate that this House will spend much time during the passage of the Bill on parliamentary oversight of the future relationship negotiations. If the Government are not willing to move on these issues, we will find that in leaving the EU, and losing the oversight powers of our MEPs and the EU Committees of both Houses, we will have weakened, not strengthened, transparency and accountability where international agreements are concerned, to the long-term detriment of our democracy.

I hope that the Government will hear and respond to these concerns. The best time to make concessions is when one enjoys a position of strength.

4.08 pm

Lord Cormack (Con): My Lords, it is a great pleasure to follow the noble Earl. He made some extremely important points, underlining the fact that there is a continuing role for Parliament. Like other noble Lords, I look forward to the maiden speeches of the noble Lord, Lord Mann, and my noble friend Lord Barwell. It would be entirely right to pay tribute to my noble friend for all he did to produce what we now refer to as the Theresa May agreement, which many in this House would have accepted—with some reluctance—to move forward. However, the electorate have now told us to move forward.

I refer to the time in 1945 when the Labour Party had had a massive victory at the general election and the House of Lords was dominated by hereditary Conservative Peers. Two men with vision, judgment and an ability to compromise—the great Lord Addison, a great Lincolnshire man, leader of the tiny Labour Party in your Lordships’ House, and the Marquis of Salisbury—drew up what became known as the Addison/Salisbury or Salisbury/Addison convention: no Bill that was in a manifesto should be denied a Second Reading in your Lordships’ House. Of course, that obviously applies here, but I would argue that more applies here.

There are many aspects of this Bill that I think make it inferior to the previous one, but there will be ample opportunity during this parliamentary year to look at many aspects of the Bills in the Queen’s Speech, a number of which impinge upon our relationship with Europe. That is the time for us to apply our forensic powers of examining and scrutinising legislation. I very much hope—and it is because I have the future of your Lordships’ House very much at heart—that the Bill will not be subject to a great number of amendments and that there will be no votes on it in this House. It is, however much some of us may regret it, the manifest will of the people. The Prime Minister has a large majority, to which the noble

Lord, Lord Newby, referred—very generously. It is the will of the people that we leave, and that we leave by the end of this month. That was explicitly stated throughout the election campaign.

Again, I am not saying that I was enthusiastic about that, but I recognise, as a democrat who believes that the ultimate power must always rest at the other end of the Corridor, that we would be foolish in the extreme to hold up this Bill in any way. There are other opportunities. We have our European Committee. We have a whole range of options for calling people to give evidence and for holding Ministers to account, but this Bill, imperfect as it is, is what the Government are determined to get through. We have to be realistic and recognise that the Prime Minister has two things at his command: a large majority and a large measure of euphoria in the other House, sustaining and impelling that majority. Whatever happens in your Lordships' House, this Bill will go on to the statute book without amendment. Therefore, I implore colleagues in all parts of the House, if they have a real regard for our important powers of scrutiny and examination, to exercise them throughout this parliamentary Session and throughout this Parliament when there is not a time constraint, as there is on this Bill.

Let us flex our muscles, by all means. Let us have a vote, from time to time, by all means. As one who voted quite frequently against the Government in the last Parliament in your Lordships' House and who also voted many times against his party in another place, I know that that can be done and sometimes should be done, but there are times when it should not be done, and this is one of them.

4.13 pm

The Lord Bishop of Leeds: My Lords, I look forward to the maiden speech of the noble Lord, Lord Barwell, for whom I had great respect when we served together in Croydon some years ago. I think it is important that old arguments are not rerun in this debate: wherever one stands in relation to the 2016 referendum and subsequent debates, we are now where we are. I suspect, however, that it remains important for certain matters of principle to be rearticulated even at this stage, as the record will need to be clear when the history comes to be written, not least regarding the wisdom of writing into law hard deadlines for an implementation period. Do we not have anything to learn from recent history?

I believe it is essential to refute the charge that Parliament stopped Brexit happening. It did not. Parliament did its job and performed its democratic role, fulfilling its responsibility to question, scrutinise and hold the Executive to account. That might be inconvenient to “getting the job done”, but that phrase, widely propagated by people who know very well what they are doing, adds a lie to a lie. Countries where parliament simply nods to the executive's will are not generally respected as paragons of democratic virtue or freedom. This is the basic reason why amendments will be tabled this week to the Bill as received by this House. The other place might well have the numbers to ignore this House, but it remains this House's responsibility to make the points, raise the arguments

and urge improvement to the text. I will therefore attend to a couple of matters of principle rather than detail.

If the point of Brexit was to restore parliamentary sovereignty, recalling that opponents were seen to be democratically suspect, it seems odd at this stage to seek to limit parliamentary scrutiny of the process after 31 January. Asking the Government to treat Parliament with respect—that is, informing, listening and consulting—must surely lie at the heart of any successful Brexit process, and making Brexit succeed for the good of all in this country must surely be the aim and commitment of all of us, regardless of whether we think Brexit was a wise or good move in the first place.

This in turn means that the Government must assume the best of those who question and not simply write them off as saboteurs; I would be grateful if the Minister, in response, would give this assurance. Failure to do so would risk feeding and fostering the sort of rhetoric and attitude that Brexit was supposed to protect us from as a sovereign nation. Making Brexit work best for everyone and mitigating its negative impacts will require the Government to see questioning and debate as constructive, a means to strengthen parliamentary support. Brexit will not be done by 31 January 2020, and the process beyond then will demand more than just compliance or acquiescence.

Furthermore, it is regrettable that the Bill now seeks to remove what would be universally seen as a touchstone of civilised society. How many children now live in poverty in this affluent country, whose magic money tree has mysteriously started blossoming since the last general election campaign was launched? How many children, surely the most vulnerable people on the planet, find themselves separated from their families through no fault of their own? How many exposed refugee children are now to be kept isolated from familial care and protection because this Parliament appears to deem them incidental to how we do our politics? Their alienation will come at a price later.

I guess noble Lords will hear their own maxims resonating in their consciences. Mine echoes to the sounds of the prophets of the Hebrew scriptures, such as Amos, who, despite economic flourishing, religious revival and military security, warned those who “trample on the heads of the poor”

that this would not be the end of the story. Our integrity and honour will not be judged by whether we rule the world as global Britain, but rather by how we order our society to ensure justice and the dignity of the most vulnerable. Restoring the Dubs provisions would go a long way to restoring that honour.

The Bill will go through. How it goes through matters. It will say something powerful about who we think we are.

4.18 pm

Lord Barwell (Con) (Maiden Speech): My Lords, it is an honour to follow the right reverend Prelate and to make my maiden speech in this place.

I thank the staff of the House for their warm welcome and my supporters, my noble friends Lord Young of Cookham and Lord Gilbert of Panteg, who between

[LORD BARWELL]

them have been an almost constant companion during my career. I also thank my former boss, Theresa May. I had the honour of serving first as her Housing Minister, then after I lost my seat in the other place as her chief of staff. I saw at first hand her incredible resilience, commitment to public service and—perhaps less commented on—her dry sense of humour. The deal which the Bill before the House today implements is in large part Theresa’s deal. Having spent two years by her side as she negotiated it, I felt that I should speak in this debate, even if there is a convention for maiden speeches to be uncontroversial. I fear that that is impossible on this issue, but, if it is any consolation to your Lordships, I tend to upset both sides equally.

There are three changes to the previous deal, one at least partly for the better, and two for the worse, in my opinion. Two of them are to the Northern Ireland protocol. First, the Government have gone back to what the EU originally wanted: a Northern Ireland-only arrangement. The result is that goods will have to undergo customs checks when they are moved from Great Britain to Northern Ireland, creating a border within our single market. The scale of those checks will depend on negotiations in the Joint Committee about the operation of the protocol that will get under way shortly, and I look forward to the Minister confirming how the House will be updated on those negotiations.

Secondly, the arrangements in the protocol are now a default rather than a backstop but, crucially, there is a way out of the arrangements if the people of Northern Ireland want it. That latter point is a welcome improvement. The third change is to the political declaration on our future relationship with the EU, which now provides for a more distant relationship, akin to Canada’s. Again, the Government have gone back to what the EU wanted at the outset of the negotiations.

I regret two of these changes; I think that they are bad for our union and our economy. However, I believe that the referendum result must be implemented—people have waited too long already—and, having spent two years telling people that they needed to compromise to achieve that, I need to take my own advice. I will therefore support the Bill.

However, in my remaining time, I want to make six points about the negotiations on our future relationship that are soon to begin. First, we need to be honest with ourselves about how difficult they will be. Some seem to believe that the fact that we start aligned will make things easy. They will not be easy even if we wanted to stay aligned, but the Government do not; they want the freedom to diverge. We are about to negotiate something completely unprecedented—an FTA that is not about removing barriers to trade but agreeing when and to what extent they will have to be put up.

Secondly, if we want to succeed in those negotiations, we need to understand the other side’s position. I lost count of the times I was told, “The EU has a trade surplus with us, so it’s in its interest to do a deal”. Well, yes, but only up to a point. Its primary concern is preserving the integrity of its institutions, particularly the single market and the customs union. What it means by that, although it is normally too polite to say

it explicitly, is that there has to be a cost to us leaving. That is not because it wishes to punish the UK, but because, if you can leave a club and enjoy all the benefits without any of the obligations, why would anyone stay a member of such a club?

That brings me to my third point. Now that we are definitely leaving, and we can stop refighting the referendum campaign, both sides need to be honest about the benefits and costs of different options. The more distant our relationship with the EU, the bigger the cost, but the more freedom we will have in the deals we do with other countries. I will give the House one example. The Government want to end free movement. I agree. It was one of the main concerns about membership that drove the leave vote. We will take back control of how many people come into our country, but there will be a cost in terms of the free movement of goods, capital and services. However, if we go further than that and decide that we are not prepared to give any preference to certain EU nationals in our immigration system as part of a deal on services—I draw the House’s attention to my declaration of interest, because I work for a number of companies that provide professional services—the cost will be bigger but we will have more freedom to give preference to other countries. There needs to be co-ordination between the negotiation with the EU and the negotiation with other countries, because choices we make in one will impact on the other negotiations.

Fourthly, I fear that we are in danger of repeating the mistake we made in the divorce negotiations. I understand why the Government do not want to extend the transition period. However, there simply is not time to negotiate the entire future relationship, have it ratified by national Parliaments, and for business to prepare to implement it, in 11 months. The substantive provisions of CETA are 550 pages long; the whole thing is nearly 2,000 pages long. Therefore, as President von der Leyen has said, we will have to prioritise. The main risk is not no deal but a very basic initial deal. It is in our interest for everything to be decided in one go, because the moment that is no longer the case, we risk getting into a repeat of the divorce negotiations, where the EU ensured that its three priorities were dealt with first.

For reasons of time, I will miss out one point and will end by saying this. The EU also needs to learn the lessons of the last few years. It may feel that its approach worked and be tempted to repeat the playbook. There is a real danger that, if it publishes a mandate in late February that closes down all the options before negotiations have even begun and seeks to sequence them in its favour, the UK will not ultimately give in but will walk away. Both sides will lose out if that happens. Our countries have much in common and we face mounting threats. We need a relationship that works for both sides and which allows us to work together to deal with those threats. We should not expect the EU to do us any special favours, but I hope it will see the bigger picture. History will judge us both badly if we get this wrong.

4.24 pm

Lord Taylor of Holbeach (Con): My Lords, it is a great privilege to follow the maiden speech of the noble Lord, Lord Barwell. This former president of

the Cambridge Union was at Trinity with my daughter-in-law. Having read natural sciences, he naturally came to CCO upon graduating. There, we became colleagues because I was a member of the voluntary party. For more or less the 17 years that I was there, Gavin—I apologise; I must recognise the status of the noble Lord, Lord Barwell, and where we are—was there.

To be honest, he very soon made his mark. He quickly became essential to the running of the place and his dabs were on pretty much everything. He was an architect of David Cameron's 2010 victory; in the process, he managed to get himself elected to the House of Commons through the marginal seat of Croydon Central. Perhaps that was CCO's loss but it was certainly Parliament's gain. People who have worked with him, such as the right reverend Prelate—I know that the noble Baroness, Lady Hayter, also knows him—and people I have been speaking to know what a power he is and what an interesting and open-minded person he is to work with. That was certainly the tone of his speech today. I hope that people will recognise it as a thoughtful speech based on what we might expect from him in future.

I do not know about you but I do not intend to speak long on this Second Reading because there are a large number of people down to speak. Despite what the noble Baroness, Lady Hayter, said—I consider her a friend as well as somebody of a different political persuasion—the public expect us to get Brexit done. If Parliament drags its feet over this Bill and, for that matter, the process, it will build for itself a reinforcement of the mood that existed throughout the latter part of last year: that Parliament is not capable of coping with public opinion.

I think that the noble Lord, Lord Newby—he is also a friend, if I may say so—accepts this. I think that he understands the reasons why this Bill must go through Parliament and why Parliament must facilitate its progress. However, he misunderstands something. For many members of the public, what was seen by this House and by Parliament generally as questioning and revising was seen by them as an opportunity for delay—that is, that somehow or another, if we delayed long enough, there was time to get the British electorate to change their mind. The election showed that that was not the case. We are living in a different time. There is a role for this House, of course; I love this place and I am sure that the noble Lord, Lord Barwell, will be happy here. This is that sort of place. There is a role for us because we are a revising Chamber. Even if the Government have a large majority at the other end, we have something to contribute to the legislative process, and that cannot be denied.

However, I ask noble Lords whether this is the issue on which we wish to put ourselves forward as a revising House. There may be other issues where our parliamentary role will be better understood by the electorate as a whole if we concentrate our efforts on them. In this case we had a clear message. I campaigned for a number of seats throughout the east Midlands which had previously been Labour for almost all their history. I campaigned in Bassetlaw and I am looking forward to listening to the maiden speech of the noble Lord, Lord Mann. But we know that even people who

I could not persuade to vote Conservative did say that, in their view, the prime responsibility of Parliament was now to deliver Brexit. That applied to Conservative and to Labour voters throughout that part of the world. I hope that this House will somehow reflect that because it will do it credit if, along with its revising responsibilities, it can recognise selectivity in doing so.

4.31 pm

Lord Radice (Lab): My Lords, it is a delight to follow my fellow “yellow-belly”, if I may call him that—he is wearing a yellow tie at the moment, and rightly so. I congratulate the noble Lord, Lord Barwell, on a most interesting speech and I look forward to his contributions in this House, especially on housing and on how to run a Government. I also look forward to the maiden speech of my noble friend Lord Mann, because I want to see where he stands on these matters.

I am not going to give a re-run of old arguments, but as a historian, I would like to put the Bill into some sort of context. I have to say straightaway that as a supporter of the European Union and of Britain's membership of it for the past 65 years, Friday 31 January, when the divorce Bill becomes law, as it must, will be a day of great sadness for me and, I believe, for millions of others.

I believe that the main reason for our departure lies not so much with the media but with our politicians. If things went well in Europe, it was a victory for Britain. If there were problems, they said that it was the fault of Brussels. With a few notable exceptions, they never spent time explaining the benefits of British membership. In the 2016 referendum result, we reaped what the politicians had sown.

Once the British people had decided to leave, albeit by a narrow majority, I believe that a pragmatic natural leader ought to have limited the damage to the economy by remaining as close as possible to the EU. Instead, both Mrs May, except just at the end, and Boris Johnson took a different and much harder line. I have to admit that over the last few months the Opposition have made things worse. Under the Fixed-term Parliaments Act, a general election was not required until 2022, and despite polls indicating a large Tory majority, Mr Corbyn and Ms Swinson, in a mixture of what I believe was short-sightedness and hubris—I was surprised not to hear this from the Liberal Benches—fell into Mr Johnson's elephant trap and voted for the election which both he and Dominic Cummings so desperately wanted. That is the background to this. As we now know, the result was not only a landslide victory for the Tories, which gives the Government great power—and great responsibility; it has greatly increased the risk of the no-deal Brexit which the last Parliament worked so hard to rule out.

“Let's get Brexit done” was a clear and, I believe, clever election slogan that appealed not just to leavers but to voters fed up with three years of bickering over Brexit, as they saw it—but in reality it was seriously misleading. The most important issue, the UK's future relationship with the EU, has still not been decided. That is where we are today, and it will take some time.

I understand that Boris Johnson is allowing us only 11 months for negotiation, and I agree with the noble Lord, Lord Barwell, that that will make it very difficult.

[LORD RADICE]

Indeed, the new European Commission President, Ursula von der Leyen, has already warned that this timetable does not allow sufficient time to negotiate an agreement satisfactory to both sides. The danger is that there will be either a deal that, in the words of the *Financial Times*, is “minimal, rushed and last-minute”—a bare-bones agreement that leaves crucial sectors of the economy out—or, even more disastrous, no deal, which could bring Britain to its knees.

Boris Johnson has said that leaving the EU will offer the UK a bright future. We shall see about that. He seems to forget that being a member of the EU has already brought great benefits to this country—I do not think it is rerunning old arguments to remind noble Lords of that—in increased power, influence and security, faster trade, investment and employment, greater affluence and well-being for our citizens, and improved environmental and social protection. Sadly, we are unlikely to enjoy such benefits outside.

I see that my time is coming to an end. Speaking in the House of Lords a year or two ago, I predicted that if we left the EU with no deal or a botched arrangement, the result would be unacceptable to the next generation, and I stand by that prediction. I believe they will have concluded that a medium-sized European power such as the UK should act in partnership with its close neighbours.

4.37 pm

Lord Wallace of Saltaire (LD): My Lords, we all accept that the decision to leave has now been made and that this Bill will go through, but what sort of future relationship the Government will negotiate once the Bill is through remains entirely unclear. Different interpretations leak out from different Ministers, Conservative newspapers and MPs. The Prime Minister himself is still in “cake and eat it” mode, wavering between promises of regulatory divergence and assurances that we will remain close to what he sometimes calls “our European friends”.

I will focus here on the process by which Parliament continues to scrutinise the transition we are entering into, from EU membership to association. I was shocked when Liberal Democrat Peers were told in a ministerial briefing last week that there was now no need for the previous Bill’s clause guaranteeing parliamentary scrutiny of future trade negotiations because the result of December’s election had given the Government sufficient mandate to negotiate them in whatever form they may be able to agree.

There will be difficult trade-offs to be struck in the negotiations about our future relationship. The political declaration sets out an agenda but does not give much indication of how these trade-offs will be struck—between fishery concessions and the interests of our financial services sector; between acceptance of some continuing role for the European Court of Justice and insistence on the purity of UK legal sovereignty.

Any democratic Government need to be held to account not just once every five years but as they continue to make policy month by month. That is the difference between a populist electoral dictatorship and a functioning constitutional democracy. I was reading

a book on American populism last week, and noted that George Wallace—my namesake, who was the populist Governor of Alabama—was fond of saying in speeches that the will of the people was more important than the law. Some supporters of this Government, even in this House, have come close to saying the same thing.

In the Queen’s Speech debate last week, the noble Lord, Lord Strathclyde, suggested that the Lords, as Parliament’s second Chamber, should rarely oppose the Government on this Bill or, indeed, on other forthcoming legislation. He is right that a second Chamber should not block legislation in principle, but he is wrong to argue that we should not, entirely properly, ask the Government and the Commons to think again on the content and detail of legislation set before us.

After the speech of the noble Lord, Lord Strathclyde, I checked with the Library on the pattern of Lords’ defeats of the Government over the years. Of course, when the noble Lord first entered our Chamber, the Conservatives had a permanent majority, defeating the Labour Government 126 times back in 1975-76. Since most hereditaries were excluded in 1997, the highest number of defeats of the Government in any one Session was in 2002-03, at 88 defeats, when the Leader of the Opposition—the person whom last week the noble Lord called on to behave with caution and restraint—was of course the noble Lord, Lord Strathclyde, himself. He deplored in last week’s debate that the Conservative Government had been defeated in almost 50% of the whipped Divisions in the 2016-17 Session, calling it an “absurdly high figure”. However, in the 2004-05 Session, the Labour Government were defeated in 58% of such Divisions, again with the noble Lord, Lord Strathclyde, leading the largest opposition group. I rest my case.

There are constitutional issues in this Bill which we are entitled to draw attention to and to which a wise Government should listen. While Clause 31 of the previous Bill, asserting Parliament’s role in continuing scrutiny, has disappeared, we now have the new Clause 38 nevertheless asserting that parliamentary sovereignty is absolute. It is there not for any practical purpose but to throw a bone to the hard nationalists of the European Research Group and the Bruges Group. Sovereignty can never be absolute unless a state disengages from all its obligations under international law. The balance between the fundamental principles of law and the untrammelled power of the Government when controlling a majority in the Commons has been argued over since the time of Justice Coke and others, in the early 17th century.

Insistence on the unlimited power of the Government in Parliament to override our devolved Assemblies would now be unwise as well, and arguably close to unconstitutional in itself. This too we will challenge the Government to justify, in Committee and perhaps even on Report.

4.42 pm

Lord Anderson of Ipswich (CB): My Lords, I will concentrate on the practical effects of this Bill for the sovereignty of Parliament. That principle is recognised in Clause 38 in rather defensive terms. It is said to “subsist notwithstanding” the mass of “directly applicable or directly effective EU law”

that, by virtue of earlier clauses in the Bill, will continue to bind us during the transitional period. Yet Clause 38 misstates the threat. Parliamentary sovereignty is not endangered by a short and prudent continuation of the arrangements by which sovereignty was pooled in the interests of international influence—arrangements which Parliament itself endorsed in the European Communities Act 1972 and on many subsequent occasions. It is other features of the Bill, not referred to in Clause 38, that threaten the ability of Parliament to perform its proper role. I will refer to two in particular.

First, this version of the Bill sees the removal of parliamentary oversight of the negotiating mandate, the negotiations and the future relationship deal. Parliament will have a say only at the stage of ratification, by which time it will be up against a rapidly expiring deadline that will be extendable only if the Government so wish. This might have been fine when trade deals were about nothing more than tariffs and quotas, but the revised political declaration aspires to

“an ambitious, broad, deep and flexible partnership across trade and economic cooperation with a comprehensive and balanced Free Trade Agreement at its core, law enforcement and criminal justice, foreign policy, security and defence and wider areas of cooperation.”

In the previous version of the Bill, a minority Government offered Parliament a voice on how that goal is approached and how far it is achieved—a necessary voice, since not a person in this country will be unaffected by the future relationship, or by the failure to achieve it. Despite their large majority, this Government have chosen to cut Parliament out—a display of their power, but a dismissal of the consent on which that power ultimately depends.

Parliament is sidelined secondly by the inadequate controls on the numerous delegated powers for which the Bill provides. Some are constrained by the terms of the withdrawal agreement—as the Minister said in opening—but others are not. In the context of Northern Ireland, Clause 21 would allow even this Act to be amended by Ministers, without limitation as to purpose and without the usual exceptions for taxation, new criminal offences and so on. This is Henry VIII on steroids.

Statutory instruments made over the last 18 months have been associated by the Hansard Society and the Public Law Project with a worryingly large number of errors and procedural irregularities. These problematic results are described in an article of 9 January on the UK CLA blog. Effective parliamentary control of this regulation-making power requires greater use of the affirmative procedure and a sifting process of the type provided for in Schedule 7 to the 2018 Act, for the reasons so persuasively given by the Delegated Powers and Regulatory Reform Committee in its recent report.

Clause 26, which has been mentioned, presents concerns of a particular kind. Yes, we have decided to take back control of our laws, but this clause is so broad as to suggest that no one has quite decided how to do it, and that all options—including, frankly, some alarming ones—are to be left on the table. Sir Bob Neill, in the other place on 8 January, spelled out the possible consequences of this clause for legal certainty, certainty of policy and the system of binding precedent.

Like him, and the noble Lord, Lord Pannick, whose amendment I have signed, I am troubled by a provision that allows Parliament to be bypassed and Ministers trusted with a power that was previously thought appropriate only for the Supreme Court.

Revolutions are said to devour their own children. The original proponents of Brexit, who rode out under the banner of “Our Parliament and Our Courts”, sometimes seem to have little faith in either. But constructive scrutiny, received in a constructive spirit, makes for stronger and more accountable government. I hope that all parts of the House, when looking at this Bill, will not lose sight of that.

4.47 pm

Lord Mann (Non-Aff) (Maiden Speech): My Lords, it is a privilege to contribute for the first time. I thank the staff of the House for their kindness, wisdom and wit in recent weeks, and my introducers, the noble Lords, Lord Sacks and Lord Clarke of Hampstead. The rabbi and the postman; how my parents would have smiled.

I suspect that all of you will have heard much of the Battle of Cable Street, but not of the Battle of Holbeck Moor. Two weeks before Cable Street, Mosley and 1,000 Blackshirts assembled on Holbeck Moor in Leeds. Some 30,000 local people turned out, and the fascists were promptly removed from the city. There is no written testimony, and there are no photographs or artists’ drawings; it is a silent history. For 70 years my family lived alongside Holbeck Moor in those two-up, two-down, back-to-back terraces and cobbled streets. I cannot claim with certainty that one of them threw the cobble that put Mosley in hospital, but there were 30,000 heroes yet nothing recorded.

The true face of this country and the true story of the election is this: in Derby North, Christopher Williamson got 635 votes and lost his deposit. In West Bromwich East, George Galloway got 489 votes and lost his deposit. This is the innate decency of the British people yet again. Across the entirety of the country, people are saying, very vocally and unequivocally, “We reject the extremism of anti-Semitism.”

I wish to pay tribute to Theresa May. Three people have gone to prison in the last two and half years who targeted, among others, me, my family and my staff. She stood by me and my family at that time when some others did not. I salute the integrity and courage she displayed in setting up the Hillsborough inquiry and the national child abuse inquiry when she did not have to. I represented 30 survivors of child abuse—I advise some still—and I thank my staff who assisted in empowering those 30 people; they had to go to hell and back in learning their testimony. So thank you, Theresa May, for that.

We have power: the question is what we choose to do with it. I look at this curious place today. I shall hold my peace for the moment, but now is the time for an era of enlightenment. The northern working-class communities where I come from expect the dignity of being heard. Are their views, their visions, their votes not as valuable as the next person’s? There is no greater poverty than that of being discounted. Imagine retired coal miners who spent 12 months on strike and

[LORD MANN]

the women who stood tall alongside them while their children went without. Their anguish at this last election is incalculable, but their determination to see through their democratic decision is not. But that is not for me the defining image of the election, so let me conclude on what is. In north London on election day an elderly Jewish couple, who had voted Labour their entire lives, wept as they went into the polling station, sobbed as they voted and cried as they left it.

I have a role now on anti-Semitism. I am rightly independent and, as ever, I shall work cross-party, but I will be no bystander in driving out the stench of intolerance from the party that in 1906 my family helped to create in the city of Leeds, in the streets around Holbeck Moor.

4.53 pm

Lord Forsyth of Drumlean: My Lords, we have just listened to a powerful speech and I congratulate the noble Lord on it. From its timbre, it was a speech drawn from passion, conviction and integrity. Although, even in his own party, people have not always agreed with him, the noble Lord has the courage to say what he thinks. Often his party would have done well to take on board what he thought and said, not only in regard to his work in campaigning against the scourge of anti-Semitism, but also his warning that if his party ignored the wishes of the people on Brexit it would find that the people would take a terrible revenge—and indeed they did. He warned his party that if it went into an election with Jeremy Corbyn as leader there would be a catastrophic result. I have to tell him that I am grateful that his party ignored that advice for it has given the Prime Minister an enormous mandate to carry through what the people of this country voted for. I am delighted to see him in this House, which he described as a curious place, because he is on record as saying that it is a care home for failed politicians. His very presence here shows he was wrong about that.

As I walked across Victoria Gardens last week, the sun was shining, the birds were singing, and when I got to the Peers' Entrance, there was the sound of silence. There were no mercenaries shouting "Stop Brexit". It was extraordinary. When I came into the building and looked at the Order Paper, there were no Questions spreading project fear from the Liberals—the questions were on matters that should concern us, such as health, education and other matters—and I began to think that we had crossed the Rubicon. I have to say, however, that, listening to the speech from the noble Baroness, Lady Hayter, although the first part was good, and the speech from the noble Lord, Lord Newby, I am not sure that this House has entirely got the message. The other thing, which I commend to noble Lords, that cheered me up on Thursday was the speech by my noble friend Lord Bates. It was a brilliant speech, which set out what a great country this is and how we have a great future ahead of us if we will pull together and work together. I hope that message was taken on board by this House.

I found it extraordinary that the other place dealt with all the amendments on all the subjects that will be covered in the speeches today—and have already been covered—in less time than had been provided under the guillotine.

Is that not remarkable? Only one month ago, we were told that there was not enough time to discuss any of this stuff. What was the reason? It is because the House of Commons has got the message from the voters. This place needs to do the same, for I fear it has strayed from its path like lost sheep—a reference that might make some impact on the right reverend Prelate the Bishop of Leeds. He said this is about democracy. I have to say that there is no democracy in this Chamber. We are all appointed to this Chamber. Democracy lies in the other place. The voters have given a very strong message, and the other place has voted with huge majorities against all the amendments laid and in favour of the Bill.

The Bill is about delivering the mandate given to the Prime Minister by the British people. I do not believe that there is a single soul in this Chamber who believed that he would have such a dramatically positive result. If this House chooses to challenge that—I totally agree with what my noble friend Lord Cormack said, although he and I have not been as one on Brexit—by all means use the time and try to persuade my very reasonable noble friend the Minister to take on board the arguments, but please do not send an amendment back to the other place. It will make this Chamber look ridiculous and it will play into the hands of those people who wish to destroy it, many of them now putting themselves forward to be leader of the Labour Party.

The truth is that we lost our way. We ripped up our Standing Orders. The Opposition took control of the agenda. We moved more closure Motions in one Session than had ever been moved before, and we did so because this House became a campaigning House instead of a revising House. It is time we returned to our proper role and acted as we should, with respect, on issues of health, education, the economy, social care, gambling and a whole range of things. Then we might earn the respect of the British people again.

4.58 pm

Lord Campbell of Pittenweem (LD): My Lords, we have had the opportunity of two outstanding maiden speeches. They differed in style, presentation and substance, but they were undoubtedly the kind of speech which makes it very clear that we shall always look forward to further contributions from these two new Members of your Lordships' House.

It is always a pleasure to follow the noble Lord, Lord Forsyth of Drumlean. Often it is more of a challenge perhaps than it is today, but I may disappoint him, I think. There is an old Scottish proverb dating from the 1800s that confession is good for the soul, but I am going to make a confession which I doubt will do my soul much good, and it is this: I still believe that, although it is now inevitable that we shall leave the European Union, it is wholly against our economic, political and security interests. Inevitable though it may be, I beg leave to say that the terms upon which we shall finally leave are still wholly unpredictable.

I pause only to observe that the withdrawal agreement obtained by the Prime Minister is based on a concession over Northern Ireland that he would not allow Mrs May to make. However, it has had one helpful consequence, which is to create a new unity of purpose between Sinn Féin and the DUP in Northern Ireland.

In all my political life, I have believed that Scotland's place was in the United Kingdom and that the United Kingdom's place was in the European Union, each reinforcing the other. Although I have accepted as inevitable that we shall leave the European Union, I have to offer that it is possible that Scotland will leave the United Kingdom. My judgment is that, if those decisions are taken, they will be the products of nationalism—a nationalism that has been characterised by the assertion that all ills can be cured only by separation. When did you last hear Nicola Sturgeon, or Boris Johnson for that matter, acknowledge any benefits of membership of the United Kingdom or the European Union? All ills are to be blamed on London or Brussels. In Scotland, what about the Barnett formula, which allows Scotland to spend more per head on public services than anywhere else in the United Kingdom? In the United Kingdom, what about the single market—the single market of Margaret Thatcher—which has brought about so much economic advantage and inward investment to the United Kingdom?

We have often been asked what sort of country this act of separation would bring about. In Scotland, the Edinburgh Government have already shown political interference in the governance of Scottish universities. In that regard, I should declare my interest as the chancellor of St Andrews University. The Scottish National Party now sends out to journalists lists of the questions that they should ask when interviewing individuals opposed to independence. Here in England, the Government issue veiled threats to the BBC and the independence of judges, and they conduct a petulant boycott of the morning programmes of the BBC. In so doing, they depart from the responsibility they have to explain and demonstrate their policies and proposals. That is what nationalism does: it subordinates all else to the aggressive self-righteousness of its own cause. Look, if you will, at the Governments of Poland and Hungary and at the judges in Poland having to take to the streets in order to assert their independence.

The Bill before us is a sad, sorry affair, and I await with enthusiasm the contribution of the noble Lord, Lord Dubs, on the issue of child refugees. However, I want to make a point about Erasmus—a programme that has widened horizons and broadened experiences. What is it about that programme that the Government should, for some reason, vote down an amendment in favour of the United Kingdom's continuing membership by way of statute, followed—in a sinister fashion, one might say—by a spokesman who said that the Government are committed to the programme if it is “in our interests”? What about the interests of the people who want to take part in that programme but might be denied the opportunity if the Government decree that it is not in the Government's interests that it should continue?

It has already been said that the Prime Minister now owns our departure from the European Union. He has made a lot of promises. He likes throwing about Latin tags, so here is one for him: *pacta sunt servanda*—all those promises must be kept. We shall hold him to that.

5.04 pm

Lord Kerr of Kinlochard (CB): My Lords, on the morning after the 1996 presidential election, which he had lost, Senator Bob Dole was asked how he had slept. He replied, “Like a baby. I woke up every two hours crying my eyes out.” I know how he felt. I believe that our country has made a historic mistake, but it has made it. The people have spoken, and we leave the EU at the end of the month. This means that we should not consider any amendment which could conflict with that deadline.

However, within that constraint, I have to disagree with the noble Lord, Lord Forsyth—for the first time, I think—and, with great humility, with the noble Lords, Lord Cormack and Lord Taylor. I think the House of Lords should do its job. We are, as the noble Lord, Lord Forsyth, said, a revising Chamber. We need to look particularly closely at what this Bill says and its implications for relationships between the Executive and Parliament, between the Executive and the judiciary, and between the constituent parts of the United Kingdom. We shall spend much more time on this than the Commons did. Some of the issues that we shall discuss were not discussed in the Commons at all. Where we are not satisfied with the Government's explanations, I believe we should give the Commons the chance to think again.

First, on Parliament, as others have pointed out, there is no provision in this Bill for parliamentary oversight of the Joint Committee. It will carry out the crucial task of developing the detail of how we withdraw. There is no provision for oversight of the negotiations on the future arrangements. The earlier, October, version of the Bill gave Parliament powers on mandate, monitoring and outcome, as the noble Earl, Lord Kinnoull, pointed out. All that is gone. The European Parliament has such powers; this Parliament, apparently, is not to have them. The House may wish to reflect on that contrast.

Secondly, I do hope that we shall hear in Committee from the noble and learned Lord, Lord Judge, the greatest living expert on Henry VIII powers, because Henry VIII is endemic throughout this Bill, particularly, of course, in Clause 21. As others have mentioned, in relation to Northern Ireland, Clause 21 gives the Government the right, for a year, to pass by regulation any change which would otherwise require primary legislation, including changes to the Act itself. That is quite striking; we should reflect on the precedent.

Thirdly, we need to consider what the Bill does not say. Here, for me, the paramount issue is how the devolved Administrations are to be involved in the Joint Committee and in the future negotiations. In the Queen's Speech debate, we heard from the noble and learned Lords, Lord Hope and Lord Wallace of Tankerness, as well as the noble Lord, Lord Reid of Cardowan, about what is now a clear and present danger to the 1707 union. Edinburgh, Belfast and Cardiff resented being kept at arm's length by Mrs May's Government and being blindsided by Mr Johnson's Irish surrender. With Stormont back up and running, it should be possible to find a way of lancing this boil. The House may wish to consider asking the Commons to write the requirement into the Bill.

[LORD KERR OF KINLOCHARD]

Finally, declaring my interest as a trustee of the Refugee Council, I believe that we must not forget the Dubs amendment. The Government want us to do so, although the Minister assured us that government policy has not changed. If the policy has not changed, why are the Government taking away the provision in the 2018 Act? It was a pretty modest provision. I believe we need to seek its retention. The argument is very simple: what kind of country do we think we are? Are we really meaner and less humane than our predecessors were in 1938, 1956 or 1968?

I have not addressed the substantive Brexit question; the Bill is about how, not whether, we leave. I myself fear that the process will be protracted and painful and will end badly for our country and for all of us, particularly those most left behind. However, there is not an end of history; the story will go on:

“that which we are, we are;

... Made weak by time and fate, but strong in will
To strive, to seek, to find, and not to yield.”

I believe my children will see us back where we belong: in the comity of European nations that share common values, work together for the common good and are determined not to yield in its defence.

5.10 pm

Lord Bridges of Headley (Con): My Lords, while it is always a great pleasure to follow the noble Lord, Lord Kerr, who I know, like a number of your Lordships, feels a sense of regret and sadness at the passing of the Bill—and it will be passed—I myself feel a sense of relief, not just because, as my noble friend Lord Forsyth said, there is no longer that blue-suited star-spangled man on College Green shouting “Stop Brexit!” every two minutes but because we are now able to break out of the political gridlock that was exhausting and frustrating not just this Parliament but the entire country, and we can get on with Brexit. I say that as someone who voted to remain.

I have always believed, and argued from the Dispatch Box and from the Back Benches, that we have to honour the result of the referendum, but for the last three years this nation has twisted and turned in the wind because the Government were in office but not in power at Westminster and therefore lacked real credibility at the negotiating table in Brussels. The powers and role of Parliament and those of the Executive, as my noble friend Lord Forsyth said, became blurred. That lack of clarity led to even more uncertainty, not helped by those who rejected the result of the referendum in the first place, and our European partners saw that. The President of the European Commission said just last week in London:

“During the Withdrawal Agreement negotiation, there was always the uncertainty around whether Brexit would happen. It was an uncertainty that made the negotiation inevitably tense.”

That is one way of putting it. I would say that the sense that Parliament was in control rather than the Government made concluding the negotiations nigh-on impossible, and that is why the general election was, as I have argued before, an inevitability. That election in

December provided a clear result, so now at last we have a Bill before us that will enable us to leave the EU.

Of course, as we have been hearing from a number of noble Lords, we as the second Chamber should scrutinise its contents. We have heard a number of concerns. I want to focus on one, and it is to do with that little word “scrutiny” and the role of Parliament in the negotiations that lie ahead. What do we actually mean by scrutiny? Do we mean Questions in Parliament, Ministerial Statements, Select Committee hearings and debate? Yes. Do we mean the interrogation of Ministers as they bring legislation to this House? Of course. Do we mean searching questions about delegated powers? Again, yes. But if by “scrutiny” what people are really saying is that they want to go back to a situation where Parliament is trying to dictate the terms of the negotiations or the process, I would gently point out that that is what the British public voted emphatically to put an end to at the general election. While I read with interest the views of your Lordships’ European Union Committee, in its excellent report that was published on Friday, that the future negotiations

“will be subject to detailed and transparent scrutiny by the European Parliament. The UK Parliament and the British people deserve the same transparency and accountability”,

I remind your Lordships that this House’s own Select Committee on the Constitution concluded:

“we do not recommend directly replicating the European Parliament’s treaty scrutiny mechanisms at Westminster”,

although I should add that it said:

“lessons may be learned from it, particularly in relation to information provision.”

I am sure we would all agree that information provision is one thing but creating new legislative processes is quite another. We should bear this in mind over the next few days for, as my noble friends Lord Forsyth and Lord Cormack said, how this unelected Chamber handles the Bill is as important as what we say about it.

The last few years have eroded many people’s trust in our political process—trust that was already battered and bruised. If we now want to restore trust in our system and want people to see this unelected Chamber as adding value to the parliamentary process, we cannot and must not allow the public to think that we are frustrating the will of the elected Chamber. They can sense the difference between proper scrutiny on the one hand and wilful obstruction on the other.

The tough part of the negotiations is only now about to begin. However, the battle of Brexit, leave versus remain, is well and truly over. We are leaving. The time has come to turn those Brexit swords into ploughshares and focus on what we begin each day praying for: the uniting and knitting together of our society.

5.15 pm

Baroness Taylor of Bolton (Lab): My Lords, many of us are not happy with where we are in this Brexit saga. I for one wish that the Commons had accepted the amendment on the customs union that was so narrowly defeated. However, all of that is water under the bridge, as others have said. What we must do now is try to ensure that all the legislation related to Brexit is fit for purpose. Indeed, that has been the objective

of the Constitution Committee, which I have the pleasure of chairing, since this whole process began. The Constitution Committee met today and agreed a report on this Bill, which we hope will be published tomorrow before Committee. Tomorrow's report will be our fifth on the legislation required for withdrawal from the EU. I hope that it will assist the House with consideration of amendments. I have to disagree with the noble Lords, Lord Cormack and Lord Forsyth, because I think we have a responsibility to make sure that this Bill is fit for purpose.

In the past, the Constitution Committee has spent a great deal of time scrutinising legislation concerned with Brexit. Our first report anticipated the issues that would arise and, since then, we have looked in very great detail at the issues involved. Our report on what became the European Union (Withdrawal) Act 2018 concluded that that legislation, at that stage, was simply not fit for purpose. Our report was used very widely in the debates in this House on the relevant amendments. We talked about how UK courts should treat the case law of the Court of Justice of the European Union and particularly mentioned the difficulties of defining the status of retained EU law. We also talked at great length and in great detail, when the noble and learned Lord, Lord Judge, was there, about imposing greater requirements on Ministers to justify and explain their use of regulation-making powers.

In consideration of what became that Act, we were never trying to stop or block Brexit. We were seeking to improve the legislation so that it could do what it said it would do in a way which was constitutionally proper. Indeed, at the end of that process, the Government acknowledged that much of what the committee had recommended had been necessary and that changes had to be made. The noble and learned Lord, Lord Keen, was there and may remember saying that he was grateful for the constructive and expert way in which the committee had conducted itself.

We wanted to continue in that vein and continue looking at and being constructively critical of the Bill had we had sufficient time. We asked the Government if we could see an early draft of the Bill in confidence, so that we could carry out our work. That did not happen and we are now faced with this House considering a Bill of intense constitutional significance in a very short time. It is clear that the Government's intention is to push this Bill through, paying lip service to meaningful scrutiny. Again, I am sorry that the noble Lord, Lord Cormack, disagreed with me on this.

The Constitution Committee has frequently warned, as have others, of the dangers of fast tracking legislation, especially important legislation, which can lead to bad law. The committee did not have the time to go through this Bill in the detail that it had considered others, but I hope that our report will be of assistance to the House.

There are of course, as we have heard, some policy issues of great significance, in particular that which my noble friend Lord Dubs raised about child refugees, but the Constitution Committee's report is restricted to constitutional issues. We will be encouraging the House to look at issues such as Clause 26, which has already been mentioned, because it is just not right. If

the meaning of UK law, as retained EU law will become after exit day, is to be altered then it is this Parliament that should make the changes and not the ministerial guidance—a factor that is proposed at the moment.

There are many issues of concern such as Henry VIII powers, the responsibilities of the devolved assemblies and so on. However, the basic problem that this House faces is that we have a real challenge in making sure that the Bill is as it should be. I am afraid that I agree with the noble Lord, Lord Kerr: we have to do our job. We have to scrutinise the Bill carefully and I hope that the report of the Constitution Committee will be of assistance to the House.

5.21 pm

Lord Paddick (LD): My Lords, I congratulate the noble Lords, Lord Barwell and Lord Mann, on their thought-provoking maiden speeches and I look forward to their future contributions. The time is rapidly approaching when the Government must deliver on their promises over Brexit. Among other things, they have promised that the UK will not be less safe nor less secure outside the European Union.

At a briefing given by the National Crime Agency lead on Brexit to the APPG on policing in 2017, we were told that the existing legislative framework—that is, regulatory alignment—and existing EU organisations and mechanisms, including the European Court of Justice, enabled greater and more effective co-operation between the UK and the EU when it came to law enforcement. He said that there were workarounds if we left the EU, but that these would not be as effective or efficient, and that the UK would be less safe and less secure as a result. Intelligence such as counterterrorism information tends to be shared on a bilateral basis rather than an EU-wide basis and is likely to be unaffected. What I am talking about here is the ability to act on that intelligence, bringing people such as terrorists to justice.

What is in jeopardy? The Schengen Information System 2—SIS II—and the European arrest warrant, the EAW, are in jeopardy. No non-EU state has access to the European arrest warrant and no state outside the EU, unless it is in the Schengen area, has access to SIS II. It currently enables police officers on the street in the UK to directly access databases that contain the details of all those wanted under the European arrest warrant, missing people, stolen vehicles, travelling sex offenders and those of interest to counterterrorism officers in all EU member states.

The NCA lead told us that new extradition treaties were likely to be needed with each of the 27 remaining EU states. Norway and Iceland, both within Schengen and the European Economic Area, applied to be part of a modified form of the European arrest warrant in 2001. This was agreed in 2006, but they still await implementation. The NCA lead explained that Europol produces pan-European action plans, and serious and organised crime threat assessments, and that a multiagency liaison bureau exists for each member state. Contrary to the impression given by the Security Minister yesterday, third-party states have only partial access to Europol.

[LORD PADDICK]

The UK is one of the top contributors of intelligence; there was until recently a British director, and 40% of data entries are UK-led.

ECRIS, the European Criminal Records Information System, is a secure messaging system where criminal convictions in the courts of one member country are shared across the EU. This information is used to analyse patterns of offending.

Something else at risk is Prüm, which provides rapid electronic comparison of DNA, fingerprints and vehicle registrations across the EU. For example, a DNA profile found at a UK crime scene can be compared with profiles of those convicted across the EU. Checks take from seconds up to 24 hours. Alternative arrangements under Interpol take months, and some inquiries are never replied to.

The NCA lead went on to say that cross-border surveillance arrangements enable UK criminals to be kept under surveillance in other EU countries and EU suspects to be kept under surveillance in the UK. For every request that EU countries make under this scheme, the UK makes seven requests of the EU. This, too, is under threat. There are also joint investigation teams through the Eurojust process.

We know from the experience of Norway and Iceland with the European arrest warrant that some of these ways of keeping the UK safe and secure are unlikely, if not impossible, to secure in the short to medium term, if at all. The Government will no doubt say that everything is subject to negotiation. The time has passed for us to say that the UK will be less safe and less secure if we leave the EU; we are leaving. The time has come to hold the Government to account to ensure that they deliver on their promise that we will be just as safe and secure outside the EU.

We will bring forward a probing amendment in Committee requiring the Government to negotiate with the EU to produce outcomes equivalent to those provided by these European Union systems and processes. If they fail to deliver equivalent outcomes, they will have failed in their promise to keep us as secure and safe outside the European Union as we were inside it.

5.26 pm

Lord Boswell of Aynho (Non-Affl): My Lords, this is the first speech that I have made in a personal capacity since I was appointed by this House to chair the EU Committee, now nearly eight eventful years ago. Perhaps I may begin therefore by expressing sincere thanks for the opportunity that I have had to serve the House and echoing my entire confidence in my successor. I have also recognised the good sense of colleagues from all sides of the House engaged in our work and, equally, the excellent contribution of our expert, enthusiastic and dedicated staff. I might add that I am anxious that all those British officials and others involved in European affairs over now half a century deserve suitable public recognition.

This Bill is a complex and necessary mechanism giving effect to the Government's electoral mandate, but I hope that it will also be the time for releasing some of the political tension. It is high time now to de-dramatise the process and begin to move on.

That is in no sense to minimise the important details of the Bill. One minor gain is that there are additions in Clause 29 which restore parity of scrutiny process between this House and the other House, but, as noble Lords have already said in relation to the work of the Joint Committees and specialist committees, although Ministers will be involved, there is to be apparently no role for parliamentary scrutiny. I emphasise from the work that we have done as a Select Committee that specialist committees will often touch on the niceties bequeathed to us by history. The Select Committee has rightly focused its attention on them, with particular reference to the Crown dependencies and Gibraltar as well as the Irish problem.

In relation to future scrutiny, the Bill represents some backward steps. To judge by my experience in dealing with Ministers over the negotiations leading to the withdrawal agreement, there is, frankly, a long way to go and much still to learn from our European Commission and European parliamentary counterparts. Ministers have to realise that scrutiny is not an optional extra. Properly handled, it can be a force for good. Frankly, that is the exact point of the more than 40 reports which the EU Select Committee has produced since the referendum.

All this comes to a head in the most salient change in the current Bill, which would in effect prohibit any extension of the transitional period beyond the current year. This is high-wire stuff, particularly as it is only now that we are appreciating the trade-offs. On the other hand, I appreciate that Ministers feel the need to break out of three years of uncertainty and parliamentary stasis. I have no final view on the tactics. I can see the argument for concentrating minds, but not at the expense of our long-term interests. So there might be a case for getting on with a basic free trade agreement, supplemented by essential work on security and police co-operation. That might even fit in with some of the Government's wish to be seen to take an interest in traditional manufacturing regions where they have gained new political support, provided that they do not lose on the overall infrastructure by losing EU funding.

However, this will simply not be enough in the long term. Our economic life now centres on services, and our future productivity depends on access to research and skills. Geographically, economically and culturally, though perhaps not politically, we shall remain in Europe, though not run by it. We shall need to adapt our institutions to new and subtle challenges and seek to maximise our influence. Alongside efforts to build global Britain, we will need to build a new relationship with our European neighbours, not just over technical and withdrawal issues, but looking beyond to a continuing involvement with agencies and activities, including facing new challenges together. We need to look at this not so much through leverage or bluster, but rather looking to common interests and mutual benefit, in the positive aspects of the political declaration. In two concluding phrases, we leave but we do not stalk off; and in leaving we simply have to try harder to maintain the relationship.

5.31 pm

Lord Hannay of Chiswick (CB): My Lords, it is always a pleasure to follow the noble Lord, Lord Boswell of Aynho. I followed him for a number of years as a member of the EU Select Committee, his chairing of which was remarkably valuable. I am delighted to do it again today. Since my contribution to this Second Reading debate on the withdrawal agreement Bill is on the critical side, I wish, to avoid any possible misunderstanding, to emphasise that I respect the convention that this House does not attempt to frustrate a measure which has figured in the manifesto of a Government who have obtained an overall majority at a general election. We should not, therefore, seek to amend the Bill in any way that would prevent the withdrawal agreement being ratified by the UK in time for Brexit to take place on 31 January.

Nor do I intend to take up much of the time of the House speculating about the credibility of the Government's objective of concluding an agreement on the new relationship with the EU by the end of this year, to which it has now shackled itself. It may—I suspect it will—turn out to be more of a gambit to win votes than a realistic possibility. Time will tell us soon enough which it is, but I hope that we are not going to be treated in the latter part of the year to a re-run of the “no deal is better than a bad deal” mantra, which is no more likely to squeeze concessions out of our EU negotiating partners than it did in 2017, 2018 and 2019; it is every bit as likely to inflict disproportionate damage on this country as it was then. I note, moreover, that, while the Government are tying their hands in domestic law to not seeking an extension of the transitional period beyond the end of 2020, they are busy ratifying in Brussels an agreement which contains precisely that option. A rum way to proceed, one might think.

I doubt whether anyone would now contest that the May Government made a fundamental error by accepting the EU 27's sequencing of the negotiations as soon as they began in the summer of 2017, relegating the future relationship to a non-binding declaration after the divorce settlement was agreed. Many noble Lords spoke out against that in this House and privately to the Government, including the noble Lord, Lord Bridges, whose speech I followed with the greatest interest. So let us not repeat the error now by accepting that this year's negotiations should be focused on trade in goods alone. Of course it is important to achieve duty-free and quota-free trade in goods, but that is now no more than 20% of our economy. Going over a cliff edge into no deal on other matters at the end of 2020 would be hugely damaging for trade in services, which is 80% of our economy; for data processing; for the mutual recognition of professional qualifications; for co-operation on science and research; for maintaining regulatory equivalence; and for the instruments which underpin our internal security and the fight against international crime. I hope the Minister will be able to assure the House that, when negotiations open this spring, they will cover the whole range of issues and not just exclusively or principally trade in goods.

Three words which we will inevitably hear a lot of in the context of these negotiations on a new UK-EU relationship are “level playing field”. They are embedded

in the documents that we are being asked to help ratify, even if attempts have been made to reduce their prominence. There will be no ducking them once the negotiations get under way. The concept is an integral part of any free trading relationship between large developed economies in close geographic proximity to one another. If noble Lords doubt that, look only at the agreements the EU has with Norway or Switzerland or, for that matter, at the newly revamped US-Canada-Mexico agreement or even the Trans-Pacific Partnership. That concept was also at the heart of the campaign, led by Margaret Thatcher and Arthur Cockfield, to move on from a tariff-free and quota-free European Community, still festooned with non-tariff barriers and border checks, to the frictionless trade we have today. How we give practical effect to that concept, those three little words will determine the nature and the benefit to us of the new trading relationship. The Government's views on that remain a mystery, but there will be hard choices to be made this year.

There are plenty of other lacunae in the Bill which could do with being filled in, many of them highlighted in the excellent report by the EU Select Committee. We are promised separate legislative provisions, ensuring that we do not slip below EU standards on the environment, labour and social rights. How secure will they be and when will they be tabled? One of the biggest gaps is the role of Parliament in mandating and overseeing the new relationship negotiations, to which many Members have already alluded in this debate. Are we to find ourselves, yet again, negotiating with an EU whose mandate is endorsed by the European Parliament and whose every step is overseen by that body while this Parliament is left groping around in the dark? Can we really not manage to guarantee access for unaccompanied minors seeking asylum when they have family members here already?

It is reported that the Prime Minister would like to see the back of the term “Brexit”. I am not sure he is likely to succeed in that, nor indeed that it is desirable that he should do so. We are all, on both sides of this argument, going to have to come to terms with the realities of Brexit. We are going to be spending the whole of this year speaking about it. I hope there will still be some sensible consideration of that matter. There are important policy choices to be made in this legislative programme and in these negotiations.

Baroness Berridge (Con): My Lords, I hate to interrupt, but the noble Lord has spoken for six minutes 48 seconds and the advisory speaking time is five minutes. I would thank him for concluding.

Lord Hannay of Chiswick: The noble Baroness got me in the middle of my last sentence. I am happy to conclude by saying that we should not treat Brexit as something we would rather not talk about or pretend does not exist, because it will have important consequences.

5.39 pm

Lord Howell of Guildford (Con): My Lords, I join in the congratulations to my noble friend Lord Barwell, who spoke succinctly and excellently illuminated where we go next in this whole great saga. I also congratulate the noble Lord, Lord Mann, on both his generous

[LORD HOWELL OF GUILDFORD]

tribute to Mrs May, which she deserves, and his fight against sickening anti-Semitism.

It is impossible not to feel some emotion on this occasion, having spent well over half a century of my life discussing the future of Europe and the UK's role in it, ever since the editor of the *Daily Telegraph* sent me to Brussels in 1962 to find out about, as he put it, "this Common Market thing". Now at last comes this gateway—and it is only a gateway; I see many challenges ahead—confirming the replacement of the European Communities Act 1972, although of course by virtue of this Bill, rather than as an EU member state, we will still be under ECA provisions for another 11 months.

However, I find it a little sad and extraordinary that the debate publicly, and to some extent in the other place in the last few days, continues in an extraordinarily one-sided way. It is all couched in terms of what Britain can and cannot do in face of the supposed EU juggernaut, about solidarity and how difficult it is going to be to fit it all into our 11-month schedule. One would never guess from all this debate that things are changing just as fast on the other side of the channel—if not in Brussels, then deep in the heart of the EU member states—as they are here. People constantly talk about our being in a Westminster bubble and being out of touch. There is a Brussels bubble as well, which is in many ways just as out of touch with what is really happening, and we seem to hear sadly little of that.

The President of the EU Commission, Ursula von der Leyen, spoke at the London School of Economics the other day. Her words were full of good will and friendship, but she spoke of the fear of Britain undercutting regulatory standards and the need for alignment and a level playing field. What neither she nor others seem to grasp is that global technological forces far bigger than Brexit are already undercutting—one should say overcutting and making utterly redundant—many of the EU's standards and controls, which belong to a past age, whether we are talking about workers' rights, conditions and benefits, consumer protection, the environment, financial services, taxation methods and state aids or other forms of protection.

To take one specific example, there has been a worry all along—raised in this House last week—about our energy situation. Will that be constrained by the withdrawal agreement and the Bill we are now discussing, given that we get 6.6% of our electricity supply every day through interconnectors in continental Europe? Actually, the withdrawal agreement which this Bill will enact fully protects our continental energy supplies and the excellent diversity of sources they provide; and under the protocol agreement for Northern Ireland, Ulster remains part of the all-Ireland system within the so-called internal energy market anyway. The point I am trying to make is that this is typical of a mass of regulations. We are right to question whether it is sustainable and whether it anything like matches our much higher standards. Frankly, the chief results of energy and climate policy throughout the EU so far has been more Russian gas reliance, extensive and very dirty coal burning, increasing unreliability of supply at a cruelly high energy cost and a miserable overall emissions performance.

These are the very last so-called standards and regulations with which we want to be aligned, dynamically or otherwise. Good Europeans, in my view, should be fighting for superior standards now in all these areas, ones that are truly relevant to the new world economy. If I may say so to my Liberal Democrat friends, if they had stuck to this line of EU reform, instead of trying to revoke and drag us back into the thickets of outdated EU controls, they might have done a lot better in the election. I hope they are not going to become like the Jacobites after the Hanoverian succession and spend the next 60 years fighting vainly for their cause, because that would be very tiresome—not that I shall be around.

The truth is that markets and trade flows around the world in the digital age are going through deep and radical transformation—as are patterns of business everywhere, financial services, data handling, agriculture and many other sectors—in ways with which the EU and the Brexit debate, and many commentators and self-styled experts, have simply not caught up. I am glad a new employment Bill is coming along. I hope it will be really radical. Worker and employee ownership of new wealth is still disgracefully low in this country; we can set the pace for the whole of Europe.

Finally, when it comes to foreign policy, while of course we must always co-operate on security, we certainly need to be well clear of cumbersome EU decision-making—or non-decision-making. As my noble friend Lord Lothian said in the Queen's Speech debate last week—incidentally, I regard my noble friend as the best Foreign Secretary we never had—this is indeed the opportunity for a new British foreign policy, and defence and security policy as well, which take full account of the transformed and fluidised pattern of world power and international relations that has now emerged. Once out of the EU we can play our own game, agilely and with really skilful diplomacy.

Baroness Berridge: My Lords, it is now over six minutes. I remind all noble Lords—I am trying to play an equal wicket here—to keep within the advisory speaking time. There has been a little latitude, which we are monitoring, to be fair to all noble Lords.

Lord Howell of Guildford: That is the real gateway that the Bill opens. We should now swiftly pass through it to better times.

5.46 pm

Lord Darling of Roulanish (Lab): I will not follow the noble Lord in the time available to me, but I refer the House to my entry in the register of interests. I start by making a fundamental point in view of many of the remarks, especially from the Benches opposite. I do not think anyone can doubt that the Government have a mandate to pass this legislation. That does not stop the House questioning and holding Ministers to account, but I am very clear that they have a mandate: we may wish it otherwise but that is the case. Indeed, I argue that that has been the case since the referendum in 2016. I did not support the call for a second referendum, mainly because of my experience in Scotland, where I said repeatedly that this was a

once-in-a-generation chance. It is only sad that the other side do not appear to have accepted that.

I will say one final thing about referendums. I hope there is not another referendum any time soon anywhere in the United Kingdom. They are divisive and anyone who thinks that things will heal over afterwards is, I am afraid, wildly optimistic. However, I think that if there is another one and legislation is passed to enable it, it should be incumbent on the other side to have a done deal—something to vote on—so we know what the choices are. Part of our problem today is that for the last three years no one has been very clear what Brexit actually means, least of all the Prime Minister. The difficulty we have now is that people voted for something different, but that something was never defined. We should never do that again.

I said that the House is entitled to question the Government and to hold Ministers to account: I think that is absolutely right. In particular, I do not expect any amendments to be made, or the Minister to accept this point in winding up, but I think Clause 33 does rather tie the Government's hands. It is not a year: in something like six months' time we have to decide things we have been putting off deciding for the last three years. We have to decide on our trade relationship, on free movement and so on, and Clause 33 rather ties our hands. When you go into a negotiation, if the other side know that you have to decide something, it rather undermines your negotiating position.

Let us look at three areas. In our economic relationship, for example, we say we want a free trade agreement with the European Union; it says, "Yes, but we want a level playing field." A free trade agreement and a level playing field are not consistent with our going off and doing a deal with other countries in other parts of the world. How is that to be resolved in six months? We heard excellent maiden speeches today by my noble friend Lord Mann and the noble Lord, Lord Barwell. I was struck by the warning of the noble Lord, Lord Barwell, who has some experience in this, to not underestimate the difficulties that lie ahead. In services, which of course make up the lion's share of our economy, or financial services, about which we have not heard, we would like something like equivalence, as it is known. Equivalence is all very well, except that it is open to the European Union to say it is coming to an end, and giving us very short notice indeed. Having accepted that we are going to leave the European Union, I do not see the point in farming out our regulation, in effect, to the European Union: it is something we have to keep within the United Kingdom.

Equally, the Brexiteers have been telling the fishermen of the north-east of Scotland and the south-west of England, "Don't worry, you're going to get your waters back." Countries in the European Union want access to them. There will have to be compromises and we know it, but how we are going to do that in three months, judging by the history of the last three years, I fail to see.

Equally, I have never understood the position on the Irish border; if you have a customs union, you have to have a border. It has now moved from the border between north and south to somewhere along the Irish Sea, and during the election there were at least two

different versions—if not three—of what this meant. Again, this has to be nailed down within a comparatively short period.

During the last election and certainly since then, much attention has rightly been paid to those parts of England, particularly in the Midlands and the north, which feel that they have not done as well as they should have. They will be the first to pay the penalty if all this goes wrong, if there is no deal and we fall back on working on WTO terms. All the infrastructure in the world will not solve these problems. Within weeks we could face real difficulties with suppliers of engineering equipment, the automotive industry and so on. Infrastructure, as I well know, takes years to work up—it is very quick to announce, but takes years if not decades to deliver. Anyone who thinks that will be the answer to these problems is profoundly mistaken. That is why Clause 33 unnecessarily ties the Government's hands.

As a final broader issue, which will no doubt be explored another time—and perhaps I am biased through having sat round the Cabinet table for 13 years—Ministers are accountable to this House and the other place, but I do not think it is any part of our constitutional arrangements that Parliament actually runs departments or negotiations. I would certainly have found it something of an impediment, although maybe I am wrong on that. We are not asking for that. What we are saying to the Government is this: we have three months, maybe six at the maximum, to sort out an awful lot of complicated problems. I fail to see how we will do it. I would like to be surprised, because it is in all our interests to get the best possible deal, but we are some way off that yet.

5.51 pm

Lord Oates (LD): My Lords, I regret that I am speaking in this debate, because I regret that we have to have it. I am sorry to have to acknowledge that in just 18 days this country will no longer be a member of the European Union, that we will no longer be citizens of a union that is the proud outcome of the efforts of European nations determined to find a way to come together so that they could provide peace and prosperity for their citizens in place of years of division and war. I am sorry also that in a few months more, my rights and privileges and all the rights and privileges of all Members of this House and citizens of the UK that we held as EU citizens will be gone.

I am sorry, too, that those who spread bile and falsehood against Europe over decades have triumphed, and that the generation of Brexiteer political leaders—who often occupy the Privy Council Bench opposite—who have enjoyed the huge benefits of our membership of the EU have conspired to deny it to future generations.

However, I understand that the die is cast. We are going to leave despite all our efforts and now we must make the best of it. That is our role here: to try to make the best of Brexit, and to try to make the best of this Bill. I noted the warnings of the noble Lords, Lord Cormack and Lord Forsyth, that we should exercise some kind of self-denying ordinance in our scrutiny role. I have agreed many times with the noble

[LORD OATES]

Lord, Lord Cormack, if not with the noble Lord, Lord Forsyth, on issues around the European Union, and I have a great deal of respect for his holding the Government to account on these matters. But I do not agree with him on this occasion. He made the appeal for restraint because he had the future of this House in mind. As we discuss and scrutinise one of our most important Bills—important because it takes us out of our historic relationship—it is the future of the country, not of this House, that we must surely have in mind. That requires us to do our job, while of course acknowledging the outcome of the election and the fact that we should not seek to deny the ability of the Government to exit Britain from the EU on 31 January, however much we might dislike it.

In particular, we need to scrutinise Part 3 of the Bill very closely. We need to look at issues relating to the rights of EU citizens in the UK and of UK citizens in the EU. The Minister said in his introduction that citizens' rights have been a priority throughout the Brexit process. I am not sure that those citizens have always felt that, but, notwithstanding that fact, the truth is that the guarantees that were made during the referendum by the current Prime Minister and Home Secretary have still not been met. EU citizens were guaranteed that they would automatically gain indefinite leave to remain and that their rights would remain exactly the same. However, the only automatic thing about the system that has been introduced is that they will automatically be declared illegal residents of the United Kingdom if they do not meet the registration date. Their rights will not remain the same; the rights that they will be given are not even enshrined in primary legislation, and may be changed by Ministers at another time. EU citizens have great concern over the lack of physical evidence that they have been granted these rights. I hope we can come back to these matters in Committee.

I believe that the outcome of our leaving the EU will be to leave us deeply damaged, in our prosperity and our security. I believe it as strongly today as I did on 24 June 2016 when the result was announced. It happened to be my 10th wedding anniversary, so it is not a day I will easily forget. Notwithstanding that belief, I accept that it will happen and that we should do nothing to stop the Bill. However, we cannot and should not abdicate our responsibility to exercise our revising function in this House.

5.57 pm

Lord Butler of Brockwell (CB): My Lords, it is a relief, at least to someone like me who has spent a career in government, to have an Administration who can now be effective. It must also be a relief to the noble Lord, Lord Callanan, to be introducing a Bill which he can be confident will go through.

What then is the duty of your Lordships' House? On this Bill, and on the flood of further legislation necessary to implement Brexit and which was held up in the last Parliament, we should not be intimidated from fulfilling our constitutional role of scrutiny and amendment. But we also need to be realistic. We do not have the power to be destructive. It would be impolitic to be obstructive. So let us be constructive.

As has been made clear, the opposition political parties in this House are likely to move amendments that reflect their long-expressed political positions. However, if such amendments pass this House, it is as certain as anything can be that they will be defeated in another place. Therefore, I hope that the House will not spend too much time and credit in beating the air.

The changes in this Bill in comparison with the pre-election departure Bill seem understandable, though not necessarily welcome. It is understandable that the Bill does not contain those concessions the Government unwillingly made in the hope of securing support from at least some members of the Opposition. It is regrettable that the Bill removes the provision championed by the noble Lord, Lord Dubs, but we must acknowledge that it did not strictly belong to a departure Bill, and the assurances given by the Minister today are welcome.

I take an optimistic view of the future. I also understand the Prime Minister's desire to remove the ability to seek an extension to the implementation period. He is fresh from the experience that the imminence of a deadline caused the EU to do what it had said was impossible: namely, to reopen the departure agreement made with Mrs May. He may well believe that the imminence of a deadline will similarly make the EU do what it currently says it is impossible to do within 12 months: namely, to reach a comprehensive free trade agreement. We have to hope that he is right.

I conclude with one note of regret not directly arising from the Bill. It is reported that, having melted down two previous versions, the Government plan to issue a commemorative coin on 31 January to mark our departure from the EU. That will indeed be an important day in our national history. It is a day that a large proportion of the population—perhaps the majority—will understandably celebrate. But we have to remember that nearly half will not. The issuing of a commemorative coin will commemorate division, not unity, and it will not promote reconciliation or commend us to our neighbours in the EU. It would be welcome if, even at the cost of melting down yet another version, the Government were to think again.

6.01 pm

Baroness Buscombe (Con): On 1 February 2016, a cross-party meeting was held in Committee Room 9 in the Commons for any Peers and MPs interested in supporting a campaign to leave the EU. There was a reasonable turnout from both Houses. Part-way through the meeting, an MP rose and said, "If anyone thinks there's any point in campaigning to leave in the north-east—and probably the north-west—of England, forget it. There is no point; they're all going to vote out". On 12 December 2019, the voices of those people were finally heard.

At last I can say, without the constraints of a ministerial role, how pleased I am that those of us who have believed in all the good reasons for leaving the EU have been vindicated by such overwhelming support from the electorate. If ever I had a moment of doubt about our purpose over the past three years, I would recall two private events that I attended in support of the leave campaign. Almost all invited were highly intelligent, intellectually curious and successful men and women, mostly self-made wealth creators, major

employers and believers in our nation and our ability to punch above our weight as global Britain.

I also kept thinking, “How come so many parliamentarians are suddenly so pro the EU?” Until 2016, many Members of the House of Commons, regardless of party, hardly gave visiting Members of the European Parliament houseroom at Westminster, and showed little interest in scrutinising EU legislation. For 40 years, our nation’s own broadcaster, the BBC, never made the case for the EU beyond the odd “From Our Own Correspondent”. It failed in its duty to educate and inform as to the EU’s remit and purpose and our role within it. Little wonder that people did not feel in any way connected to our EU partners.

Turning swiftly to the Bill, I will touch on just a few areas that were a focus of debate in another place. It is surely time to, yes, debate its clauses, express our opinions and scrutinise—and then support the elected Chamber. As a lawyer, I firmly believe that less is more; in other words, I urge noble Lords, do not shackle our Government’s ability to do the right thing. We must take care to avoid unintended consequences and thereby narrow our options, and, from all accounts of our negotiations with the EU to date, our Government must be free to be tough. We surely celebrate the fact that we are once again able to make our own laws and regulations—to decide our destiny and not have it decided by others.

Of course there are clear areas where regulatory alignment makes sense, and many of those have already been debated ad nauseam in your Lordships’ House. Through those debates, it has become clear that in some key areas, such as regulations relating to our Health and Safety Executive, alignment makes complete sense, and in others—for example, animal welfare—our standards are often higher and we want to be even better still than our EU neighbours.

Technology is an area where regulatory alignment does not make sense. We must be careful what we wish for. We need to be free to embrace and champion innovation and new ideas. We can be the tech hub of Europe. In contrast with the EU, we must not shackle businesses with, for example, draconian privacy rules and punitive fines, and thereby lose out on our opportunity—and right—to be the best. Let France, for example, continue with its protectionist approach whereby it does not allow the streaming of new films on channels such as Netflix in a bid to protect its film industry from disruptive competition. Let the EU, with its focus upon protectionism, be the slowest ship in the tech convoy.

With regard to rights related to residence, the EU settlement scheme is already up and running, working, and far more generous than those offered by many countries in Europe to UK citizens. What do we really mean by reciprocity of citizens’ rights? For our welfare system to be affordable, given that this year alone we are already spending over £220 billion in the Department for Work and Pensions, and with current calls to end the benefit freeze, the Government must now do more to compare our system with others across Europe, given that others do not, for example, shy away from much tougher conditions for those fit and able to work. It is notable that the EU has never had the

courage to tackle fundamental and, in many cases, grossly unfair differences in welfare support across the EU.

There is a great deal to do; let us support the Bill and get on with it.

6.06 pm

Lord Foulkes of Cumnock (Lab Co-op): My Lords, I do not intend to go into detail on this potentially disastrous Bill—I leave that to my noble friends Lord McNicol and Lady Hayter on the Front Bench. I take this opportunity to pay tribute to our colleagues on the Front Bench, who labour day and night without any extra financial remuneration, doing a great job for our party and this House.

I want to go back, as did the noble Lord, Lord Howell, to the 1960s. It may be of interest to the noble Lord, Lord Forsyth, if not to anyone else. At that time, our party was against the European Union and we were led by people who were totally against it—as some people here know only too well. Some of us who were in favour, as I was, suffered. I remember that Robin Cook beat me in a selection conference—mind you, he went on to be in favour of Europe after that, but that is another thing. We laboured day and night. My noble friends Lord Radice, who is here, Lady Crawley and Lord Robertson and so many others will remember well the Labour Movement for Europe meetings in Blackpool and Brighton and throughout the country, where we worked together to try to get our party to espouse the European cause. We won—we succeeded—and in 1975 we had that referendum, in which we had a majority in favour of remaining in the European Union of two-thirds, not scraping through as the Cameron referendum did. As a result, we had more than 40 years of what I and many other people think is the most successful economic and political union that has ever existed in the world, and we have succeeded as a result.

However, it was then all thrown aside because David Cameron needed a referendum to try to sort out the problems in the Conservative Party. That referendum was flawed in many ways, and many people voted to leave not because they really wanted to leave but because they wanted to give David Cameron a slap in the face. They did not agree with what the Government were doing on so many other things. However, I warn the noble Lord, Lord Forsyth, and other noble Lords, of some of the consequences. Exactly the same arguments that were put forward by the British nationalists for leaving the European Union are being put forward by the Scottish nationalists for leaving the United Kingdom. The same words that were used by the noble Lord, Lord Forsyth, and others are being used by Sturgeon. So some people will rue the consequences of the arguments they put forward then.

I will be relatively brief and please the Whips for once. I finish with a resolution and, in some cases, a warning. Just as we fought and changed the Labour Party’s view in the 1960s, we will regroup and redouble our efforts, starting immediately. I am grateful to Michael Clancy of the Law Society of Scotland for reminding me that Article 50 of the treaty provides arrangements for rejoining the European Union. So,

[LORD FOULKES OF CUMNOCK]
in agreeing that treaty, both sides—Europe and Britain—recognised that it is a possibility. I will fight, and I know that many of my colleagues will fight, to make sure that that possibility becomes a reality. I only hope that I live to see that day.

6.10 pm

Baroness Hamwee (LD): My Lords, one often hears in this building, in answer to the question, “How’s it going?”, “Well, it has all been said but not everybody has yet said it.” In this case, it is appropriate that we demonstrate the strength of feeling and the depth of our concerns through quite a lot of repetition. “Get it done” suggests that Brexit is a single act or event; we know that it is not. The withdrawal agreement is almost too heavy to lift; the political declaration is a slip of a thing, with much-expressed and rather imprecise terms about considering, aiming to and exploring options.

We do have to explore the options. This is not about the House seeking to frustrate the Commons, or to deny the Government’s manifesto or to try to replay 2016. It is about moving from slogans to nuance, from headlines to detail, to make the Bill and the withdrawal workable and to prevent no deal either overall or in respect of a raft of issues. No deal will not mean nothing being in place; it will mean something but not something that would be to our advantage. The Minister said that we would have plenty of time for the scrutiny of secondary legislation. What he did not say, but what I heard, was “until the House realises that the Government have it right and noble Lords stop being over-fussy”.

I have put my name to amendments relating to the rights of both EU citizens in the UK and UK citizens in the EU where, in part, sensible dealings with other countries are needed. However, we can give protection unilaterally, and we will pursue that. The Government seek to reassure us about both the objectives and process of the settled status scheme. I am not normally a Cassandra, but I am not reassured about the rights that those with status will be able to exercise. To mention one, onward movement is important in the services sector, but services seem to have been a poor relation in our discussions.

I also put my name to the objection to losing the 2018 Act provisions for family unity—the so-called Dubs amendment. To say that this is because negotiations have started is unpersuasive. The 2018 Act does not require us to join in those negotiations; it requires us to negotiate. The Minister may tell us that the current clause has the same objectives. If so, why remove the modest obligation to seek to negotiate? We are sending a message that the Government’s heart is not in achieving this objective and that they have already given up on seeking to protect unaccompanied asylum-seeking children and the reunification of families. Is this really the global Britain that we want to be a part of? Noble Lords may be aware that a report by Amnesty, the Refugee Council and Save the Children was published at the weekend. It reported that the child refugees

“were asked what messages they would like the UK Government to hear about the impact of the Immigration Rules on their lives.

Without exception, they all invited the Government to imagine themselves or their families in a similar situation to their own”.

I will also pursue this issue through my Private Member’s Bill.

The course that the Government are set on is beyond me. We have the dog whistle of legislation by a Government prohibiting themselves from extending the implementation period. I am puzzled by this. The decision on whether to extend is in their own hands. They could always amend the legislation come June. Are they so apprehensive about how little can be achieved by December that they want to assure everyone that they will be forced to resist that temptation? Does this not hand a huge negotiating advantage to the other side?

We may not be members of the EU after the end of this month, but we will still be Europeans with a past and a future interwoven with that of our European neighbours, who I hope will also be our partners.

6.15 pm

Lord Cope of Berkeley (Con): My Lords, I support the Bill although I was pro-European for a long time. Following the referendum and all that has happened since, I am now convinced that withdrawal is not only inevitable but in our country’s best interests—and the sooner the better, so that business and the rest of us can adjust our lives and plans to the new situation.

As my time in Parliament draws near its end, I reflect more on how one’s perspective changes. I had three Minister of State jobs several decades ago, which involved negotiating with the EU. The first was on health and safety and all that. The next was on regional matters from Northern Ireland. Then, when I was Paymaster-General, I had detailed responsibility for, among other things, negotiating the annual EU budget, including a spell as president of the EU budget council. I came to appreciate the expertise of the UK representative and the importance of the Committee of Permanent Representatives, as well as similar things.

Throughout that time, some in Europe worked continually towards a united states of Europe in various ways, which we were always against. During my time as a Minister, there were 12 member states but it turned out that widening, which we often discussed, did not rule out deepening, as we hoped at one point. The EU is all about such negotiations happening every day. It is important to realise that the various councils are representative of diverse nations. Some are large like us, but Luxembourg, for example, is smaller than Leeds, as we heard today in a couple of good speeches.

The EU is not a team with a leader as our Cabinet is at least supposed to be and has been, at least for most of the time in history. It is therefore inclined to make continual, complex compromises reflecting national stresses and strains and special interests. Those compromises then become fixed in stone. Of course, at any given time, several member states have elections pending, reshuffles looming and so on, which affects all these negotiations. Everyone round those tables must be able to go home and say how hard they pressed their national case. That is why the last-minute

culture is so strong in these areas. It is also why it is right to fix the deadline in law, as the Bill does, because it focuses minds.

Of course, the coming negotiations will be hard pounding, with many simultaneous strands. Ministers and officials will need 20:20 vision and to be dedicated, disciplined and decisive. Fortunately, the political background here now makes that possible. Our negotiating team can expect to take no holidays this year. I should imagine that August will be a time of working flat out under maximum pressure, while no doubt compromises and interim arrangements will be agreed. But let them get on with the process.

On the detailed provisions of the Bill, I commend the excellent speech of my noble friend Lord Bridges of Headley, with whom I agree entirely. For that matter, I also commend the speech of the noble Lord, Lord Butler of Brockwell, which was full of common sense from his long experience in government.

6.20 pm

Baroness Blackstone (Ind Lab): My Lords, the Prime Minister has promised former Labour voters in the north and the Midlands who voted Conservative for the first time that he will look after their needs and that he will increase their prosperity. To keep to his promise, he must negotiate a deal with the EU that retains as much as possible of the UK's trade with EU countries on the best possible terms and which commits us to EU standards on the rights of workers and on the environment. He must also ensure that our economy produces sufficient revenue to improve the public services on which these voters depend and indeed hope desperately will meet their needs.

This Bill falls short in many respects of what is required to achieve all that, including proper scrutiny by Parliament. In a parliamentary democracy, taking back control, which many of these voters saw as an outcome of Brexit, means, as many speakers have emphasised, that Parliament, which represents the people, must be able to scrutinise the process of implementing Brexit and to hold the Government to account. Brexit will not be done, as Mr Johnson would have us believe, when this Bill becomes law on or around 31 January. There will be many months of complex negotiations before it is implemented and therefore done.

Like other speakers, I ask why on earth we are setting an unrealistic target of 31 December of this year to complete the negotiations when both Michel Barnier and Ursula von der Leyen in Europe have made it clear that it will not be possible, as have many experts on trade negotiations in this country. The work entailed requires patience, pragmatism and attention to detail, not silly and unrealistic deadlines. Allowing only 11 months to negotiate a deal on both trade and security makes no sense and once again we risk crashing out because that artificial deadline, written into legislation, will not be achieved. By all means have a target date, but do not legislate for one.

Will the Minister tell us a little more about the content of the negotiations? Does he accept that they must cover not just tariffs, quotas and rules of origin, but our enormously important service sector on which so much of our economy depends? That includes

access to databases, in particular those relating to terrorism, international crime and other security issues, as well as aviation, the safety of drugs vital for the NHS, co-operation on consumer rights and climate change, to name but a few.

I turn now to climate change. I hope that the Minister will agree that there should be no lowering of environmental standards or protection. We must protect both current and future standards so that future generations will benefit not from any kind of weakening but, indeed, strengthening. In that way we will meet the aspirations of young people. To prevent any regression through, for example, secondary legislation at a later date, there needs to be a non-regression statement set out in primary legislation.

There are two other areas where this Bill is far less acceptable than the original. The first is the dropping of strong protections for workers' rights which were in the internationally legally binding part of the deal agreed by Mrs May. Can the Minister say why these have been dropped? We would be naive to accept an assurance that they will be restored in a future trade Bill because they should be in this Bill. The second area is the weakening of protection for child refugees, for whom my noble friend Lord Dubs has fought so hard. If the Minister claims that the Government are still committed to them, why not leave those provisions in the Bill?

I ask the Government to come up with a meaningful role for Parliament along the lines of the amendments passed in this House on the previous trade Bill. There needs to be a framework for post-Brexit trade negotiations. This should apply not only to UK/EU agreements, but to other post-Brexit deals, notably any reached between the UK and the US, about which there is considerable public concern. If the Government reject proper scrutiny through such a framework, it will mean nothing less than contempt for the parliamentary sovereignty that most of us hold so dear.

6.25 pm

Lord Beith (LD): My Lords, I agree with much of what the noble Baroness said, and I also want to emphasise how much I agree with my noble friend who leads for us and who spoke at the beginning—my noble friend Lord Newby. He set out the broader issues very well, which enables me to concentrate on some of those that are of interest to the Constitution Committee. Noble Lords will have to wait until tomorrow to find out whether my views correspond precisely to those of the committee as a whole, when the report referred to by the noble Baroness, Lady Taylor, will come out in time for Committee.

I want to start with the claim about getting Brexit done, which is manifestly absurd. It is almost as if Moses had said to the Israelites, "Stick with me and I will get Exodus done by the end of the month." He did not get it done by the end of the month; it took 40 years and he was not actually there at the finish. That ought to be a warning. I sometimes wonder whether Brexiteers have read the Bill. Although it repeals the European Communities Act, it simply reinstates and reapplies its provisions, for the rest of this year at least and, in many cases, for longer than

[LORD BEITH]

that. We will transfer from being a member state with a vote and a veto to colonial status—accepting rules but having no say in them.

There are reasons for this carryover of time. Extricating ourselves from 40 years of working together is difficult, and in many cases against our economic interests. It means, for example, that decisions of the European Court of Justice handed down after the end of the implementation period will continue to have effect under Clause 5. And, of course, we are only at the beginning of a negotiating process that will not be completed by the end of 2020, even if a limited agreement is reached. As the noble Baroness, Lady Blackstone, and others pointed out, this Bill drops all provisions for parliamentary scrutiny of the negotiating process.

It makes me wonder what these new MPs for the old industrial areas of the Midlands and the north are going to do when the interests of their communities start to be traded for the interests of other communities, as the sorts of decisions that have to happen in these negotiations begin to be made. They will probably discover them via the European press, then see them reported in this country, because it will all emerge in the European Parliament while nobody here is being told anything about it. This is a process that requires a sensible method of parliamentary scrutiny.

The Bill has too many Henry VIII and other ministerial powers, and in a number of cases lacks the sifting or sunset provisions that could provide some safeguards. In Clause 26, Ministers are given inappropriate power over the courts, in a proposal that opens the door to legal confusion and multiple layers of litigation. It will allow Ministers to set up a scheme allowing any court, rather than just the Supreme Court and the High Court of Justiciary in Scotland, to depart from ECJ case law. If the Government have arguments to support the creation of such a scheme, the scheme should be on the face of the Bill—but I wonder how persuaded many in the Government are about whether this is really desirable at all. I suspect that a write-around of departments that included not only the Ministry of Justice and the Home Office but also Her Majesty's Revenue and Customs, along with the various other departments that get involved in legislation, would show that they are not particularly enthusiastic about it. It is a dangerous course to embark on, and one that will cause considerable confusion, with the only beneficiaries being the lawyers who take cases under it—at almost any level, right down to employment tribunals, if the Government use these powers to the full.

In Northern Ireland the Bill reverses the principle that major change should have cross-community support by allowing decisions on the customs borders in the protocol to be by simple majority. The Government have not really advanced any clear reason for that, at a time when cross-community working is, thankfully, re-emerging in Northern Ireland.

The Bill contains an otiose assertion of the sovereignty of Parliament. The sovereignty of Parliament is a fundamental principle of the constitution. It gains nothing from inclusion in this or any other Bill, and its inclusion has no legal effect at all. Among other

things, of course, it means that if it becomes necessary to extend the implementation period, which the Bill claims in Clause 33 to prohibit, Parliament—if the Government so chose—could readily pass new legislation to extend the implementation period or to achieve the same effect by different words—which is the whole basis on which the Bill is constructed. The Bill is constructed on the basis that we repeal the European Communities Act but give effect to its provisions as if it still existed. The Government can do exactly the same with the supposed restriction on extending the transition period, and they might well have to do so. Those who now wish to legislate sovereignty into existence, which seems bizarre to me, seem to forget that it is already there; it was there before they were born, and they too are subject to it.

6.30 pm

Baroness Jones of Moulsecoomb (GP): My Lords, I have enjoyed and even agreed with many of the speeches today. I am taking away phrases such as “Henry VIII on steroids”, which I particularly enjoyed. There have also been some terrible speeches that have been provocative and perhaps even gloating, which is entirely unnecessary.

Overall, I am sad but also furious about the content and context of this Bill. Although the last couple of years have been a terrible political mess, at times—in spite of the super-polarised atmosphere that has been here—we compromised and worked together, which is a beneficial part of the working here in this House. Now, of course, the first-past-the-post electoral system has done its magic and given Boris Johnson a large majority, despite fewer than half the people—not even 44%—actually voting Conservative. But it was a good result and we have to live with it.

Sadly, Boris's empty slogan, “Get Brexit Done”, has united the majority in the other place so that, no matter how your Lordships' House improves this Bill, it will be undone when it ping-pongs back to the Commons. So we might as well now just sit down, put our feet up and not do anything, because it would give the same result. Your Lordships' House is almost made obsolete by the power grab by the Government that is happening.

Despite this futility, obviously we will fight on. We fight on to expose the Government's backtracking on environmental protection and workers' rights. We fight on to protect the rights of Europeans living in this country and British people who live elsewhere in Europe. We fight on to protect our role as parliamentarians to scrutinise this legislation, and all the future decisions on the long road ahead.

At the heart of “Get Brexit Done” is a sleight of hand whereby the very complex, difficult next stage of negotiations with the EU has disappeared like a rabbit down a burrow. This burrow of course will be an arduous process. It could easily end up with us coming out very much worse off, and without any way back to the status quo.

This new Government have gone beyond recklessness by legislating against any extension of the implementation period. Of course, we have seen many times how our Prime Minister can switch from “do or die” to doing the sensible thing, and it would take only a one-line Bill to allow for a very sensible extension. But we really should not have to wait for that, with all the anxiety

and uncertainty that the no-deal threat creates. We need to change this Bill to protect the environment, protect people's rights, limit this government power grab and remove the cliff-edge amendment.

6.34 pm

Lord Maude of Horsham (Con): My Lords, it is a pleasure to congratulate the two maiden speakers in this debate. I worked closely with my noble friend Lord Barwell when I was chairman of the Conservative Party some years ago. Both he and the noble Lord, Lord Mann, made powerful maiden speeches here today, and I am sure the House looks forward to hearing much more from them in the months ahead.

I draw attention to my interests in the register. In some of them I attempt from time to time to give advice about issues around Brexit and occasionally to try to predict what might happen. This has proved challenging, but I hope some certainty is beginning to emerge.

I was neutral in the referendum campaign three and a half years ago. I thought that the upside of leaving claimed by the leavers and the downside claimed by remainers were wildly exaggerated. I do not believe that the most important factor in Britain's future economic success or influence in the world lies in whether Britain is a member of the European Union.

In my brief period as Minister for Trade, I found myself attending the WTO's biennial meeting. We hear much about the top table that apparently we will not be at after we leave. I got to the meeting and found that I was not at the table at all. I was representing the Government of the fifth-largest economy in the world and I did not have a seat at the table.

What matters is what we ourselves do, how we configure our own domestic economic arrangements and how we play our role in the wider world, strengthening and using our unique combination of national assets.

There was a clear decision in the referendum. It had to be implemented and implemented briskly. The inability of the Government and the House of Commons over the last three and a half years to make that happen has inflicted short-term damage on the perception of this country around the world, at a time when it matters more than ever that our reputation for effective diplomacy and political stability is not just maintained but enhanced. So it is essential that the Bill is passed without delay.

I very much agree with what the noble Lord, Lord Butler of Brockwell, said. It is certain that any amendments passed by this House will be reversed by the House of Commons. As my noble friend Lord Cormack said powerfully, if this House is unwise enough to lock horns with the House of Commons, it will do itself possibly irreparable harm.

So far as the next stage after 31 January is concerned, much has been made of the constrained timescale for negotiation. Of course it looks challenging, but the outlines of a deal are already there, and it is notable that since the Brexit vote in 2016 the EU has started to show that it is, after all, capable of conducting trade negotiations rather more rapidly than at its previous glacial pace, piqued by the criticism made of it during the referendum campaign.

Of course, this negotiation does not have to be—indeed, it should not be—the last word that sets the relationship in stone for all of time. As my noble friend Lord Howell powerfully argued earlier, this is a dynamic world in which change happens increasingly swiftly and unpredictably. It would be a mistake for us to spend years seeking perfection in a protracted negotiation that is likely to be obsolete before the ink is dry on it.

I have one final point. This is not just a trade negotiation. It needs to cover the whole range of ways in which Britain collaborates and will collaborate in future with the EU. Of course, this must include the security, defence and intelligence relationships, on all of which Britain can continue to be an essential partner for our nearest neighbours. I hope that this time the Government will not be pressured into giving way on this at the outset. In the early stages of the Article 50 negotiations, the EU—having fulminated about how there could be no cherry picking—ruthlessly picked the cherry labelled “security and intelligence collaboration”, and the then Prime Minister permitted this. I hope this mistake will not be repeated.

6.38 pm

Lord Howarth of Newport (Lab): My Lords, three and a half years after the referendum, at long last the people's decision that we should leave the EU will be honoured, as Parliament passes this withdrawal legislation. There are issues about Parliament's role in the process provided for in the Bill, but the major constitutional crisis of Brexit, the clash between the people and Parliament, is over. We are at a historic turning point for our country. The withdrawal from the EU that this Bill will enact can be the prelude to the renewal of our democracy and our economy, and to healing the wounds in our society.

The Government are right to insist in Clause 33 that the negotiation of our new relationship with the EU must be accomplished by the end of this year. There can be no virtue in perpetuating the transitional limbo. The essential elements of the necessary agreements can be negotiated on this timescale. On trade, we start from a position of regulatory alignment and no tariffs or quotas. To the noble Lord, Lord Barwell, whose maiden speech I very much admired, I say that it is in neither side's economic interest to erect barriers where there are none. Any difficulties are not technical but political, and their resolution must be a matter of political will. As a country responsible for our own laws, we must insist on the principle of regulatory equivalence, not replication.

The free trade agreement between the US and Australia was negotiated in a year, in 2005, despite opposition from the agricultural lobbies in both countries, because President Bush and Prime Minister Howard were both determined to deliver it. A will to deliver quickly on the part of the EU will be much encouraged if we pursue parallel negotiations on an FTA with the US. If European manufacturers and farmers see the prospect of American exports entering the UK market tariff-free, they will press European leaders and negotiators very hard not to disadvantage them through having to face new UK tariffs.

Brexit is straining the union of Great Britain and Northern Ireland. Welcome as the restoration of the Northern Ireland Executive and Stormont is, the fact

[LORD HOWARTH OF NEWPORT]

remains that, whatever his protestations, to secure the withdrawal deal the Prime Minister cut Ulster adrift. His deal, providing for a new customs border in the Irish Sea, the subject of Clauses 21 to 24 of the Bill, gives a large shove towards a united Ireland.

I am more optimistic that Scotland can be retained within the UK. At the election, 54% of voters in Scotland voted for unionist parties; the situation is much more ambiguous than Nicola Sturgeon claims. I think that when Scots look down the barrel of the independence gun, they will flinch: they will balk at the economic sacrifice entailed by losing their subsidies from English taxpayers and will not want a hard border at Gretna Green.

Those former Labour voters in the red wall constituencies of England who were determined to have Brexit, despite all the advice from economists and remainers that it would make them poorer, demand a new politics. They are right to do so: they are the people who have been worst failed by neoliberalism. Market forces have been allowed to destroy communities and tradition, and have produced deep and persistent poverty, chasms of regional inequality, chronic financial crises and a climate emergency. Withdrawal from the EU will help us escape the havoc of neoliberalism, still dominant in a Brussels infested with the lobbyists of big business. Finance, inexorable as it is, is not the be-all and end-all, and nor is GDP.

The cruelties of austerity, such as the two-child limit for social security and the closing of Sure Start centres, have become intolerable—the Brexit vote told us this. The case for fiscal expansionism has now been accepted by the Government. We must reinvent the role of the state in rectifying injustice and using its power in humane intervention, so as to support the precariat and the people who are the casualties of technological change. Rules restricting public investment to the south-east must be rewritten. Support must be given, not just for big infrastructure projects but for local people creating productive local economies in post-industrial areas. Local culture and dignity must be respected. Whitehall must give away power and allow revived autonomy in communities across the UK.

This legislation opens the way to a rebuilding of national self-belief. We can end the ugly attitudes of nativism in a new era in our international dealings. Withdrawal from the EU entails radical remodelling of politics and policy, and so much the better.

6.44 pm

Baroness Bakewell of Hardington Mandeville (LD):

My Lords, I too congratulate the noble Lords, Lord Mann and Lord Barwell, on their maiden speeches. I feel certain that they will both make very welcome contributions to many of our debates in this Chamber.

The Minister has given us a thorough overview of the Bill and what we can and cannot expect from the Government. However, like many, it was clear to me when talking to people at the weekend that, although a majority voted to get on with Brexit and put it behind us, not all understood the amendments which the current Prime Minister made to the withdrawal agreement and how this would impact on people living in the UK. In particular, there was little understanding

that unaccompanied refugee children would not be reunited with their parents already living in the UK. This appeared to them to be strange, bordering on the inhumane. Many of these people voted to see Brexit implemented. However, some may feel the implications are not something they wish to sign up to.

My main purpose today is to flag up my interest and concern that environmental principles will be secured after exit day and way into the future. It is of great importance to many in this Chamber, and certainly outside of it, that the Government do not compromise in this Bill on non-regression. The UK currently enjoys high standards in habitat protection and product safety. These standards have been developed with our European neighbours, so that we now benefit from cleaner beaches, safer food and the best chemicals regulation in the world. The political declaration agreed by the UK and the EU in October 2019 included positive aspirations for environmental standards, proposing that the UK and the EU should uphold “common high standards”. This declaration is only indicative and not legally binding, as others in the Chamber have referred to.

The Conservative Party manifesto committed to legislate to ensure high standards of environmental protection and not to compromise. Government Ministers have also stated that these standards will not be weakened, including proposing the introduction of a non-regression provision on environmental protection in legislation. The Minister responding at Committee stage in the other place confirmed that

“there will be no regression”,

but did not give any clarity on how this will be achieved. Will the Minister now say how non-regression will be achieved and ensure that this House understands exactly how Parliament’s oversight role during the future UK-EU relationship negotiations will be strengthened? Such a statement will ensure the delivery of the Prime Minister’s commitment to pursue

“the most ambitious environmental programme of any country on earth.”

Our relationship and new trade agreements with the EU have the potential to significantly affect people and the environment. Parliament and the devolved Administrations must have strengthened involvement in the development of these agreements. It is also crucial that environmental representatives can engage meaningfully in this process. I will return to this issue later in the week, when we continue through the Bill in Committee. For now, I look forward to the rest of the debate and the Minister’s response at the end of today’s proceedings.

6.47 pm

The Duke of Somerset (CB): My Lords, while acknowledging the considerable majority that the Conservatives obtained in the recent general election, largely fought over Brexit, it is worth reiterating the point made last Tuesday by the noble Lord, Lord Robertson of Port Ellen: only 29% of the electorate actually voted for that party. This means that everyone else has to go along with and accept that result, but they might expect that their ambitions and wishes will be respected and acknowledged. This is important, if there is to be any post-Brexit healing or consensus.

A large part of the “everyone else” cohort are the young hopefuls: the postgraduates and emerging entrepreneurs. To them, the various clauses in this EU withdrawal Bill mean a severe dashing of hopes and expectations, especially post the implementation period, because they face the prospect of an inability to work or live in Europe, the continuing uncertainty of our future trading position and a severance from any in-depth cultural interchange by virtue of extended stays abroad. Likewise, their EU colleagues and classmates who want to settle and work in the UK are disappointed.

The Government’s position on future citizens’ rights has changed and hardened a little. The Conservative Government have given some rights to EU citizens already settled here, but without any tangible paper proof. There is still talk of an ESTA-style visa being necessary for future travel to the EU; perhaps the Minister can deny or confirm that. The attitude of the Home Office has not recovered from the tough regime under Mrs May. The “fortress Britain” mentality, where artificial restrictions surface based on earning power and skill, continues irrespective of the requirements of British businesses.

I have seen no realistic acknowledgement of the future needs of our agriculture, hospitality or even NHS sectors for non-British labour in the future, and the problem of onward movement for UK citizens within the EU has not been answered. Also, the popular opposition to free movement, or indeed any immigration to this country, by citizens of countries such as Poland has begun to recede, because they are aware of the Government and their officials not wanting them here. The weakness of the pound caused by the threat of a hard Brexit has deteriorated their earning power.

The Government have now written in the new timetable clause, allowing for an unrealistic few months to negotiate the future agreement after the transition period. While this may chime with the mantra of getting Brexit done, it will not make it easy to achieve a final result allowing fluid relationships with our closest trading partners, and so is an easy excuse for a no-deal crash-out that would hobble the prospects of Great Britain.

The noble Lord, Lord Campbell, talked about Erasmus. Even this harmless requirement to negotiate full membership of the EU’s Erasmus youth and education programme has been defeated in another place. How pointless is that?

We should not ignore our relationships with the greater world. I refer to the issue of visas. Last week, the noble Lord, Lord Risby, referred to this, and to the difficulties that obtaining them causes to all and sundry. I have been looking at the Government’s website for an Armenian friend who wants to visit the UK. These points apply to many third-country states. There is an extensive list of documents to be assembled and fully translated, and a not insubstantial fee of £95 to pay. Before travel, the applicant must visit a centre to have biometric details captured. Could this not be done on arrival? Do these visitors deserve such hostility, especially when we do not even need a visa to visit their country? We have substantial mechanisms to defeat those wishing to work and reside unlawfully.

It is shameful that these hurdles are, or will be, imposed on our abilities, EU or other, and that government declarations of “global Britain open for business” do not fit the actuality. Future generations see the door of opportunity being slammed in their faces by the narrow-minded thinking of this Government on immigration.

6.53 pm

Viscount Ridley (Con): My Lords, I think I have spotted an issue on which absolutely everybody in this House will agree, and that is that a can of WD-40 should be acquired to deal with that hinge which keeps making a noise like a wounded heifer from that end of the Chamber.

The noble Lords, Lord Forsyth, Lord Cormack, Lord Taylor and Lord Bridges, all made the point—as did the noble Lord, Lord Maude, I think—that this House must send this Bill back unamended, because otherwise we are in trouble as a House. Others disagree. I am not 100% sure that they are right, but it is worth reflecting on why the British people and, to some extent, the other place, distrust our motives and suspect that we are once again trying to prevent getting Brexit done if we amend this legislation.

In this House, we have heard three and a half years of excuses for not enacting the wishes of the British people. We heard that the economy would collapse if people voted to leave, but the British people said, “Get Brexit done.” We have heard that people did not understand what they were voting for, but the British people said, “Get Brexit done.” We have heard that there was a need for a meaningful vote in Parliament before any withdrawal agreement be passed, and the British people said, “Yes, okay, fine, but get Brexit done.” We have heard that the Northern Ireland border was insoluble, and people said, “Yes, fine, but get Brexit done.” We have heard that the EU would not let us diverge, and the British people said, “Please get Brexit done.” We have heard that there is not time to scrutinise all the secondary legislation necessary before leaving the European Union, and the British people said, “Get Brexit done.” And we have heard that people might have changed their minds since the vote in 2016, so in 2017 we had another general election, in which people voted overwhelmingly for parties that wanted to get Brexit done.

Lord Lea of Crondall (Lab): I am most grateful, as it is not usual to intervene in such a debate. Surely the question is: is it meaningful, without all the negotiations which we all know must take place over the next two or three years, just to say “Get Brexit done”, as if it makes sense, and to worship the people for saying something that might be rubbish?

Noble Lords: Oh!

Viscount Ridley: I think the noble Lord has rather made the point for me.

We then heard that it would be better to have a second referendum, and the people said, “Fine, but first, let’s get Brexit done.” We have heard that we had to postpone the date of leaving, and people said, “Yeah, okay, but let’s get Brexit done.” Then we said, “Let’s ask the judges”, and people said “Okay, but

[VISCOUNT RIDLEY]

please let's get Brexit done." Then we heard, "Let the Speaker run the Government, or Mr Benn or Mr Letwin, instead of the Prime Minister", and the people said, "Get Brexit done." With commendable and quiet patience, the British people kept saying this. Finally, we came to the 2019 general election, in which the people spoke with a clear voice and said, "Get Brexit done."

6.56 pm

Baroness Crawley (Lab): My Lords, I offer congratulations to our two powerful and fascinating maiden speakers, the noble Lords, Lord Barwell and Lord Mann.

The Government now have a working majority, but it must not be wielded the way Andy Capp's wife used to wield that rolling pin. I would caution against them using their new majority to bypass parliamentary scrutiny in the difficult coming months. The stakes are too high, the issues too raw and the future of our judiciary, our citizens and our environment too precarious.

The Bill before us is a stripped-back version of the pre-election withdrawal agreement Bill. This tells us that the Government think that they can chop away through the old plan, chopping out the best bits. For example, as other noble Lords have said, the commitment on unaccompanied child refugees has been removed. Instead of the Government being obliged to negotiate an arrangement with the EU on family reunion, they are now obliged only to lay a statement on policy in this area before Parliament. Our own esteemed Member, the noble Lord, Lord Dubs, spearheaded a highly successful cross-party campaign on this, and it is shaming that it is no longer part of the Bill.

The Government have also used their new majority to swiftly remove Clause 34 and Schedule 4, as found in the pre-election Bill, which specified that a Minister introducing a Government Bill would be required to make a statement of

"non-regression in relation to workers' retained EU rights."

Instead, the protection of workers' rights will be shoved into another Bill, the main elements of which do not refer to the protection of workers' retained EU rights. This new employment Bill will be coming to a committee room near you sometime soon, possibly.

So all that talk over the last four years of how the Government will not only keep up with the EU but also go above and beyond EU standards on employment rights was just that: talk. Given the opportunity to officially measure their progress with the EU in this Bill, the Government are ducking it. I would ask why, as did the noble Baroness, Lady Blackstone. In the pre-election Bill, the Government would also have been required to make regular Statements to Parliament on whether the EU had published any new workers' rights, whether domestic law conferred similar rights and, if not, whether the Government intended to take steps to implement the new EU rights. None of this has survived into the Bill before us today. Call me Mystic Meg, but this looks like a clearing of the decks to bring about a workplace deregulation agenda. Our rights are being thoroughly chlorinated.

Do the Government think that British workers are doing so well that there is no need to heed international comparisons and progress officially? I suggest they look at the latest ONS figures for British women presently in the workplace. The ONS's stark conclusion is that there are no areas of the modern British workplace, across all its nine economic groups, where a substantial pay gap does not exist in favour of men, full-time or part-time, be it among solicitors, factory workers or medical staff—with one exception, and that is full-time receptionists, where women are paid slightly more than men. Women at work in this country are not enjoying equal pay and conditions. Certainly, they need the opportunities and the active comparisons that our continuing closeness to our EU neighbours should present.

I want this country to prosper and to meet its many challenges, and I accept that the decision to leave the EU is behind us, however much of a mistake I still consider it. But we need the strongest possible relationship with the European Union in order to prosper. So a stripped-down, stripped-out withdrawal Bill, weakened protections, a Parliament sidelined, along with a highly unrealistic timetable for a transition period, could all add up to—far from getting Brexit done—getting Britain done for.

7.01 pm

Lord Greaves (LD): My Lords, there seems to be a body of opinion on the Conservative Benches that there is a great pressure group in this House seeking to wreck this Bill and to stop it happening so that the 31 January deadline cannot take place. That is complete rubbish, and it would be far better if Members on the Government Front Bench and Conservatives joined us in scrutinising the Bill properly, which is our function, and stopped raising hares which do not exist.

We are already having an extraordinary procedure—six consecutive sitting days on the Bill—which I have never seen before. That is a huge concession made by the usual channels but, if we are not supposed to properly scrutinise and perhaps revise the Bill, why on earth are we going to spend six days discussing it? It is nonsense. There is a general consensus among everyone in this House that the Bill will pass at the end of next week, and we will do everything possible to assist in that happening. That does not mean that we do not have to do our job.

One or two speakers—I will not name them because I am about to attack them—have made the suggestion that the future of this House is in danger if we do our job properly on this Bill. That is bullying, and I do not react to bullying in a way that allows it to happen. There are two ways to deal with bullies: one is to bully them back, which we do not have the option to do here; and the other is to ignore them, which I suggest we do.

A long time ago, the noble Lord, Lord Cormack, said that it is the will of the people that we should leave, which has been repeated by various people, but the noble Duke, the Duke of Somerset, pointed out that less than 30% of people had voted for the Conservatives. In practice, in 2017 the Conservatives received 43% and had a minority of 10 seats, and in 2019 they received 1% more, 44%, and a majority of 80 seats. As a Liberal, I could spend a long time

ranting about the iniquities of our rotten and corrupt electoral system, but it is probably not relevant now. The fact is that, whether or not some of us like it, the election was a landslide for the Conservatives as far as the House of Commons is concerned and in practical terms that is what matters.

The noble Lord, Lord Taylor of Holbeach, said that our revising responsibilities are important but that we should not undertake them this time. If this House has an important revising function, surely it is in difficult times that we should make sure that we do it properly and not lie down and be bullied.

On 9 January, in the House of Commons, I think during the Third Reading debate, the Minister, James Duddridge, said:

“just as we will be watching the House of Lords carefully next week, they have been watching us carefully during the Bill’s passage. They will have listened to the change in tone and seen the majorities by which votes were won”—

quite right—

“and I am sure that they will reflect on that in their deliberations, doing a proper job of scrutiny as part of the whole democratic process”.—[*Official Report, Commons, 9/1/20*; col. 652.]

That is the Minister in the Commons telling us to do a proper job of scrutiny, and I do not think we should resile from that in any way.

The noble Lord, Lord Cormack, said that there is euphoria in the Commons. I am sure there is in a majority of the Commons, but many MPs seem to be in a state of shock, not euphoria. However, out in the country there are still many angry people. It is not the will of the people that Brexit should be done, as the noble Viscount, Lord Ridley, said, but the will of half the people. The country is divided, and there are angry people on both sides. Many people who think we should stay in the European Union are shocked—they cannot understand what has happened and why it is happening—and are in a grieving process. To be euphoric, mint silly coins and organise triumphalist fiestas will not get anywhere. However, on the other side, many leavers are still angry because they do not understand why we are still debating it. They do not understand why that is happening and, given that there will be a huge amount of news about it for at least another year and perhaps beyond, it is time that the Government started telling people the truth about what is happening and why Brexit is not yet done.

7.07 pm

Lord Hain (Lab): My Lords, this Bill opens the way for a Singapore-upon-Thames race to the bottom by deliberately removing the level playing field provisions designed to prevent the UK undercutting the EU. It also fails to protect our communities from the dangers of future land grabs on the health service from United States drug companies. Rather than Parliament taking back control, the Bill aims to destroy Parliament’s ability to hold the Government to account as the negotiations proceed.

The EU will remain the biggest, richest single market in the world right on our doorstep, with 450 million people compared to the UK’s 66 million. The EU accounts for half of UK trade but the UK accounts for less than one-tenth of EU trade. The UK risks losing not only its membership of the EU single market

but also around 70 highly advantageous EU deals with other countries worth another 11% of our overall trade. The Government have been trying to roll these over but Japan, for example, has refused, confident that it can extract better terms from London on its own than it has already with the much larger EU bloc.

The Bill also removes EU protections for the environment, consumers and workers’ rights. By deleting these and other level playing field provisions, which the EU has indicated are essential for a deal, and discarding the opportunity under the latest withdrawal agreement for the UK and the EU to agree an extension before 1 July 2020, the Bill also brings back the real threat of a catastrophic “no trade deal” at the end of the year. The hard-line Brexiteers support such an outcome, but let them bear in mind that no country in the world trades on WTO terms alone without additional agreements, especially with their nearest neighbours.

In just 11 months’ time, and in the absence of a trade deal, the UK could find itself at the mercy of the EU regarding the bilateral trading relationship. The refusal of the US to confirm the appointment of judges to the WTO appeals court means that from 11 December 2019 the WTO can no longer adjudicate on trade disputes. This puts the world at risk of a free trade free-for-all in which the largest blocs can use their economic weight to do as they wish. So, if the UK felt that the EU was imposing vexatious trade barriers, for example, there would be no legal redress for the British Government through the WTO.

A Canada-style free trade agreement favoured by No. 10 means little or nothing on services, which make up 80% of the UK economy and 45% of our exports. The EU, with which we have a trade surplus in services, would have no incentive to grant significant openings to the UK in a free trade agreement because, under the WTO’s rules, it could then be obliged to make similar offers to all third countries with which it already has bilateral free trade agreements.

As the former President of the European Commission, Donald Tusk, made clear in 2018,

“the EU cannot agree to grant the UK the rights of Norway with the obligations of Canada”,

which is exactly what the “cake and eat it” contingent surrounding the Prime Minister seems to expect.

If the UK wants to reach a deal, we have to recognise that it will need to be ratified by the Parliaments of 27 individual EU member states, and some regional bodies too. Trade is about trade-offs, and in fishing, for example, the UK will have to grant continued access to UK waters if our fishing communities wish to maintain their lucrative access to selling into the European Union market, which is critical for the UK’s fish-processing industry. If regulatory divergence begins to occur, EU access would cease. EU producers, meanwhile, would continue to have unfettered access to the UK market in goods, where the EU already has a huge surplus.

The Prime Minister insisted that for goods moving to and from Northern Ireland and Great Britain, there would be

“no forms, no checks, no barriers of any kind.”

I am reminded of Nye Bevan: if the Prime Minister

[LORD HAIN]

“is sincere in what he is saying, and he may be, then he is too stupid to be a Prime Minister”.

I fear it is far worse than that, for there will indeed be checks and controls across the Irish Sea, with all sorts of dangerous uncertainties for the island of Ireland if there is no comprehensive deal at the end of this year or no amendment to the Bill as proposed.

7.12 pm

Baroness Parminter (LD): My Lords, it is, as ever, a pleasure to follow the noble Lord, Lord Hain, who rightly referred to level playing fields. I shall touch on the one issue he did not include: the level playing field for animal welfare we currently enjoy as a member of the European Union. A non-regression clause on animal welfare is absent from the Bill, and I fear that not only puts our standards at risk but seems to run counter to the very welcome pledges in the recent Conservative manifesto. Given that the—albeit non-binding—political declaration did not explicitly mention animal welfare in the policy areas where a level playing field must be ensured in the future relationship between the UK and the EU, I, like others, worry that the pressure to secure new trade deals will result in lower standards.

I echo other noble Lords who found the maiden speech of the noble Lord, Lord Barwell, excellent. He said that choices in one area will affect choices in others. Of the four free trade agreements the Government are committed to negotiate in parallel with the EU FTA, three have lower standards than us: the USA, Australia and the trans-Pacific partnership. A non-regression clause in this Bill would signal that high standards would be the minimum for those negotiations.

This is a particular concern if a free trade deal with the EU is not agreed and we end up with a no-deal exit. In that scenario, increased deregulatory pressures could lead to a race to the bottom, with cheaper farm animal imports to lower standards. This is about not just millions of our farm animals; it will also affect animals used in research since, if we diverge from REACH, any product entering the UK will have to be tested twice: for the UK and then for EU authorisation.

The noble Lord, Lord Taylor of Holbeach, who is not in his place, urged restraint on this House and that we focus our attention on promised future legislation. I agree that it is important that we scrutinise such Bills, including those on trade and agriculture, but it is clear that without a non-regression clause on animal welfare in this pivotal Bill, our ability to deliver high animal welfare standards in future may already be fatally flawed.

7.14 pm

Baroness Brown of Cambridge (CB): My Lords, like other noble Lords, I rise to urge the Government to include a legal assurance in the European Union (Withdrawal Agreement) Bill that there will be no regression in relation to environmental standards as we withdraw from the EU and negotiate new trade agreements. I remind your Lordships of my interests as recorded in the register, in particular that I am the chair of the adaptation committee of the Committee

on Climate Change. Other noble Lords have already spoken on this issue, so I shall be brief in adding my voice.

As the noble Baroness, Lady Parminter, reminded us, we are pleased to have heard many encouraging assurances: for example, the Conservative Party’s manifesto commitment to

“ensure high standards of ... environmental protection”;

in the Queen’s Speech, the commitment

“to protect and improve the environment for future generations”;

through the Environment Bill, the intention

“to leave that environment in a better state than we found it”;

as set out in the 25-year environment plan, the intention in the new political declaration that

“the Parties should uphold the common high standards applicable in the Union and the United Kingdom at the end of the transition period in the areas of ... environment”;

and in the Minister’s response to the debate on this issue in the other place on 8 January, the statement that

“there will be no regression.”—[*Official Report*, Commons, 08/01/20; col. 529.]

However, as the noble Baroness, Lady Bakewell, reminded us, there has been no indication of how this would be achieved.

The health of our environment is critical to our health and well-being, the productivity of our land, our resilience to the unavoidable impacts of climate change, our ability to reduce our emissions—for example, through all the tree planting we are planning to do—and the growth of energy crops. As Margaret Thatcher said in a speech to the Royal Society,

“the health of our economy and the health of our environment are totally dependent on each other.”

This is such an important issue for us and for future generations that I believe, as others do, that we need to go beyond encouraging assurances to legal certainty. I have put my name to an amendment to this Bill to provide that legal certainty, but I understand the desire to have no amendments, so I ask the Minister to assure us that the Government will provide such legal certainty, so that the amendment will be unnecessary.

7.17 pm

Lord Jopling (Con): My Lords, we are now at a point I hoped we would never get to, but we have. The electorate have endorsed the referendum in the past month, and therefore we have no option but to pass this Bill. I shall therefore vote for it, although I shall do so holding my nose and gritting my teeth, and I hope I do not do myself a mischief in doing so. Whether Brexit turns out to be the golden dawn we are told it is or not—I obviously hope it does, for the sake of the nation—depends largely on the results of the next 12 months of implemented negotiations. The noble Lord, Lord Campbell of Pittenweem, and my noble friend Lord Bridges referred to this matter.

For two and a half years, I have been asking questions on the Floor of the House about the arrangements consequent to the Government’s fatal early announcement that we would leave the single market and the customs union. I shall ask these questions again because I have

not yet had a plausible answer. The Government repeatedly tell us that they are looking for free trade solutions, but that totally ignores the basic fact that the European Union's trade arrangements are based on a common external tariff for a whole range of products from manufactures to agricultural products—I declare my interest in that field. In his notable maiden speech, my noble friend Lord Barwell made the point that the EU is not going to change that policy of external tariffs just to suit our convenience.

That dilemma opens the horror of a free trade policy in which our markets are flooded by cheap imports from the outside world, while at the same time our exports to Europe have to jump its import tariffs. If, as they profess, the Government seek a free trade agreement with the European Union, I fail to understand how we can have that without adopting its external tariff regime.

In the past, I have advocated a version of the Norway arrangements, which seem to solve most of the problems, as well as the Northern Ireland problem, almost at a stroke, albeit with the well-known drawback of being somewhat semi-detached from the rules creation of the European Union. However, recently I have heard senior Ministers speak of a version of the Canada arrangements, which is obviously a possible way of solving the tariff dilemma. I hope we can hear more about that in the wind-up speech.

Therefore, I ask the noble and learned Lord, in winding up, to give us an indication of how the dilemma of tariffs and free trade can be solved. I cannot say that on previous form I am hopeful of getting any sort of an answer but I am hoping for the best. I have considerable experience of negotiating within Europe and fully understand the argument that one must preserve one's negotiating posture. However, in this case, it is a matter of basic principle, not of negotiating detail. Traders up and down the country, contrary to what we heard in the opening speech from the Front Bench, have serious uncertainties about the future, and those should not be allowed to drag on for another year. The Government must make it clear on what principles they are embarking in their trade policy over the next 12 months of negotiations.

7.21 pm

Lord Davies of Stamford (Lab): My Lords, to me and my family, 31 January will be a very sad—indeed, heartbreaking—day. For the last 50 years, we have taken part in a project in which we have got rid of barriers, reduced the importance of frontiers and opened opportunities for travel, study and scientific collaboration. It has been a wonderful programme and I am not sure that anybody has come up with a better one for Europe since the Roman Empire. Now, we are getting off that programme altogether and leaving it to others to take it forward. Incidentally, I am sure that the continentals will make a success of it. My view is that they will move forward much more successfully and rapidly without us than they would have done if we had still been part of the European Union. That raises the question of how much influence we will have with them in that process.

When people said to me over the Christmas break in Lincolnshire, “What do we do now? Is remain really dead?”, I said, “Remain may not be dead for ever but the best policy would be to pretend that she was dead,

at least for the next 10 years.” There is no point at all in raking up the arguments of the last three or four years. I accept the view expressed by many this evening that this issue falls within the ambit of the Salisbury/Addison convention. Any of us who sit in this House have to be faithful to the unwritten or understood aspects of the British constitution, on the basis of which we sit here, and we cannot just decide unilaterally and suddenly, without warning, to break those understandings, which are very important.

I never felt that there was much moral force in the referendum because of the terrible lies told by the leave campaign and because of the breach of the financial rules, which would have resulted in the disqualification of a candidate in a parliamentary election. However, the decision of the British people in the recent election was absolutely clear. It was a conscious and deliberate democratic decision. I regret it, of course, but there is no point in denying that fact, and it has been confirmed by the House of Commons, which voted on this Bill last week. Therefore, we have no choice in that matter.

However, it is very bizarre to think that that principle can protect matters not even mentioned in the Conservative Party manifesto. The issue of whether the Government would be allowed, if they wanted, to extend the period of negotiation for the new regime is not mentioned at all in the manifesto, so one cannot possibly say that that falls within the ambit of the Salisbury/Addison convention. On that, it seems that we should be more than entitled—in fact, we have a duty—to look at the reality and merits of that proposal, which I consider very bizarre.

Anybody who has ever engaged in important negotiations knows that the one thing you do not want to do is to tell your opponent that you are in a terrible hurry. It also means that you cannot use certain ploys that can be useful in some negotiations. You cannot walk out for two or three weeks, which might be something that you want to do. You cannot try to halt proceedings while you undertake a study of a particular subject that has come up, although it might be very much in the national interest to do so. What the Government now propose does not make any practical or tactical sense whatever, but unfortunately it will create the worst possible suspicion about British good faith. The feeling will be, “Ah, Mr Johnson wants his hard Brexit after all and has created an excuse to produce it.” I do not know whether that is the truth, but it is unfortunate that those suspicions might arise.

We have to look forward and see what could happen in the far distant future. I really do not know what will happen but the idea that our membership of the European Union would be excluded for ever is quite absurd. We shall be living next door to our continental neighbours for the rest of time and most people would agree that we shall need to collaborate with them far more closely than ever—economically and environmentally, and on matters of law and order, terrorism, strategic threats and so forth. It would be absurd to exclude the possibility of recreating a European Union such as we now have—maybe a much more successful one. That is something that we have to think about over the next 10 years, although no doubt we will not do anything about it over that period. Of

[LORD DAVIES OF STAMFORD]

course, the future cannot be predetermined but it would be quite wrong to say that that possibility should be excluded *ab initio*, and it is very likely that we will come back to that solution.

One thing that has been said in the debate today that strikes me as very worrying is that the Government are very excited about the prospect of having regulations different from those of the continent, expressing our sovereignty and our new freedom and so on. I have to tell noble Lords opposite that that is a poisonous mushroom and they should not touch it. If that is brought in, it will destroy the British manufacturing industry. No one will ever invest in a manufacturing plant in this country designed to sell not merely in this market but in the rest of the single market if they do not know what the regulatory framework will be and if it could change arbitrarily and diverge between this country and the continent. You would do enormous damage to this country if you went down that route. That is a word of very sincere warning.

7.27 pm

Lord Teverson (LD): My Lords, I will make some short comments on a number of issues but, first, I must congratulate the noble Earl, Lord Kinnoull, and the staff of the EU Committee on having put together an extremely authoritative and objective report on the withdrawal agreement and the future relationship. I urge noble Lords who have not read it to do so.

One thing that came out of it really struck me. I have not been much involved in the Northern Ireland aspects of withdrawal, but it is quite clear that Northern Ireland will be separate from the rest of Great Britain. I hear the Minister say that the manifesto says, and the Prime Minister has assured us, that that is not the case—but he has already signed the deal and the division down the Irish Sea is there. I was there when the civil servants corrected the Secretary of State and said that paperwork would be necessary. No wonder the Northern Ireland parties are particularly upset about that. Having said that—I always try to be positive—I very much welcome the fact that there will continue to be a single energy market within the island of Ireland, which I understand is in the agreement.

What really surprises me about this agreement is something that we have debated a number of times—that we will put into legislation the fact that we will not extend the interim period. It is quite obvious that we are putting ourselves in exactly the same situation as we did when we invoked Article 50 without a plan. We immediately put the power into the other party, the European Union. At that time, they must have said, “Yippee, everything is on our side”—and that will be the case this time. We have given away our flexibility and set a deadline that can only work against us. I do not understand that. I was interested to hear the noble Lord, Lord Butler, praise the Prime Minister for having got a new deal when it was predicted that he would not get one so quickly. The reason was that he accepted a deal that was already on the table from the European Union some years before—with its preferences. So are we going to have another repeat of history?

One area that particularly concerns me is fisheries—an area that I have been involved in both through committee work and in relation to regulation when I was in the European Parliament. I come from the south-west; big promises have been made to the fishing industry. The noble Lord, Lord Hain, and others have mentioned this subject. Yet, to me, the fact that we are expected to conclude a fisheries agreement in July this year, with a deadline for overall agreement not long after, means that the two are absolutely and inevitably entwined. There will be either trade-off or submission. I suspect that my fisheries colleagues down in the south-west already expect to be sold out, as they have been in the past. How will the Government ensure that that will not happen to the industry this time?

I will say one thing quickly about the chemicals industry. My committee, the EU Environment and Energy Sub-Committee, looked at REACH and all of that side. Given the Minister’s bird’s-eye view of the silos that sometimes occur in Whitehall, will he make sure through Defra and BEIS, which both have responsibility for the industry—Defra in terms of regulations and the REACH chemical regulations—that that industry, the second-largest manufacturing industry in the United Kingdom, is treated very carefully in terms of regulation? There is still great concern in that area.

Lastly, I will refer to Part 3 of the withdrawal Bill, which is around citizens. But there is not one clause in there about UK citizens; it is all about EU 27 citizens. I welcome most of that, but one of the biggest failures of the Government is that UK citizens in the 27 do not have freedom of movement. That right is kept within individual member states, and to me that is a major failure of negotiation. I want to see UK citizens recognised in this Bill, and not sold out as they have been so far.

7.32 pm

Baroness Pidding (Con): My Lords, not too long ago, many Members in this House, myself included, spoke passionately on both sides of this very same debate. We, like the other place, were divided, and nothing got done—continuing the tradition of the past four years.

Before us today is a simple choice: fulfil the promise that Parliament made in 2016 to respect the democratic will of the British people, or once again frustrate the delivery of Brexit. We all know, from conversations we have had with colleagues and following the debates, that there is a broad range of views in this place on Brexit. However, I believe that we are all unified in our respect for British democracy and the shared desire to solve the many issues Britain faces as it moves into a new decade.

For this reason, I stand here today with genuine optimism for Britain’s future and the democracy we hold so dear. During the general election campaign, I travelled across the country campaigning, up to Bolton and Bury, down to St Ives in Cornwall and to many constituencies in between. The mood and message were the same—sheer exasperation and a desire to move the country forward.

The British people were tasked with sorting out the mess that Parliament had created over Brexit. So, on a

cold December day, they came out and did just that. Today, the European Union (Withdrawal Agreement) Bill is brought before us by the Commons and presented by a Government with a resounding mandate given to them by the British people to deliver Brexit. Many like myself were surprised by the result of the recent general election; the past few years had dampened our optimism. But, whatever your views on Brexit or how you voted in the referendum back in June 2016, the British people's democratic will is crystal clear. We must listen, vote in favour of the Bill and deliver Brexit.

In past debates, I called for this place to support this deal. Today my message is the same. It is a good deal for the country and marks out a way for us to move forward with Brexit, begin healing the divisions in the country and fix our divided Parliament. However, we must not ignore those who still passionately believe that we should not leave the European Union. We must take them along with us in the common purpose to ensure Britain succeeds—but, to do that, we must first deliver on the result of the referendum and listen to the will of the British people, who are tired of the merry-go-round that is Brexit. It is only then that we can begin to heal as a nation and mend our broken Parliament.

This Bill is the start of a new and exciting chapter for this country. Of course there remain hugely important negotiations ahead about the shape of the UK's future relationship with the European Union, but we must now embrace this opportunity for Parliament to tackle, with fresh enthusiasm, Brexit and the other real issues facing many of our communities that have taken a back seat for the last four years: the NHS, policing, crime and security, education, housing, welfare and adult social care services, transport and infrastructure and rebalancing our economy. We must find solutions to these issues of real importance to the day-to-day lives of people living across the country. The passing of this Bill will empower us to move forward on these issues and not be distracted, as we have been since the referendum.

There are opportunities for Britain to reaffirm old friendships and forge new partnerships across the globe. We have a unique opportunity to redefine our role on the world stage. We should not only reaffirm our bond with our European neighbours, working to forge a new UK-European relationship, but reconnect with our cousins in the Commonwealth. These historic ties need to be renewed, and Britain needs to stand again alongside our friends on the world stage against the challenges that the 21st century and this new decade hold.

This debate has corroded our democracy and damaged faith in our institutions. It is time for us to get off the Brexit merry-go-round. This deal does just that. Let us unleash Britain's potential and—I make no apology for saying it—“Let's get Brexit done.”

7.37 pm

Baroness Donaghy (Lab): My Lords, I have no intention of trying to hold up this Bill, but I think it is a pig in a poke.

I want to talk about workers' rights. Even the weakest possible assurances on workers' rights, which

were in the first draft of the Bill before the general election, have been taken out. During Second Reading in the Commons, one MP stated that

“they had their chance ... but they decided to play party politics”—
[*Official Report*, Commons, 20/12/19; col. 205.]

as an explanation for why workers' rights were excised from this Bill. I am not naive enough to think that workers' rights have not always been a political pawn. Some of us well remember waiting more than a decade for a single directive on workers' rights to be enacted in the UK. When I was a member of the European TUC Executive, we dealt with a whole raft of rights including for part-time workers, maternity rights, and rights to bank holidays. Trade unionists in the UK then waited and waited until the election of a Labour Government, when Tony Blair fulfilled his promise to adopt all the delayed directives. I know they are used as a political tool but, for those of us who have spent their whole working lives defending workers, this is also about human rights, the dignity of work and adhering to the principles of the International Labour Organization. It is not just about playing party politics.

The Government have said that a separate employment Bill will be brought forward on a timetable yet to be announced, which will, among other things, protect and enhance workers' rights as the UK leaves the EU. In answer to a question on 22 October last year, the Prime Minister said about workers' rights:

“People will need reassurance... There can be no regression.”—
[*Official Report*, Commons, 22/10/19; col. 828.]

That is great on the face of it, but both the Prime Minister and the Home Secretary have previously commented on the burden of EU employment and social legislation. In his introduction to Second Reading, the Prime Minister said:

“This will be with no alignment on EU rules”.—[*Official Report*, Commons, 20/12/19; col. 147.]

So the Government have suggested that it is all right to drop workers' rights from the Bill because we can have higher standards than the EU members, but, as Ruth Cadbury MP pointed out, the EU sets minimum standards for workers' rights. There is only one reason to remove minimum standards, and that is because you want to fall below them. As we know, a Labour amendment seeking to prevent the reduction of workers' rights after the implementation period was defeated. I accept that this is the political reality but I am not at all reassured by the Government's statements, sometimes contradictory and always vague. The proposals do not satisfy the TUC test of maintaining workers' existing rights and establishing a level playing field so that British workers' rights do not fall behind those of other European workers. I am also concerned, as is the TUC, that Clause 26 would allow lower courts to ignore previous rulings from the European Court of Justice that UK workers and trade unions had benefited from. I understand that this is subject to consultation with the judiciary, but I see it as a potential significant weakening of labour rights.

I referred earlier to this Bill as a pig in a poke. I thought I should check the phrase's appropriateness with *Brewer's Dictionary of Phrase and Fable*. The reference is to a common trick in days gone by of

[BARONESS DONAGHY]

substituting a cat for a sucking pig and trying to palm it off on greenhorns. The French call it “to buy a cat in a pocket”. I am not a greenhorn, and this Bill is indeed a pig in a poke.

7.41 pm

Baroness Miller of Chilthorne Domer (LD): My Lords, I must declare an interest as someone who lives and works in France a lot of the time. My aim today is to give a voice to the UK citizens in the EU, who have been totally ignored by the Bill.

The noble Lord, Lord Callanan, said in his introduction that the Bill protects the rights of citizens, but my noble friend Lord Teverson said quite correctly that it is disgraceful how little time has been spent on the debate about UK citizens in the EU. The Bill has diminished some rights and removed others—for example, the right to live and work anywhere in the EU—and many rights are now uncertain, such as pension upgrades. My noble friend Lady Hamwee and I have tabled an amendment to try to improve this situation.

I have heard some criticism that that should not be done in the Lords. I am sorry that the noble Lord, Lord Forsyth, is not in his place, because I could give him a good reason why it should be: nothing about UK citizens’ rights in the EU was even debated in the Commons last week. It was not even mentioned and the amendment was not allowed. If there has been no debate about their issues in the elected Chamber, we really have to do our duty and talk about them here.

Maybe the Government thought it was rich retirees who live in the EU, but the Office for National Statistics figures show that that is certainly not the case. Two-thirds of these people living in the EU are between 15 and 64; they are students and working people with normal jobs. The remaining third, who are retirees, are not particularly well off. Whether or not they get a pension upgrade will be a matter of severe concern to them, especially as many of them paid into their pension pots in this country for their entire lives, went abroad perhaps in 2010 and suddenly now find that the contract which they had with the Government about their pensions is not to be honoured.

I wonder if the Government have a current list of EU member states’ intentions to recognise qualifications on a reciprocal basis, because that again is extremely important to working people. Do the Government even have accurate numbers of exactly how many UK citizens there are in the EU? The UN seems to say that there are 1.22 million but the Office for National Statistics said that there were 784,900. However, a rather good article in the *Independent* newspaper on 7 May last year showed that the ONS statistics are actually a bit dubious. The fact is that maybe the Government have no idea what the numbers actually are.

My amendments to the Bill will focus on the pensions upgrade and health cover, which is a great concern. I will not go into those now because I will move the amendments in Committee. Of course reciprocal agreements, if they had been done on a bilateral basis much earlier by the Government, could have answered many of these issues. I understand the stand-off between

the UK and the Commission at that point, but the Government could have pursued it and this would no longer be an issue. What we have are individuals who at the moment, at absolute best, can continue life but cannot progress. They cannot get a job, a promotion, a new mortgage or additional health cover because of all the uncertainties.

We have heard that the Government have a huge mandate. In my opinion, that should be secure enough for them to rise above the petty politics of not letting the Lords have any amendments and be able to admit that some of the Lords amendments are fair, just and a good idea.

7.46 pm

Lord Robathan (Con): My Lords, after three and a half long years, at last we have a withdrawal Bill that has passed through the Commons, and we have it before us now. I am going to speak, briefly of course, about how we came to this position with this huge delay. I will sum it up with one word, although it gives me no pleasure: “disdain”.

I think referendums are a shocking idea. I am broadly opposed to them. But Parliament—this House as well as the other one—voted for one. The matter of Brexit has consumed this place, and indeed Parliament, ever since I was introduced here just over four years ago. First, before the referendum, those who supported leave were laughed at by the majority in this House. I was told that no one heckled in the House of Lords but I was heckled for being so presumptuous as to speak up for leaving.

Then we had the referendum, and there were shocked faces here because the stupid public had not listened to the wise words of people in this House and indeed elsewhere. Then after the 2017 general election, with a Government who were floundering, Parliament looked down its collective nose at the silly people. They were told why they had voted to leave and told how wrong and how stupid they were. But none of us can see inside another individual and determine why that individual voted in a particular way, so please let us not patronise people and tell them what they think.

In my opinion, the last House of Commons behaved in a disgraceful manner. People who I respected, such as Oliver Letwin, and indeed counted as friends reneged on manifesto commitments and set out to thwart the process of leaving the EU, passing, among other things, that dreadful Benn amendment. Parliament showed disdain for the people’s vote and contempt for the people of this country. Members of this House—unelected and unaccountable, where self-awareness is in astonishingly short supply—overwhelmingly opposed the outcome of the referendum, some of your Lordships openly saying that they wanted to stop the process, disdaining the foolish little people. Well, the little people too can show disdain: disdain for a Marxist-led party with no real policy on Brexit. I do not know why the noble Baroness, Lady Hayter, is smiling; that is what she had and that is the party to which she belongs.

The election was of course about more than one issue but the people of Sedgefield, Workington and the north showed what they thought: disdain for the party that—and I wish this were my original joke—should

be prosecuted under the Trade Descriptions Act but who sit here pontificating, with eight times more Peers than they have Members in the House of Commons, and still want to tell the country what to do. However, there was a general election. I am reminded a little of the Japanese soldiers who emerged from the jungle 20 years after the end of the Second World War believing that the fight was still on. Then there were those who fought for different parties or who fought as independents, some of whom I again respected and liked. Chuka Umunna fought in Westminster and I very much hope there will be an explanation of quite how much the literature that came tumbling through my door cost, because—I tell you what—it was a lot more than most people can afford on £15,000 or whatever.

The disdain the British people showed has led to something much worse: disdain of the people for Parliament and contempt for the democratic process. We need to win back or earn some respect. Noble Lords should know that both in the Commons and in the country we will earn yet further disdain if this House tries to obstruct the will of the people in any way. It is not just Rebecca Long Bailey who is calling for the abolition of the House of Lords but some Conservatives as well. I would oppose that, not just for personal interest but because I think this House has a valuable revising purpose. Those who are still opposed to this process of leaving the EU should accept it with a good grace and let us all work together to restore the reputation of this House, of Parliament as a whole and of our parliamentary democracy.

7.51 pm

Baroness Jones of Whitchurch (Lab): My Lords, I am sorry that I have to follow the noble Lord, because I feel he has lowered the tone of the debate in a Chamber that, up until now, has been doing a proper scrutiny role. That is what we are here for; it is what we are renowned for and we are confident that we can do it well. As I say, I am sorry that he has lowered the tone.

As other noble Lords have done, I will speak primarily to raise our concerns about the exclusion of the environmental clauses which we spent many happy hours crafting and agreeing in the 2018 withdrawal agreement. I very much regret that I have to raise these concerns again, as they received considerable cross-party support around the House at the time as well as the eventual approval of Ministers. Why are they no longer in this legislation and why have the Government now backtracked on that deal?

Of course, I accept that the Conservative manifesto contains promises to legislate to ensure high standards of environmental protection. Indeed, this was repeated in the Commons debate on this Bill when the Minister, James Duddridge, stated:

“We will maintain and uphold high standards for workers, consumers and the environment.”

However, he went on to say:

“We do not have to follow EU rules to achieve that; we can do it on our own.”—[*Official Report*, Commons, 8/1/20; col. 529.]

Our history shows that we have not been very good at doing it on our own. This is why, over the years, we

have had to rely on EU directives to clean up our water, our waste, our air and our soil, and it is why we have had to rely on the 527 EU regulations to set strong standards for the environment. This is why something like 80% of UK environmental legislation is derived from the EU. Doing it on our own remains a big challenge.

Of course, while there is a cautious welcome for the Government’s commitments on the environment, there remains considerable concern among environmental and animal charities about what the future holds. This has been fuelled by the Government’s decision to remove the environmental clauses from this Bill. This is why we are tabling an amendment which will insert the principle of non-regression of environmental standards into the Bill. This will be a legally binding commitment to non-regression to protect current and future generations against weakening environmental standards. It will ensure that the Government do not take their eye off the ball and let standards fall behind through neglect or default.

As we have heard, when this was debated last week in the Commons, the Minister said that

“the underlying point is that there will be no regression.”—[*Official Report*, Commons, 8/1/20; col. 529.]

However, if this is the case, why are the Government so reluctant to have this clause in the Bill? If it is their intention to legislate separately on environmental standards in the Environment Bill, can the Minister confirm that a specific non-regression clause will be included in that Bill? What mechanism does the Minister envisage for regularly updating that environmental legislation in future years to ensure that it remains relevant and becomes the world leader to which the Government aspire?

There are also other consequences to diverging from established EU environmental rules. The European Commission president, Ursula von der Leyen, warned last week that any new trade deal giving tariff and quota-free access to the single market would come with strings attached. She specified that Britain would have to agree a level playing field on workers’ rights and the environment. If we are serious about a comprehensive new trade deal with the EU, we may well find that we need to match their environmental standards. Clearly, UK businesses will not welcome two sets of rules, one for the UK market and another for the EU export market.

In his response, can the Minister confirm that we accept the need to follow EU environmental standards and that any other provision in the Environment Bill will be at least as good as those provided for by the EU? Can he confirm that the Government do indeed intend to take forward their commitment on non-regression of environmental standards in that Bill? I look forward to his response.

7.56 pm

Lord Kirkhope of Harrogate (Con): My Lords, my contribution this evening will be more about what is not in the Bill than what is in it. With so many speeches, I am bound to repeat what someone has said or will say. I also make it clear that I will be supporting the Second Reading of this Bill, respecting as I and many others do the Salisbury convention and the large

[LORD KIRKHOPE OF HARROGATE]

majority in the elected Chamber. However, I have a track record as one of those involved in the preparation of what became Article 50 of the treaty of Lisbon. I remember moving an amendment in 2002 to oblige the EU to enter into a contemporaneous future trade agreement with a departing state. Had it passed, some of our present uncertainty regarding relations with our EU neighbours might be alleviated, but that is history. Although trade is important, what now concerns me most is the field of security and law enforcement; it is on this that I have the greatest fears.

I spent much of my 17 years in the European Parliament as spokesman for the Conservatives on this subject and was involved directly or indirectly in all the agreements resulting in the European arrest warrant, the Schengen Information System, the European criminal records agency, anti-money laundering measures, joint investigation teams and passenger name records, as well as the data protection regulation and Europol. I was the rapporteur for the PNR measure, which took no less than eight years to agree. All these areas of EU agreements and involvement are vital to our ongoing security and some of the most important are workable for us only if data can be exchanged in real time. They are all currently subject to the ultimate involvement of the ECJ, the European data protection supervisor and the Charter of Fundamental Rights which, as I understand it, we are declared to be leaving.

Our Ministers say they are looking to negotiate a comprehensive new security agreement with the EU in the transition period, but we and they cannot escape the simple fact that we will be a third country and of a status that will not permit us to benefit as of now, especially in the real-time exchange of data, even if there is a co-operative approach. We have evidence that the position enjoyed now with PNR for example has prevented a large number of terrorist and criminal attacks on this country already. Negotiating a continuation will be virtually impossible. Other countries have tried this. Switzerland and Norway have to make individual applications for database access; it certainly does not happen automatically or in real time. The United States of America does not have access to EU databases and each association agreement to be part of crime detection takes years to secure. Also, Switzerland, Norway and Liechtenstein get only a certain amount of co-operation but are of course members of either Schengen or the single market, or are prepared to accept the provisions and regulations of the EU's data protection regulation.

I do hope that our Ministers and those appointed as negotiators with the EU also adopt a pragmatic, friendly, understanding and positive approach. I fear that that has perhaps still to be demonstrated following the recent altercations and polarisation of politics in this country. Bullying neighbours would of course be a disastrous approach and deny us the chance to maintain those arrangements without any gaps or diminution of security, which is so vital to our interests.

As I consider our present situation I have to add that perhaps our greatest failure, especially by those of us who have believed in Europe and our membership of the EU, is that we have failed over a long period to underline and pronounce what has been the ever-increasing

and leading role of our country in EU institutions. This was especially true after the velvet revolutions and the arrival in the EU of the former Soviet satellite states, which prized their newly restored independence as much as we have always done, and looked to Britain as it enhanced its reputation by supporting them and their new democracies. Now that we are withdrawing from the EU, let us at least ensure that we retain as many benefits of our historic membership and relationships as we can, while appreciating that things can never be the same again.

8.01 pm

Lord Lea of Crondall: My Lords, I very much echo the basic thrust of what the noble Lord, Lord Kirkhope of Harrogate, has just said. If it is true that on the doorsteps of Widnes and Wakefield, the election reflected a frustration which only Mr Dominic Cummings was able to put his finger on with the second of his brilliant pieces of mendacity—"Get Brexit Done"—that may itself turn out to be a false prospectus. If it does, what will be the position in a year's time when the same people, on the same doorsteps of Widnes and Wakefield, see that it was a second misleading slogan? "Get Brexit Done", implying a magic solution almost overnight, was an even bigger fib than "Take Back Control"—as if we are going to take back control in Widnes of a multinational corporation such as Google, or as if our workers could get some countervailing power with the world of China, the United States and so on.

I am also rather doubtful whether the citizens of Widnes and Wakefield would agree if it was put to them that "You'd much rather transform Britain into 'the Singapore of Europe', would you not?". I think they would all say, "What's all that about?". I might say, "Well, let me tell you a little about how Singapore works"—but of course it is a slogan. The trouble is that life in this country is now—social media comes into this—getting into a bigger remove from what we have slaved to do in the trade union movement. We had weekend schools trying to talk about how world market share depends on having a better value-added performance, along the lines of what they do in Sweden and so on. We had a lot of those things successfully transformed in the Labour Party and the TUC in 1988 by the famous occasions of Jacques Delors. It is very difficult, as time goes by, to counter the new right's slogans when it is easy for people to think that this sort of quasi proto-nationalism is what chimes with them, just like support for their local football club. So we have a major problem in how we are going to avoid further disillusionment.

Only last week, we saw the beginnings of the unravelling of the idea that all this can be sorted out this year. I do not know whether the Minister can confirm this, but it was said by one well-informed journalist on the *Spectator*—his name is Mr James Forsyth—that a week ago, there was a Cabinet committee that decided that we would not in fact be able to sort all this out this year and therefore that we would have the gloss on this commitment, that it needed to be selective and the deal would be far more focused on goods than services. The punchline in the *Spectator* article was:

“The tight Brexit deadline will be met but, crucially, not all of the Brexit deal needs to be agreed by then. ‘We can do this in stages,’ says one cabinet source. ‘That will kill any talk of a cliff edge.’”

But that is not what the president of the Commission has agreed to. What we are saying is make-believe; my noble friend Lady Donaghy called it a pig in a poke. This is becoming absolutely undeniable. George Orwell would have been proud of the doublethink.

Finally, we are told that we have got to fly the union jack at the end of this month. The union jack is a flag that is being torn up by Boris Johnson. The scenario that is increasingly plausible about what could happen in Scotland, which my noble friend Lord Darling touched on, would mean that the St Andrew’s flag would go and we would break up the United Kingdom. This is what happens when you play the nationalist card and start talking about the flying of the union jack.

8.06 pm

Baroness Altmann (Con): It is a pleasure to follow the noble Lord, Lord Lea. I add my congratulations to the noble Lord, Lord Mann, and my noble friend Lord Barwell on their brilliant maiden speeches.

In the words of Charles Darwin, it is not the strongest of the species that survive, nor the most intelligent, but the ones most responsive to change. The easy passage of this Bill through the other place clearly signals a changed parliamentary reality, as the British people supported the offer to “Get Brexit Done”, so we in this House must change our approach. We are leaving the EU on 31 January and this legislation is required to ensure a period of time to adjust, at least until the end of 2020. In line with the Salisbury convention and election promises, we must not frustrate the timetable. It seems that we must give the Government the benefit of the doubt, and I will be willing us to succeed.

As the House knows, I deeply regret that we have lost the argument on our future relationship. I will not be celebrating on 31 January, but I accept it, in line with Martin Luther King’s wise observation:

“We must accept finite disappointment but never lose infinite hope.”

So my participation in this debate is in the spirit of hope. During Committee, I will point out where I consider that the legislation ideally needs amending, as that is the normal scrutiny role we are here to perform. But if Ministers reject the amendments, this House will not prevail, so in that event I must hope that EU withdrawal can move forwards successfully without the changes.

What else do I hope for? I hope that the Brexit ushered in by this Bill will not disappoint those who voted for it, and that the application processes for settled status will not cause distress to EU citizens living and working in the UK. I also hope that Brexit will not undermine UK manufacturing success or jeopardise jobs that depend on our integrated supply chains. I hope, in line with so many pre-election assurances, that it will not mean a border down the Irish Sea or threaten the unity of our United Kingdom., I hope, too, that this legislation will not lead to the sidelining

of parliamentary scrutiny—as the right reverend Prelate the Bishop of Leeds and other noble Lords so powerfully expressed—with the Joint Committee and Ministers overriding Parliament, nor to a no-deal Brexit at the end of 2020 for want of allowing time to conclude the complex negotiations on our future relationship.

I sincerely hope that leaving the EU will bring a better future for the UK and greater freedom of trade and global interaction—but I must confess to being completely unable to see how all this will be achieved. So I must also hope that I am wrong and that the Brexit supporters are right.

The Prime Minister says that he wants us to remain close friends and partners, and I wholeheartedly agree. Let us hope that we can continue to live in peace on our continent, as we have done for so long since last century’s devastating wars and troubles.

The result of the election was decisive, but I hope that it will not be divisive. I implore the Government to reach out to those who are devastated or fearful of leaving the EU, to reach out across our country and across the regional, political, social and generational divides. The Government intend to get on with improving life outside the south-east and our prosperous cities, especially for the north, and want to create opportunities and improved living standards for all citizens of one-nation Britain. I hope that the Government will bring us together—all our four countries. We are a wonderful nation. Together, we have achieved so much. As we pass this Bill and leave the EU, I hope that we will continue to succeed together, long into the future.

8.11 pm

Lord Judd (Lab): My Lords, my noble friend Lady Donaghy was absolutely right: we are in a classic pig-in-a-poke situation. Another analogy might be Alice in Wonderland. It is unbelievable that we are having to seal our departure from the European Union before we know what we are going to put in its place. It is the height of political irresponsibility. It underlines the gravity of the responsibilities that fall on this House: it is vital to refuse to be stampeded into a rubber-stamping exercise and to ensure that proper scrutiny takes place.

I want to illustrate just how extensive the list of work will be. What are we going to do about trade and finance? On Northern Ireland, we no longer have the European charter nor that underlining of equivalence in the relationship between the two communities. How will we ensure the well-being and security of the Irish people as a whole? We have heard already about workers’ rights and trade unions. Are we really going to enhance workers’ rights and not just maintain them? What specific arrangements will we have in place? What will be the implications for higher education, not only for the exchange of students but for the quality of our education? The quality of our higher education is related to the international community which makes that higher education. I am sure my noble friend Lord Dubs will have more to say about this in a moment, but what about refugees? What specific arrangements will be made? How will we guarantee the well-being of those vulnerable children who are before our eyes every day of the year? Family

[LORD JUDD]

reunions are a vital part of their well-being. What specific arrangements will be made to ensure that we at least maintain European standards but also build on them in fulfilling our role in respect of the environment and climate change?

I was fascinated to hear the remarks on security of the noble Lord, Lord Kirkhope, with all his experience. It is quite frightening that we do not have specific arrangements in place. What are these to be? What about the European arrest warrant?

The overriding issue, which is deeply troubling for many people, is the future rights of European citizens in Britain and those of British people who went to work and live in the European Union in the confidence of being European citizens. What will happen to ensure their well-being? We hear all the generalisations and promises about how these things will be put in hand, but what are the specific arrangements to be?

The workload and the challenge facing this House, if we are to have any meaning as an institution, cannot be overemphasised. We have a terrific task ahead of us and, as I said, we have to avoid being stampeded into a superficial rubber-stamping exercise.

8.16 pm

Baroness Noakes (Con): My Lords, as noble Lords consider the Bill over the next week or so, I hope that the spirit that guides them will be respect for the will of the people. We have now heard their voice three times: first in the referendum, secondly in the 2017 general election and now, most emphatically, in last month's general election. As my noble friend Lord Ridley reminded us, the people of this country want us to get Brexit done.

I have said before in your Lordships' House that there is much about the withdrawal agreement that I dislike, but the Bill has my complete support because it does one thing really well: it achieves our departure from the EU. I shall make just three brief points.

First, I unequivocally support Clause 33, which prohibits an extension of the implementation period beyond 31 December this year. We most certainly want an agreement with the EU but we must not take for ever over it. A time limit, with an implicit no-deal outcome if the deadline is not met, should concentrate minds. The most damaging part of last year's parliamentary manoeuvres was the removal of the option of no deal. We ceded control of the agenda to the EU. Fortunately, the other place came to its senses and allowed the general election to proceed, and that has now empowered the Government to leave the EU in the way they think fit, including with no deal in the mix. As an aside, I absolutely love Clause 36, which removes both the Benn Act and the Cooper-Letwin Act from the statute book. They were stains on the history of Parliament and are best erased.

Secondly, it is right that this withdrawal agreement Bill does not include the unnecessary appendages inserted in the previous version in the vain hope of getting the Bill through Parliament. I particularly support the removal of parliamentary engagement in the details of the long-term arrangement with the EU. The Government's majority in the other place means that

those in Parliament who do not like the negotiations will have little effective power in any event. The important thing is that unnecessary parliamentary processes would drain the energy and resources of the Ministers and civil servants involved. We need them to work flat out to deliver the long-term agreement and not be distracted en route. Of course, Parliament can continue to hold the Government to account in the usual way, but I hope that Select Committees in both Houses—including your Lordships' EU Select Committee—will be proportionate in their demands on Ministers for reports on progress.

My last point concerns how your Lordships' House handles the Bill. I will always defend the role of your Lordships in scrutiny of legislation. That has become more important over the last 20 years as the procedures in the other place have diminished its ability to scrutinise effectively. However, the next two weeks should not be used to replay the battles that have already been fought and lost, including when the Bill was scrutinised in the other place last week. Over the last couple of years, this House has been an uncompromising supporter of remain and has thereby demonstrated how completely unrepresentative of opinion in Britain as a whole it has become. Noble Lords have a choice. They can be a last stand for remain and produce large majorities for amendments which they know will be rejected in the other place. Or they can revert to their traditional, more modest role of improving the effectiveness of legislation.

Constitutional reform was included in the Government's manifesto. The shape and intent of that reform could well be determined by how this House handles the Bill. I wish the Bill a safe and speedy passage to Royal Assent, and I look forward to 11 pm on 31 January when this wonderful country can regain its freedom from the EU.

8.21 pm

Lord Liddle (Lab): My Lords, I assure my good friend the noble Baroness, Lady Noakes, that, as far as I am concerned, the argument about trying to stop Brexit is over and done with as a result of the general election. However, before she gets carried away with her arrogance on this subject, I gently remind her that the Conservative share of the vote in that election went up by 1.3%. They got a majority of 80 because of the way our electoral system works. This makes the case again for a consideration of electoral reform, which I have supported for the last 40 years. I also agree with the noble Lord, Lord Kerr, that we should not try to put forward amendments that in any way threaten the deadline of 31 January, but we should exercise our proper role of scrutiny on this Bill.

What has happened is heartbreaking for me, but there is also a certain sense of relief about it; I agree with the noble Lord, Lord Bridges, about that. My main concern now is that there is—and has been—hardly any debate on the post-Brexit future for Britain in Europe and the world. This debate has hardly begun. The date 31 January 2020 marks the end of an epoch that began on 31 July 1961 when Harold Macmillan announced that the Government had decided to apply for membership of the EEC. Over Christmas I read *The Winds of Change*, the wonderful book by the

noble Lord, Lord Hennessy. I was struck by how much thought and analysis went into Macmillan's decision. Where is the grand design for Britain's future that he personally wrote, as Prime Minister, now that we are facing the future of Brexit? I do not see it and I think the Government are simply going to stumble along.

We face the prospect, at best, of a bare-bones trade deal this autumn, and let us be clear now that a bare-bones deal is a hell of a bad deal for Britain. It is bad for manufacturing because it does not ensure frictionless trade. Getting rid of quotas and tariffs does not guarantee frictionless trade, when you have problems such as regulatory standards and rules of origin. It is bad because of the false promises that have been made to the fishing industry: the EU is going to demand access to our waters in return for our selling our fish on the continent. It is bad for UK services, whose voice will struggle to be heard in the mad rush to agree something by December 2020. It is rather like 1914: we will be the victim of an artificial timetable and it will end with us in a very bad place.

Where does this leave pro-Europeans such as me? Nothing will make me abandon my belief in a united Europe in which Britain plays its full part, absolutely nothing. This may now be a matter for future generations, but let us be clear: internationalism and European unity are as relevant to today's world, in the 2020s and beyond, as they were in the 1950s.

The Conservatives are making themselves very clearly the party of English nationalism. They are losing in Scotland, they have abandoned Northern Ireland and they are left with populist English nationalism. On our side of the House, having suffered a devastating defeat in the election we have to remake and rebuild our party in a completely new and different way, but let us be certain that we must remake ourselves as the party of Europe, confident in our view that the only route to economic and social progress at home is by working in partnership with our European friends to tackle the multiple challenges that the world now faces.

8.26 pm

Lord Bowness (Con): My Lords, like the noble Lord, Lord Liddle, I believe that this Bill must pass, if for no better reason than that we must not reach 31 January without it, thereby putting at risk the transition period. Most slogans are either a simplification of an issue or misleading, and "Get Brexit Done" is, I fear I must say to many of my noble friends, no exception. In many ways, the 31 January date, with its hype and commemorative coins, is the easy part of Brexit.

I was, and remain, a remainer. After the election I am reconciled, as indeed I was after the referendum, to our exit from the European Union, but neither the referendum nor the election determined the nature of the United Kingdom's future relationship with the European Union. The Conservative manifesto's reference to a free trade agreement leaves as many questions unanswered as it answers. There is, I submit, no contradiction in accepting the inevitability of leaving and at the same time wishing to retain as many benefits of EU membership as possible for individuals and

businesses. Those of us who are concerned about the future relationship and do not want to lose the benefits accrued over 40 years should not be dismissed by triumphalist Brexiteers and wrongly portrayed as Brexit deniers. Many issues have to be considered and although they may be small in comparison with overall trade arrangements, they are of concern to citizens. I shall refer to a few, and it may be that the Minister can help us.

Can he tell the House whether the Government propose to legislate to compel mobile phone networks to operate the EU's roaming regime for the benefit of UK subscribers? Are the European health insurance card and the recognition of driving licences and blue badges—I declare an interest, in that my wife has one—going to be part of this comprehensive free trade agreement? What priority is going to be given to preserving the provisions for cross-border disputes? My noble friend Lord Kirkhope referred to the legal situation, but cross-border disputes may be between families or between consumers and suppliers. There are many things in place.

Nor should this House be deterred from discussing and, if necessary, pressing amendments which will deal with some of the serious legal and constitutional points, especially the need for Parliament—particularly the House of Commons—to be closely involved in the progress of those negotiations. I think it would be surprised if it were told that it was there merely to rubber-stamp the actions of the Executive. However, if we press amendments in this House and the House of Commons rejects them, we must immediately accept that point of view. Is that a justification for threatening the House, for doing what generations in the House of Commons have perceived to be our role?

If Brexiteers wish to march over the battlefield, metaphorically putting remainers to the sword, so be it. But the Prime Minister has called not only for Brexit to be done but for the nation to be healed and come together. He, I understand, admires Sir Winston Churchill, so I hope that he will remember two quotations of his, one of which I espouse:

"Success is the ability to go from one failure to another with no loss of enthusiasm";

and one which I hope he will espouse:

"In War: Resolution, In Defeat: Defiance, In Victory: Magnanimity, In Peace: Goodwill."

8.31 pm

Baroness Bennett of Manor Castle (GP): My Lords, I begin by thanking the noble Lord, Lord Callanan, who on Sunday night responded to my tweeted link to a preview of this debate—a rebuttal for those who would question the work ethic of this place. However, I strongly disagree with his claims that workers' and environmental rights are completely unaffected by this Bill and that it guarantees EU citizens' rights. I think many impartial observers agree with me loudly and clearly, but I thank him for engaging in this forum with a much younger audience than I would guess BBC Parliament has tonight.

Indeed, it is the impact of this Bill on younger people that I will address in my brief remarks. As I said last week in the Queen's Speech debate, your Lordships' House will have to be in the coming days,

[BARONESS BENNETT OF MANOR CASTLE]

weeks and months the representative of the younger people who are not represented in the other place. Of course, the majority of the country is not represented by the Government who are making decisions in the other place. As the noble Lord, Lord Liddle, said, that is a product of the electoral system.

However, if we look at the fact that 44% of people voted Tory and 2% voted for the Brexit Party, I would be very tempted to say to the many noble Lords saying tonight, “The people voted to get Brexit done”: “Oh no they didn’t”. Some 54% of people voted very clearly for parties that wanted exactly the opposite. Looking at the age division, of 18 to 24 year-olds, 21% voted Tory; of 25 to 29 year-olds, 23% voted Tory. We have known since the referendum in 2016 that Brexit is an older people’s project. They are the ones who voted for Brexit. This is a Bill for an elders’ Brexit. It is a Bill that addresses the concerns and attitudes of older people and actively attacks the interests and concerns of the young.

I have time to focus on only three points. In the other place, we saw an amendment on party lines to defend the Erasmus+ scheme. The Government are saying, as on so many other issues, “Leaving this out does not mean we are going to abandon Erasmus+”; but at the same time they are briefing, in very uncertain terms, that, “It will continue if it’s in our interest to do so.” Indeed, in an article in the *Times* on 11 January, a government source suggested that it “only really benefits middle-class students”. I say to your Lordships that Erasmus+ is crucial to many people from disadvantaged backgrounds, students and apprentices. The wealthy will always be able to travel to study or work; the disadvantaged do not have that privilege. If there are ways in which the scheme could be improved to better target the disadvantaged, that would be great, but that is not a reason to throw the whole thing out.

Secondly, many noble Lords have referred to the non-regression clauses on the climate and workers’ rights that we want to see in the Bill. Of course, as I said last week, addressing the climate emergency and the collapse of nature is of particular concern to young people, who are having to grow up in the world that our generation has created. But also, as employees, young people are most vulnerable in the workplace, and are most likely to suffer from the loss of protection of workers’ rights.

It is obvious from this debate that the question of what we as a House should be doing is in the minds of many noble Lords. I quote the powerful sentence from the right reverend Prelate the Bishop of Leeds: “Countries where Parliament simply nods to the Executive are not generally respected as paragons of democratic virtue or freedom”. I do not call on your Lordships to be paragons but ask you to do the job that this House is here to do. Your Lordships’ House is often compared to the National People’s Congress of China because of the size of our membership. I say to your Lordships, let us not act like its Members.

8.37 pm

The Duke of Montrose (Con): My Lords, to follow on from that speech, I have to say, much to my surprise, that I regard myself as being accused of being thoroughly responsible for the Bill.

It has been obvious to anybody listening to this debate that the process required by Brexit is liable to be highly disruptive to the entity that is the United Kingdom, and this is not just a question of an Irish border or troubles with devolved Administrations, as several noble Lords mentioned. In the past 40 years, we have had legislation coming from Brussels which ensured that there was a large amount of similarity and coherence in how these laws were interpreted in the various parts of the United Kingdom. The question that arises now is: will we require to maintain that level of coherence in order to operate as a single national economy? This will be particularly true for food, farming, fishing and rural affairs in Scotland and all the devolved Administrations. This is an area where I have always had a major interest, both because I have a farm and because I have taken an interest in the sheep industry, as stated in the register. I thank the Law Society of Scotland for briefing me on the difficulties that appear from the Scottish perspective.

Inevitably, this has been occupying a great deal of time of the Joint Ministerial Council, where no doubt worthy people have been working away—but to most of us it is a shadowy body which, if some recently published minutes of its meetings which I have just seen are anything to go by, it is quite happy to remain. However, it is good to note that in October 2017, it recognised that there would be a need for common frameworks to be in place which should recognise all devolution settlements. Later on that year, the Cabinet Office published a list of 110 points where EU law intersects with devolved matters. Perhaps fortunately, for everyone’s relief, it has now published a revised analysis saying that the Cabinet Office identifies that there are only 21 policy areas affected where more detailed discussion around whether legislative common framework arrangements might be needed. For agriculture, regulation currently involves at least 12 separate pieces of EU legislation, so a number of frameworks may be required there. Can the Minister tell the House how many of these framework proposals are now accepted by the devolved Administrations as necessary and what further discussions are planned?

The Scottish Parliament is very concerned about this area. It is currently considering the Agriculture (Retained EU Law and Data) (Scotland) Bill, through which the Scottish Government seek powers both to simplify and improve CAP legislation and to trigger market intervention measures. It also includes regulations to facilitate the continuity of agricultural payments following the UK’s withdrawal from the EU and to make new provisions about marketing standards and the classification of carcasses. In this, they appear to have realised, almost before the Government woke up to it, that on 31 January the withdrawal Bill will disapply legislation enabling the Government to make the payments as required under the CAP, in particular the 2020 single farm payment.

However, the Government have woken up to this situation. Perhaps noble Lords noticed last Thursday the First Reading in the other place of the Direct Payments to Farmers (Legislative Continuity) Bill on exactly that subject. I do not know how many of the single farm payments to farmers for 2019 are still outstanding and whether they will be affected on 31 January. Do the Government intend to have this piece of legislation in force before then? If not, what action do they propose, or will we have a hiatus where all moneys will be stopped?

8.42 pm

Lord Thomas of Cwmgiedd (CB): If I may, I will follow on from the points made by the noble Duke about the aspects of the Bill that deal with relations between the constituent parts of the union.

It seems to me that it is inevitable that, as the Bill proceeds and as devolution has to be reconsidered, significant changes may be required to the schemes of devolution as envisaged in the original Bill. Therefore, it is important that, in this Bill, we have regard to two issues. The first is that a terrible precedent would be set if we altered the devolution legislation other than by primary legislation of this House. It is important to recall that the devolution statutes now form part of our constitution; if they are to be amended, they should be amended by primary legislation.

Secondly, going forward, although there may be reasons why parliamentary supervision, and parliamentary time, in relation to the conduct of the negotiations might not be a good idea—I say nothing about that—it is equally important that we have regard to the fact that the devolved Governments have a vital interest in all the negotiations. If we are to go forward with a stronger union and make new arrangements for devolution, it is important that we start as we mean to continue—that is, with the devolved Governments being closely involved in the negotiations and consulted widely as to where we are going, because that is essential for the future of the union, and, secondly, ensuring that any changes made to the devolution statutes are not made using the powers that this Bill intends to confer.

I hope that the House will consider these two points very carefully because, when we enter a future outside the European Union—and I am looking solely to the future, not the past—I hope that we have a union that is stronger. But that strength will not be achieved if we do not start as we mean to continue, and that is by not altering the devolution settlement schemes by way of delegated powers and again leaving out of the way in which the negotiations are conducted obtaining views from and consulting widely with the devolved Governments.

8.45 pm

Viscount Trenchard (Con): My Lords, I thank my noble friend Lord Callanan for his optimistic and confident introduction and congratulate my noble friend Lord Barwell and the noble Lord, Lord Mann, on their inspiring maiden speeches. I am enormously excited and heartened by the ringing mandate given to the Prime Minister in the general election last month. As he said:

“Now is the time to act together as one reinvigorated nation, one United Kingdom, filled with renewed confidence in our national destiny and determined, at last, to take advantage of the opportunities that now lie before us.”—[*Official Report*, Commons, 20/12/19; col. 146.]

During the years that I worked in Tokyo, and later when I worked in Brussels, I too believed that the UK should remain a member of the EU. However, with the passage of the Maastricht and Lisbon treaties, it has become increasingly clear that the EU is different from the body we joined. We had become increasingly uncomfortable passengers on the European train because we knew or suspected that its intended destination was different from where we wanted to go.

The Government have rightly recognised that there is nothing to be gained from providing for the possibility of an extension to the implementation period beyond the end of this year. Anyone who has experience of negotiations knows well that parties are willing to make their most significant concessions only when it has finally become clear that their interests depend on reaching agreement within a certain timescale. As long as the EU could hold out the hope that we would ultimately decide not to leave—or anyway not leave the customs union or the single market—it would continue to try to prolong the negotiations. As my right honourable friend Dr Liam Fox said at Second Reading in another place:

“We will face a political issue rather than a technical issue.”—[*Official Report*, Commons, 20/20/19; col. 154.]

if the EU were to prevent our reaching a satisfactory trade deal before the end of this year. The debate will not be about tariffs, fees and quotas, but about regulatory alignment.

There are two diametrically opposed systems for conducting global trade. One is to require your trade partners to harmonise their regulations with yours, as the EU is increasingly demanding. The only other major economy seeking to do this is China. The other system is to work towards outcomes-based equivalence, leaving each country free to determine its own rules and standards and to achieve that in a way which best reflects its legal system and its business practices. This way is consistent with parliamentary democracy, but the EU’s way is not. It is very important that our negotiators make it clear that we cannot accept any concept of dynamic alignment with EU rules. Mark Carney, who is not one of the strongest advocates of the merits of Brexit, has warned that the City must not be forced to accept EU financial regulations after we have left.

There has been much talk of the risk of damage to the City if it is denied access to European markets. However, surely a bigger risk is that faced by continental users of the London markets. For example, what damage would German car makers suffer in the event that EU regulators were to prevent them raising funds in the liquid international capital markets based in London? Their cost of funds would rise significantly. It is in our discretion to allow European financial institutions to continue to operate here, and I cannot believe that their regulators will really wish to circumscribe their activities here.

Finally, I shall say a word on the union. I believe that leaving the structures of the EU will of itself immediately start to reduce the support for independence for the constituent nations of the United Kingdom. EU

[VISCOUNT TRENCHARD]
 membership, as the EU elite in Brussels perhaps knows better than we do, of itself diminishes the significance of being British and a part of the United Kingdom. Remove the European umbrella and the Scots will suddenly come to appreciate the British umbrella—especially the Barnett-lined umbrella—much more than they did. That is why I believe that the threat to the unity of the United Kingdom will be diminished, not enhanced, by Brexit.

8.50 pm

Lord Dubs (Lab): My Lords, before I come to my main points, I will differ very much from the noble Viscount's comments. I believe that where we are is a threat to our union. I believe it threatens England being separated from Scotland and what is going to happen in Ireland. I would not be as relaxed as the noble Viscount has been.

As somebody who very much supported the remain side of the argument, I am of course disappointed that we are where we are, but we must accept the result of the election. Having spent a lot of the election in London constituencies, however, I am bound to say that it was quite surprising—but then, I suppose London is a bubble and we got a different view of what was happening from that of what was happening elsewhere, judging from my brief forays outside the M25. We have to accept that, but the noble Lord, Lord Robathan, made a comment about people saying the electorate were silly. I would never say the voters were silly. If they came to a conclusion that I do not agree with, it is my fault and that of other politicians that we did not put the case as well as we should have. I would never say the voters were silly, although it is interesting that the voters of London differed somewhat from the voters of other parts of the country.

I will make only two points. I still believe emphatically that we are European, and it is important for us in all sorts of ways that we maintain our international connections even if we have left the formal structures of the European Union. I therefore hope that international structures such as the Council of Europe, the Organization for Security and Co-operation in Europe—the parliamentary assembly of which I serve on—the all-party groups and the British-Irish Parliamentary Assembly will be given more support by the Government to continue to achieve good international links with the countries that are our former European partners. I believe we are still an international country in outlook. I still believe in the idea of international solidarity and do not want to lose that, even though we will have lost our formal membership of the European Union. The Government can encourage all this, and it is important that they should.

My second and only other point concerns the Salisbury convention and the amendment on child refugees. There will be plenty of chances to debate this amendment later this week in Committee and, I believe, on Report next week. However, I have looked at the Salisbury convention and the very interesting Library note on it and have tried to understand what it is all about. There are different views, but one thing is clear: where there is government legislation based on a clear and

unambiguous manifesto commitment, we as an unelected House do not have the right to challenge the principle of that legislation, nor to obstruct or delay it. I think that is clear, whatever other nuances there are about how the Salisbury convention might work. I think we are all agreed on that.

I come now, obviously, to the point about child refugees. I have found nothing in the Government's election manifesto that suggests they were going to reverse the existing policy on family reunion for child refugees. I shall not argue the details of that, but merely say that we are fully entitled as a House to amend that clause, and maybe one or two others, where there is no manifesto commitment. The idea of a manifesto commitment is a healthy one in a democracy. If the electors of this country have supported a party that won the election on the basis of specific policies, we should respect that. But where the Government simply decide, quite arbitrarily, to impose something, in this or any other Bill, that has nothing to do with the manifesto commitments, I think we are entitled—indeed, I would go so far as to say we have an obligation—to challenge it and vote accordingly, if we so wish. That is fairly clear, and we can argue about the merits or demerits of the Government's attitude to child refugees in later stages of the Bill.

8.55 pm

Lord Wigley (PC): My Lords, I salute the stalwart work undertaken by the noble Lord, Lord Dubs: more power to his elbow. I add my congratulations on the two memorable maiden speeches we heard earlier.

I am less than happy to be speaking on this Bill. I wish that the whole wretched Brexit business had never arisen—but we are where we are. We cannot ignore public opinion, but whether this Bill reflects that opinion is quite another matter. That is something we should test, to the limited extent possible in the allocated timeframe, as we determine whether the Bill delivers what we want, or even what the Government themselves want.

The general election was a learning experience. I was out canvassing in Wales on 26 occasions, talking with and listening to voters. It taught me many lessons, one of which is this. While a majority in my home county of Gwynedd voted to remain, a significant number of remain voters felt that the outcome of the referendum had to be respected. So I accept, regrettably, that Brexit is going to happen. What I do not accept is that the electorate, while endorsing Brexit in general terms, have given their backing to all the specific proposals in this Bill, because they still do not know what the outcome of negotiations will be. We may possibly know the outcome by December—perhaps. At that stage, the people will either accept it, or there will be an unholy outcry that it is not the Brexit they were told they would get. That outcry may well come from disillusioned leavers as much as from remainers.

So the Government are on borrowed time. I do not deny that they have a mandate to “get Brexit done”, but aspects of this Bill are open to scrutiny from two perspectives: first, from a UK viewpoint, particularly around the impact of a possible no-deal Brexit on manufacturing exports, trade between Britain and Ireland, and on the working of the courts. Secondly, and of

most concern to me, this Bill gives the UK Government power to amend the Government of Wales Act without the consent of Wales's Senedd. That ties into the uncertainty about how the withdrawal agreement will impact on Wales. There is unease that control over the UK single market will be exercised solely from Westminster, and there is a question of resources. What are the long-term plans for replacing European strategic funds, from which Wales has benefitted greatly? Will this be known by December? It is astounding that such a far-reaching Bill can come to us without an economic impact assessment for Wales or Scotland—or indeed for Britain as a whole.

Reservations have been voiced by the Welsh Government, and there is little willingness among Assembly Members to accept the Bill in its current form. The issues they raise include the use of Henry VIII powers. They seek undertakings that the UK Government will not use powers to amend the Government of Wales Act without the National Assembly's consent. They are also concerned about the December deadline for transition arrangements. They fear that, in missing the deadline, tariffs will be imposed on Welsh advanced manufacturing and agri-food exports, on which Wales depends to a greater extent than England.

The Welsh Government seek changes to the Bill to ensure transparency and scrutiny by both Parliament and the devolved legislatures as the negotiations proceed, and that agreement of the devolved Governments is obtained prior to ratification. There must be prior consultation on matters such as the state aid regime, reciprocal healthcare, access to Erasmus programmes and EU research funds, issues relating to Wales's territorial waters, and the ability of business to exchange key workers with EU-based employees of the same company, all of which impact on devolved responsibilities.

Wales's Government also urge that the one non-executive member of the proposed independent monitoring authority

“who knows about conditions in Wales”—

to use the words in the Bill—should be appointed on the advice of the National Assembly. That was not the point made by the Minister at the start of this debate.

Also, the UK Government need to ensure that their post-EU policies are acceptable to the elected Governments of Wales and Scotland. If Mr Johnson thinks that he can ride roughshod over the two Governments, I am afraid that he is in for a shock. Both Governments are refusing to accede to legislative consent orders without cast-iron assurances that their priorities will be heard. Noble Lords may assure themselves that ultimate power currently remains at Westminster: after all, power devolved is power retained. Ultimately, the UK Government can impose the policies it wishes on Wales and Scotland for however long they remain in this increasingly disunited kingdom. However, such an approach may well ignite the tinder-box, fragmenting the United Kingdom. Yes, Wales and Scotland can be overruled, but that would blow the United Kingdom to smithereens. If that is the path this House wishes to follow, so be it—but please let it not say that it was never warned.

9 pm

Viscount Eccles (Con): My Lords, arguing that there are defects in a Bill to which the Government should pay attention is not the same as voting for an amendment and sending that amendment to the House of Commons. I hope that we will remember that.

I voted remain for two reasons. Our long membership, as one of the leading members of Europe as it expanded, seemed to me to warrant very careful consideration if we were to decide to leave, and there had been no preparations for us to leave, either by the European Union or ourselves. The Prime Minister at the time went to Europe, got nothing, had some dinners and was not really taken very seriously. Since we had always been an uncomfortable member of the Union, it was quite remiss of us and the Union not to have made any preparations.

But I was not a fan of the European Union. I had in my mind all the time an alleged quote from Valéry Giscard d'Estaing:

“If we had told them what we were doing, we would never have got as far as we have.”

Also, the mantra of ever-closer union worried me. My response was, “Yes, yes, but where to, and why?” No satisfactory answers were given, which took me back to the quote. These doubts redoubled during the long and abortive negotiations, because of the negative approach of the Union—a sort of, “What we have, we hold on to—in spades.”

It was not easy to believe any of the things that the Commission was saying in its political rhetoric about the future and where we were going. Yet the original purpose, which was to make sure that Europe did not start another great war, had in effect been achieved, so what was being put in its place, now that the centre of power in the world had shifted away from Europe to the Pacific? Was it a vague and grand project to build a unified bloc to rival the United States? If it was, that is not and never has been a good idea, and it is impractical. With 27 countries, each with a different history and culture, it is unbelievable that you could ever create an effective United States-type federal state. To me, individual states among the 193 are more important to the future of the world and are to be preferred over attempts to build yet another power bloc.

So my mind was made up for me, and I support this Bill. But in essentials it is an enabling Bill. This House can and will make its points and criticisms about what is and what is not in it, but we should let the House of Commons have its way.

9.05 pm

Lord Willoughby de Broke (Non-Aff): My Lords, after three years of damaging delay we are finally going to implement the referendum result that 17.5 million people voted for.

I remind noble Lords and the Government that we are here tonight largely because of the bravery and courage of Nigel Farage and his leadership of UKIP. Without that, David Cameron would never have had any intention of granting a referendum—that was the effect of UKIP. When we won the leave vote, we were all confident that David Cameron would carry out his promise of implementing the result of the referendum.

[LORD WILLOUGHBY DE BROKE]

However, that did not happen and he had to resign. We then had an inept Government and a recalcitrant bunch of MPs who thought they could take over the Executive position.

Following that, the Prime Minister was eventually forced to crawl to Brussels to ask for an extension to the often-repeated leave date—I cannot remember how many times she said it; perhaps 108—of 29 March. That was humiliating but it had its upside. We then had to contest the 2019 EU elections. Enter Nigel Farage again. He had formed the Brexit Party only four months before those elections, but it swept the board.

Lord Foulkes of Cumnock: I wonder if the noble Lord would give way.

Lord Willoughby de Broke: No. I have only got five minutes. Sit down. Sit down.

The Brexit Party swept the board and got more votes than the Labour Party and the Conservative Party combined. After that election, Nigel Farage pointed out that the Conservative Party had lost two pro-EU leavers and that it needed to learn that lesson or die. I congratulate the Conservative Party on learning that lesson.

I also congratulate it on its crushing victory in the election. I hope it will mean that the public trust that was lost by the Government during the election—and particularly by Parliament and the Commons—as the noble Lord, Lord Forsyth, pointed out, will now be regained. It also meant that the motley crew of MPs who tried to thwart the result of Brexit were swept away like chaff behind a combine—gone—and will not even merit a footnote in history.

I welcome the withdrawal Bill, particularly Clause 33, which makes it clear that the implementation period will end on 31 December this year. Noble Lords have complained about that but, again, the noble Lord, Lord Forsyth, is quite right that the time for parliamentary games is over. We are leaving the EU in 18 days' time so put out more flags—as long as they are not EU flags.

9.09 pm

Lord Leigh of Hurley (Con): My Lords, I welcome this Bill. Having spoken on a number of other Bills that dealt with our departure from the EU, particularly those relating to our leaving with no deal—at one time a real possibility—I congratulate our Prime Minister on this result.

Of course, we are only here because so many people in this House and the other place were so opposed to Mrs May's deal that it has been replaced by this more satisfactory outcome. I wrote in the national press trying to persuade people to accept the previous Bill, but, not unusually for me, I was unsuccessful, and the reason we are here in a much stronger position is in no small part down to those who rejected the earlier Bill.

I want to talk about citizens' rights. When no deal was looming, I was invited to join the British parliamentary emergency taskforce on citizens' rights, which was all-Party, from both Houses and led by the

very able MP Alberto Costa. A meeting was set up in July in Brussels with Michel Barnier and a very impressive parliamentary delegation, including Members who are in their place, Dimitri Scarlato of the 3million and Fiona Godfrey of British in Europe. Ms Godfrey, in particular, gave an impassioned speech about how she was, in effect, a model EU citizen who had changed her life to reflect an EU lifestyle. She and, of course, we were anxious to get reassurance that if there was no deal the EU would ensure that no damage to her life would occur, or that it would at least be minimised, and that steps would be taken to accommodate her in a similar fashion to our settled status programme. It was a very moving speech. She was far more eloquent than me, so I can only apologise for not doing her the full justice she deserves. However, M Barnier was implacable. To him the integrity of the EU and getting us to sign up to the offer then on the table was far more important than the humanity of offering 1.5 million EU citizens the comfort that all would be okay for them. I was shocked.

So although we have now, thankfully, moved away from no deal, I have been keen to ensure that UK citizens' rights are properly protected from M Barnier's previous attitude. This Bill achieves that and it also brings EU citizens' rights into UK law under our dualist system, with a better offer than that which the EU has been able to offer so far to UK citizens.

The EUSS is performing well. Applicants in the UK can apply for free and have until June 2021 to apply, or later in genuine cases; there have been huge grants—some £9 million, I believe—to ensure all are reached. A member of the delegation has commented in the press today that there is a lack of clarity on EU citizens' rights, but I do not think that is right. I am aware that some wanted a declaratory system rather than a constitutive system, but the Bill confers rights on EU citizens. Some argue that too much control is given to Ministers as the settled status scheme is not yet underpinned by legislation, but the agreement is in international law so there is no practical risk. On the wider point, frankly, I think the British public is fed up with Parliament trying to micromanage this process, and they have now elected a strong majority Government to get on with the job.

The independent monitoring authority will hold the Government to account and is to be welcomed. Perhaps the Minister can offer some further guidance on some of its detailed working. I see that civil servants are barred from holding office at the IMA. I have no quibble with that—perhaps Mr Cummings suggested it—but is it normal for such organisations to have the chairman and all the non-executives appointed, and possibly removed, by the Secretary of State at will?

I welcome the rights we have offered EU citizens who live here, which was always the intention, both for settled and pre-settled status. Despite the concerns many have had—some, no doubt, genuine but others frankly designed to cause unnecessary anxiety—we have shown that we can reach a fair agreement with the EU for our withdrawal. I am convinced we will also be able to do so for our future trading relationship, which will be to this country's enormous advantage.

9.13 pm

Baroness Thornton (Lab): My Lords, rather like my noble friend Lady Jones, I rise with a heavy heart to make a speech which to some may sound familiar because it is. It is about the effect this Bill will have on health and medicine in the transition period and after 2021.

At every stage over the past two years, I have sought reassurance from the Government over matters of reciprocal healthcare, the free movement of medical and nursing staff, the regulation and supply of medicines, and clinical trials and research, the conduct and regulation of which is so important in the UK. Indeed, access to the research portal is vital to patients across the UK and Europe. I thank the BMA, Cancer Research UK, the Royal College of Nursing and the King's Fund for their excellent briefings on these matters. If the Minister cannot give me a comprehensive response to my questions, I anticipate a comprehensive written response that can be made available in the Library.

There remains some uncertainty about the status of current EU reciprocal healthcare arrangements in the event of the UK leaving the European Union without a negotiated deal. Will we have that deal by December and, if we do not, what will happen? At the moment, the National Health Service website says the following about reciprocal healthcare:

"If you're using an EHC issued by the UK, this will still be valid until"

the UK leaves the EU—is that at the end of this month or the beginning of next year? Can the Minister please tell me?—

"or if your treatment started before exit day."

So perhaps you need to get a wiggle on if you want to have treatment. The website also says:

"You should prepare for possible changes to your access to healthcare"

if there's a no-deal Brexit and

"if you're a UK national travelling to the EU, Norway, Iceland, Liechtenstein or Switzerland ... The ... EHC may not be valid if there's a no-deal Brexit. This will depend on arrangements with individual countries and might mean you need to pay for treatment in full."

Does the Minister think that that is satisfactory and that it will serve the citizens who might be affected by it? Perhaps he can give the House an update.

Following on from that is an issue concerning Ireland and Northern Ireland. Access to healthcare services through the common travel area differs for European reciprocal arrangements. The future of the border could have a significant impact on those areas, so I would like some clarification on that too.

In terms of staffing, nursing and other staff from the European Union not only care for our NHS patients but are active members of their local communities. However, the NHS continues to haemorrhage doctors, nurses, midwives, care staff and medical staff. The free movement of nursing staff and other healthcare professionals across the globe continues to make the UK a world leader in innovations in health treatments and care delivery. What comfort can the Minister give in that regard?

What arrangements for medical supplies are envisaged by this legislation? I failed to find them, so perhaps the

Minister can help me out here. The Royal Pharmaceutical Society and many other bodies have warned that pharmacists are already struggling to obtain common medicines. Perhaps he would care to update the House on exactly what will happen in the next year and what might happen if we do not complete the transition by December?

I turn to the subject of the EMA and clinical trials. A close UK-EU relationship on medical research and the licensing of new medicines works for patients and researchers across the continent, and the medical research sector has been clear that continued close co-operation should be a priority in the negotiations. However, there is concern that recent government statements ruling out alignment with EU regulations could negatively impact UK-EU co-operation on medical research and medicines licensing, and put at risk the progress made by such collaboration. The UK's membership of the EMA is a major advantage for UK patients, as companies generally prioritise launching new products in the European pharmaceutical market as opposed to other countries. I would like clarification from the Minister on how the Government intend to deal with this matter in the event of delays.

Finally, I turn to the subject of clinical trials. The UK's world-leading clinical research environment is built on collaboration with European partners. This collaboration benefits all medical research and is particularly crucial for rare and childhood cancers where populations are often too small to run trials in individual countries. Likewise, as the most innovative research increasingly groups patients according to the genetic profile of their cancer, for example, the pool of eligible patients for some trials becomes smaller and one country alone may not have enough patients to make the evidence from the research meaningful.

If the UK falls outside the EU's regulatory system for clinical trials, UK-led trials will be more burdensome and will be likely to be significantly more costly. There is already evidence that doubts about whether the UK will be part of the EU's harmonised research system are affecting collaboration. A 2019 report found that UCL and eight other Russell group universities were running about 50 big European research collaborations in 2016 but that is now down to 20. Therefore, the key question for the Minister is whether the commitment to maintain regulations for clinical research trials in the UK still stands.

9.19 pm

Lord Dobbs (Con): My Lords, some years ago, I sponsored a Private Member's Bill for a referendum on our membership of the European Union. Little did I know.

This has been an excellent debate. We have had many excellent contributions including two superb maiden speeches. I suspect that, when we get to dealing with some of the other issues, we will find more excellent speeches on the Dubs amendment.

It seems that I am almost the last man standing between so many barons and their beds. I understand that that is a dangerous position to be in so I shall try to be brief. I shall first talk about the settlement of EU citizens here. There have been genuine concerns, as

[LORD DOBBS]

everybody knows. Anybody who has gone into the Peers' Dining Room over the last three years for a cup of tea will know how many of our friends and colleagues have had genuine concerns. I believe that the Theresa May Government got it wrong. We could, right from the start, have given a guarantee to those EU citizens and dealt with their concerns. We could have taken the moral high ground but we decided on an alternative way. I believe that we are now putting right a wrong and doing so most successfully. It is estimated that there are some 3 million EU citizens in this country. There have already been 2.5 million applications for settled status; 2.3 million people have already been given that settled status and only five have been rejected. This is an example of the Government getting it right.

Secondly, I will deal with the timetable for our trade deal. There are, of course, those who claim that it will be impossible in the available time. They rather remind me of those people who get up in the morning, throw open the curtains and complain about the birdsong. The Irish Foreign Minister Simon Coveney said at the weekend that the timetable is ambitious. Yes, it is ambitious. We are ambitious—for our country, for Brexit and for the future. I make no apology for that. We are ambitious with good reason, because these details of a trade deal will not be simply grabbed out of thin air. There are templates; the EU has already done trade deals with Japan and with Canada. There will of course be differences, but the EU has form in this area as it does in many areas. It is a past master at reaching agreements up against deadlines, right up against the clock—at times even when the clock has stopped ticking. The way the EU negotiates is not always a pretty sight but, with good will, it can be done by that deadline.

Our clock has not stopped ticking, so I must finish. Some pretend that Brexit is a disease. It is not—it is a healing process. Some pretend that Brexit is a preordained disaster. They have been predicting disaster ever since the day of the referendum, yet we are here. This is a time not of disaster but of optimism and opportunity, and a time for democracy rather than just elites. Some people do not like to hear it. This unelected House of Lords may try to stuff its ears but the people will be heard. The noble Lord, Lord Mann, talked in his wonderful speech about the innate British sense of decency. Brexit will allow that to come to the fore once again. This is the people's will; that is what makes Brexit a moral issue, a moral cause, as well as a political one. This Government have a duty to deliver it. It is going to happen and it is time for us to move on.

9.24 pm

Lord Inglewood (Non-Aff): My Lords, Brexit is the end of an epoch. I sense a certain sense of solemnity hanging over the House this evening which I do not find here all that often. Tonight is of course a crucial part of the process of our going, and this debate sees the nation splashing across the Rubicon as we go. Once the Bill that we are discussing becomes law, there is no turning back.

It seems to me that you cannot possibly see Brexit as an end in itself; it is merely a staging point on the journey to somewhere. We are now at the point where

the options in front of us begin to open up, and the negotiations are going to become much more complicated. The one thing that we can be sure of is that things will never be the same again, and we will not unilaterally be able to cherry-pick what we want.

Politics is the art of the possible. We all have to be clear about that in looking at this subject, and I include the Government in that. I was slightly surprised that in the revised version of this Bill after the election there were some rather macho inclusions about the manner in which the negotiations are going to be carried out. They know that they can amend the Bill, and amend the legislation with another Bill if they want to. I am still not clear whether what they did was a sign of strength or of weakness.

I have to confess that I have a sense of foreboding. I myself believe in the validity of the fundamentals that led this country to join the EEC and then to play such an important part in establishing the single market. Free trade does not entail frictionless trade and commerce. To support that, you need to have cheap, sensible, easy, user-friendly systems to stop cheating, and we all know that one of the mantras of the British is, "All foreigners cheat." Secondly, the manner in which the negotiation is being conducted from this end—a point that a number of noble Lords have made—makes me fear for the future of the United Kingdom and of Great Britain. Particularly the Scots but also the Northern Irish feel that their interests have been sidelined and that they have been cold-shouldered. I also think we ought to pay serious heed to what I might in shorthand call "the Lord Pannick point". Legal certainty does matter in the real world to the people who are doing commerce and business.

Lastly, we have seen in the revised Bill that the role of Parliament has been substantially reduced. I believe it is a completely false antithesis to set up Parliament against the people. I fear that the Government are falling into the trap of behaving in exactly the way that they criticised Brussels for in running things through a bureaucracy, because bureaucrats are servants of Ministers and they are all part of the Administration. A Government who are confident of their way forward—and this Government are confident, with their big majority—should look positively at criticisms that may be levelled against them, and, if the criticisms turn out to be justified, it is a sign of strength to amend your position to accommodate them.

I never wanted to leave the European Union and I still do not, but in life sometimes you just have to accept second best. We are now and will continue to be, because we cannot avoid it, Europeans. We should remember the words of the poet Robert Frost:

"Good fences make good neighbors."

I shall conclude in a way that I do not suppose I shall ever conclude a speech again: I hope I have been wrong in an awful lot of what I have said.

9.28 pm

Lord Blencathra (Con): My Lords, it is a great pleasure to follow my noble friend Lord Inglewood, a fellow Cumbrian, although his connections to Cumbria go back an impressive 400 years longer than mine.

Since January 2018 I have spoken just twice on Brexit-related legislation, and one of those occasions

was to explain some technicalities in the report of the Delegated Powers Committee, which I chair. But tonight I am speaking in a personal capacity.

I warmly welcome the Bill, which marks the first and most vital phase of “getting Brexit done”. I welcome it in its current form because it means that at long last we have a Commons that is in accord with the people of this country, who over the last three years have seen their vote in the referendum sabotaged every inch of the way by some Members of Parliament who put their own arrogant, selfish view before the decision of the electorate.

Over Christmas I met quite a few of my former constituents—you know, the little people up north accused by remainers of not knowing what they voted for. We had no view on defeated MPs from other parties, but they shared my relief—and indeed pleasure—that the electorate had got rid of Tory MPs such as Grieve, Soubry, Gauke, Allen and others. They hoped that we would hear no more from them. To that, I would add former Prime Ministers and Deputy Prime Ministers, who will no longer need to travel to Brussels to assure Monsieur Barnier that Brexit will be stopped.

Could we also hear less from those who voted remain telling us what the leavers did and did not vote for? I had the opportunity to study the polling data about leavers. The majority expected to take an economic hit and were willing to accept that, provided we got back control of our laws and Parliament. The last Chancellor of the Exchequer kept repeating the shibboleth that people did not vote to be poorer—wrong again, Chancellor. They expected to be poorer because the Chancellor and all his dodgy Treasury documents told them that repeatedly.

So now we have the Bill before us today. It is right that ongoing parliamentary scrutiny of trade negotiations has gone. We saw in the last Parliament how even those remainers who agreed on what they disliked could not agree on anything that they liked. The main point I want to make to my noble friend is that EU negotiators will play even harder and dirtier now in the negotiations. They take the view that the United Kingdom has to be punished for daring to break away from them and to stop other countries leaving. First, they will demand sequencing of talks—the trap Theresa May fell into. That is, they will not discuss trade in goods until we surrender our fishing grounds and sell out our fishermen. And if we do that, then they will not discuss financial services until we sell out on trade in goods. And even if we extend the period by another 20 years, I do not see that they will do a deal on financial services unless we surrender every national interest.

So let us be ready for it. Of course, when we sell cars to the EU we must comply with their design regulations, just as we have to comply with different regulations when we sell to Hong Kong or California. However, there can be no question of complying with the EU demand that we can sell them goods only if, for example, our workers do not volunteer to do overtime above 60 hours a week, or we agree a corporation tax rate which the EU approves of or that we cannot give any state aid in any circumstances. We must not be tied

to EU regulations when we leave but have maximum freedom for divergence if we wish to create our own laws and do things better.

We need the freedom to do gene editing, set higher environmental standards and approve medicines a lot faster. Are we willing to accept the cruelty of live animals being transported on excessively long journeys without proper food and water? Are we willing to let any more diseased plants and trees into this country and not be able to step up phytosanitary controls? There are hundreds of areas where we can do better, provided we do not sign up to accepting EU diktats on keeping all aspects of the single market and customs union.

And by the way, the people voted to leave the single market and customs union, too. We were repeatedly told by the Government and remainers that if we were foolish enough to vote leave, we would be thrown out of the single market and customs union. We the leavers knew that, and 17.4 million people voted to do just that. So, in conclusion, I say to my noble friend that the Government are delivering on leaving the political union on 31 January. We must be out of the customs union on 31 December of this year as well.

9.33 pm

Viscount Waverley (CB): My Lords, this debate has been conducted predictably, with political and ideological arguments articulated by each political faction. The people have spoken twice. The UK will not be moving on from Brexit but will move forward. Many of the existential issues that have driven this period of prolonged introversion that has hampered the UK’s international reputation have now been laid to rest. Translating a simple leave/remain referendum into a concrete plan to extricate one of the world’s largest economies from the world’s largest economic bloc was always going to be a tortuous affair. However, we cannot be dismissive of 45 years’ shared partnership. We need the EU 27 by our side, particularly as and when they improve their lot, which may come more quickly as a result of the Brexit process.

The time is shortly upon us to weigh anchor. What, however, will this new era mean for Britain’s place in the world and British politics? Will this moment prove to be the cathartic release that voters hoped for, with Britain finally able to move forward? Talk about the need for mid-year transition extension talks concerns me, as they could become a red line. Any speculation about having no deal back on the table would not be helpful. Moving on, has the Irish border issue been fully managed? Will the City of London potentially find its access to EU markets undermined? There are also questions relating to our courts, together with matters of social consequences.

Our *bête noire* of interference over democratic scrutiny, with the threats that any form of amending becomes a constitutional crisis, is in itself unconstitutional, notwithstanding the powerful argument to get the job done. I fear that there will be need for flexibility when this Bill passes, with elements of repenting at leisure needing to be carefully managed. Nevertheless, government strategists have done well to have gotten this agreement to the line. However, the Government

[VISCOUNT WAVERLEY]

should recognise that the United Kingdom's future for generations to come is at stake.

Leaving under this agreement is the best of the various scenarios, offering the strongest guarantees, for example, of future rights for UK and EU citizens. The opening of the toll bridge will be being readied, with a symbolic tolling of 16 bells to ring out on 31 January—eight for the old and eight for the passing to the new era, albeit into a precarious world of untested relationships. Trade agreements, around which much of Brexit is centred, will need to be translated amid politics and policy on trade. These are likely to collide in the years to come. These are the most consequential stages for business and the UK's global trade relations. Enough uncertainty remains that it could still hamper business and investment decisions.

But innovation can come to the fore. I will take two examples; one is preferential access via the mechanism of GSP+. Government might wish to consider a UK system as we, as an independent country, would be enabled to widen this scheme to developing countries in the Commonwealth which might currently not be covered. Additionally, businesses should be encouraged to ride tandem with aid programmes, which would bring four-fold benefits—increased trade; a decrease in aid budgets; compliance with delivering on corporate social responsibility; and sending a message to Commonwealth countries that we are back—in a package of real consequence.

Conducive policies, initiatives and incentives will prevail; indeed they must. Change and innovation presents opportunity and will allow us to stand tall. The United Kingdom's strength is its diversity; this alone will enable us to advance on the world stage with confidence. It should not detract, however, from the need for government to address the many fundamental challenges of uniting the country after this divisive experience and to tackle the many internal divisions and social discords that have been allowed to accumulate. Looking externally will help to heal those ails. The challenge is to square this circle of balancing those with an insular outlook on one hand and, while firmly upholding our standards, being truly internationalist in temperament on the other.

9.38 pm

Baroness Finlay of Llandaff (CB): My Lords, thank you for allowing me to speak in the gap.

Wales voted to leave. In respecting that, we must maintain the coherence and cohesion of the union and avoid unintended consequences as negotiations progress and in the future. The devolution settlements are in primary legislation, and Wales, having supported Brexit, must not feel that the Government of Wales Act is threatened.

Negotiations which will have a huge impact on devolved policies and functions cannot be conducted without some meaningful involvement of the Senedd and the Welsh Government. It is not about vetoes; it is about real consultation. The Minister kindly met me recently, yet without reassurances to the Welsh

Government on these key issues, there is a serious risk of a constitutional crisis if the legislative consent Motion is declined.

The maiden speeches that we heard today were both memorable. We ignore our populations and their devolved Governments at our peril.

9.39 pm

Baroness Ludford (LD): My Lords, the noble Lord, Lord Jopling, said that he was gritting his teeth and holding his nose. I sympathise with his feelings on Brexit, though I shall not be copying his physical reaction.

I thank all noble Lords who have spoken, not least the 12 from the Liberal Democrat Benches. I congratulate the two maiden speakers, the noble Lords, Lord Barwell and Lord Mann. I also appreciated the speech of the right reverend Prelate the Bishop of Leeds. I welcome the reports of the EU Committee and the Delegated Powers Committee and look forward to that from the Constitution Committee due out tomorrow, as the noble Baroness, Lady Taylor of Bolton, confirmed.

In the case of this Bill, we have the benefit and insight of seeing the pre-election and post-election versions, with the latter displaying the confidence, or arrogance, of a comfortable Commons majority. It might have been a more statesmanlike move to keep the more conciliatory version, which included matters such as parliamentary scrutiny, child refugees and workers' rights, all of which have been highlighted today. However, that route was not chosen, and we have heard about the many issues in the Bill that concern Members of this House and will be pursued in amendments in days to come.

I was interested to hear the comments of the noble Lord, Lord Barwell, which were not very complimentary about the new version of the Bill and, I think, encouraged us to try to secure some changes, contrary to the advice of the noble Lords, Lord Cormack, Lord Taylor of Holbeach and Lord Forsyth, but in line with the intentions of my noble friend Lord Wallace of Saltaire. I agree with the noble Lord, Lord Kerr, who said that we should do our job, and the noble Lord, Lord Butler, who said that we should not be intimidated.

Unlike the noble Baroness, Lady Noakes, I do not think parliamentary scrutiny is an unnecessary process that drains the energy of Ministers and civil servants; they should be a little more robust than that. The deletion of Clause 31 of the previous Bill, asserting Parliament's role in continuing scrutiny of the negotiations, alongside the addition of Clause 38, asserting the absolute nature of parliamentary sovereignty—which, as my noble friend Lord Beith said, is of no legal effect anyway—is a somewhat delicious but absurd irony or, one could say, hypocrisy. The Government are advancing a populist thesis, but, as the noble Lord, Lord Boswell, said, Ministers have to realise that parliamentary scrutiny is not an optional extra.

The Delegated Powers Committee under the chairmanship of the noble Lord, Lord Blencathra, has produced a most helpful report, warning about “potent” Henry VIII powers or, as the noble Lord, Lord Anderson of Ipswich, put it, “Henry VIII on steroids”. The noble

and learned Lord, Lord Thomas, wisely warned against the devolution Acts being changed through delegated powers under this Bill. We will explore all these matters in Committee.

The Government's plan under Clause 26 to give lower courts the power to overturn CJEU rulings rightly raises great concern. My noble friend Lord Beith doubted the enthusiasm for this in Whitehall. One imagines that HMRC is not thrilled at the thought of lots of taxpayers trying their luck in the tax tribunal at overturning European court rulings on, for example, VAT. The noble Lord, Lord Pannick, has a powerful article in the *Times* today warning that

“a flood of litigation would hit companies and individuals”.

Obviously, we hope that this is not some kind of revenge on the Supreme Court for its decisions against the Government in *Miller* and on *Prorogation*, otherwise we might have to organise some kind of march with judges from other EU countries similar to that held the other day in Warsaw in the face of the Polish Government's repressive measures against the judiciary and cited by my noble friend Lord Campbell.

On citizens' rights, the noble Lord, Lord Callanan, said that the independent monitoring authority would be “fully independent of government”, but under Schedule 2, the Government could abolish it through regulations, so that will hang over it as a threat. My noble friend Lord Oates made the point that guarantees given at the time of the referendum about automatic recognition and keeping the same rights have not been respected. I look forward to the debate on the amendments which he, my noble friend Lord Greaves, and others are proposing on appeal rights and a physical document.

My noble friends Lady Hamwee, Lord Teverson and Lady Miller raised the problem of US citizens losing onward free movement rights and the ability to work across borders. I have co-signed an amendment on that. I hope that, in the days to come, we will get clarity regarding Northern Irish trade with Great Britain, but I fear that the Government's attempt to sow misinformation about checks and red tape on that trade will end in tears, or in the courts, possibly with infringement proceedings by the European Commission. Many Peers have rightly spoken up in favour of the Dubs amendment on child refugees. I suspect that that may well be a subject on which this House will decline to follow the advice that we should abstain from seeking changes to the Bill.

Regarding the level playing field, the noble Lord, Lord Hannay, advised that there will be “hard choices” to be made on the extent to which the UK aligns with EU standards. One could add that there may well be hard consequences if we do not. My noble friend Lady Bakewell spoke of the key importance of upholding high environmental standards. One might cite air pollution, where the UK has been in breach of EU targets on nitrogen dioxide for a decade. Does anyone honestly think that Brexit will improve this situation? Last night, I heard a new Conservative MP, Alicia Kearns, on the BBC's “Westminster Hour” saying that the EU is not what keeps us safe. My noble friend Lord Paddick cited the National Crime Agency's support for EU mechanisms—for example, the European arrest warrant, or the Schengen Information System—and its warning

that the UK would be less safe if we left or were less than full members of Europol. This will also be discussed in Committee, as will the crucial issue of a data adequacy decision.

The Government need to come clean on what UK citizens will potentially lose and what can be saved. They are losing the free movement to live, work or retire in another EEA country, which their parents and grandparents had, possibly Erasmus, research grants, data roaming caps, the EHIC and pet passports. They are losing visa-free travel, with the need for a visa-lite or ESTA, as the noble Duke, the Duke of Somerset, mentioned. The noble Lord, Lord Bowness, mentioned recognition of UK driving licences and blue cards. We would like to hear from the Government exactly which facilities that British citizens have come to take for granted are to be lost. Leavers, as well as remainers, would be shocked to lose some of these.

Finally, instead of unleashing potential, new GDP figures show that the UK has had the lowest 12-month growth for seven years. The Prime Minister's insistence on a hard Brexit, and his willingness to keep a no-deal Brexit as a threat hanging over negotiations, is a major cause of this shockingly poor economic performance. There will be major hits to our economy from being outside the single market and from the exclusion of services—80% of our economy—from the Government's intended free trade agreement, as well as the imposition on manufacturing businesses such as car and aerospace of rules of origin through being outside the customs union: an economic hit is sadly unavoidable. Some £130 billion has already been lost to Brexit: £8 billion on no-deal preparations, £100 million on Brexit ads

[BARONESS LUDFORD]

and £11 million on a Brexit 50p piece, which had to be melted down. Now £120 million is to be spent on a festival of Brexit. How unifying is that?

I strongly agree with the noble Baroness, Lady Buscombe, that in 40 years this Parliament failed to properly engage with EU laws, or the European Parliament, and the BBC failed to inform and educate the British public on the EU. I suspect that, during this year, knowledge levels of what we are losing will increase.

9.49 pm

Lord McNicol of West Kilbride (Lab): My Lords, I am pleased to close this Second Reading debate on behalf of the Labour Benches. It has been quite a day, with this contribution edging the total number of speakers to 74 with only the Minister to come. This is only the start of a very intense process. Consideration of this Bill will fill up six consecutive sitting days, with the potential for a seventh if your Lordships pass any amendments.

I will touch on some of today's thoughtful contributions during my remarks, but as something of a debutant myself, I want to congratulate the noble Lords, Lord Barwell and Lord Mann, on their maiden speeches. They were both interesting and powerful in different way. Although the noble Lord, Lord Barwell, and I have been on opposing sides of many political battles over the years, I recognise that his time serving the last Prime Minister gives him a unique insight into the Brexit process. I welcome him, and I am sure he will put his knowledge and experience to good use in your Lordships' House. As a member of our Whips team, I also note the contribution of the former Chief Whip, the noble Lord, Lord Taylor of Holbeach. We may hear his dulcet tones a little less these days, but it is always a pleasure when we do.

Unfortunately, it is hard to be quite so positive when looking at the Bill before us. While it may be the first time that your Lordships' House has debated the legislation, it is certainly not the first time that noble Lords have read it and likely felt both surprise and concern: surprise that the Government are being quite so bold in the powers they are reserving for themselves and so brazen in forcing such complex legislation through in so short a time; concern that such an approach will become the norm. Many noble Lords have touched on the fact that this version of the Bill is very different to that presented last year. That Bill comfortably passed its Commons Second Reading and could have cleared its remaining Commons stages had the Prime Minister agreed to Labour's fair request that sufficient time be given for scrutiny.

Following the outcome of December's election, the Government will indeed get their Bill through. However, despite the usual sabre-rattling about the future of this House, we will not be deterred from fulfilling our duty as a responsible revising upper Chamber. I think my noble friend Lord Judd put it best: this House will not be stampeded into a rubber-stamping exercise. We hope that Ministers will be willing to work with us and to take on board our concerns, but if that is not the case, we reserve our constitutional right to pass amendments and give MPs the opportunity to think

again. Our concerns are no secret, not least because amendment papers have been available since Friday evening. Nevertheless, I want to draw on some of the contributions to today's debate to summarise our priorities.

The noble Lord, Lord Oates, spoke of how the Bill's provisions on citizens' rights fail to address the ongoing concerns of those who face new administrative processes to remain in a country they have become accustomed to calling home. I look forward to dealing with this issue in the coming days—tomorrow, I think—and I hope Ministers have been considering how the well-known shortcomings of the settled status scheme can be addressed.

We have heard the concerns of different sectors and professions about the future relationship. My noble friend Lady Thornton talked about health and medicines regulation, and the noble Lord, Lord Paddick, discussed security matters. My noble friend Lord Davies of Stamford and others expressed concern over the removal of protections for workers that were present in the October Bill. My noble friend Lady Jones of Whitchurch and others expressed their dismay with the lack of assurances over non-regression in relation to environmental protections. We do not know when the environment Bill will come or when its new enforcement body will be active. This raises the prospect of governance gaps at a time when the Government urgently need to tackle climate change.

My noble friend Lord Hain outlined the challenges in relation to Northern Ireland, while the noble Lord, Lord Wigley, reminded us of the Government's ongoing reluctance to properly engage with or formally involve the devolved nations in formulating their approach to the Brexit process. All parts of the United Kingdom will be affected and should have a greater say than has been proposed.

The distinguished chairs of three of your Lordships' House's committees—the noble Lord, Lord Blencathra, the noble Earl, Lord Kinnoull, and my noble friend Lady Taylor of Bolton—as well as the noble Lord, Lord Anderson of Ipswich, addressed some of the legal and constitutional issues arising from this legislation: unprecedented delegated powers, Parliament stripped of its scrutiny role and the potential for a major row with the judiciary.

We also heard from my noble friend Lord Dubs and many others on the issue of child refugees seeking reunification with family members in the UK, a matter that was settled in 2018. I hope that the Minister will confirm that the amendment deleting Clause 37 will be accepted in Committee.

I have always been, and will remain, a proud European. Some of the most rewarding work during my time as general secretary of the Labour Party was the collaborative work undertaken with our sister parties across the continent. But as I learned during my previous role, and sadly continue to learn as an AFC Wimbledon season ticket holder, it is important to be magnanimous in defeat. As I said previously, and as my noble friend Lady Hayter stressed in her opening remarks, the Government will pass their Bill and we will leave the EU on 31 January.

However, as we go forward, regardless of which side each of us was on in 2016, there is important

work to do. Contrary to what we will hear from the Prime Minister, Brexit is not done. Our country's future is not yet settled. Despite the inclusion of Clause 33, the future UK-EU relationship is unlikely to be agreed by the end of this year.

We will not oppose the progression of this Bill, and while the coming days will be intense, we will argue for a more appropriate balance of power between the Executive and Parliament, seek reassurances on EU citizens and their children, ask for more detail on the future status of Northern Ireland and support my noble friend Lord Dubs, the very noblest of colleagues, in challenging the inclusion of Clause 37. I urge all the ministerial team working on this Bill to heed the words of the noble Lord, Lord Forsyth of Drumlean: to pull together, work together and—in my words—engage with us and others on the issues to improve what is a flawed Bill.

9.58 pm

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, I begin by acknowledging the powerful maiden speeches delivered by my noble friend Lord Barwell and the noble Lord, Lord Mann, in whose speech there was nothing with which I could have possibly disagreed. I believe that every Member of this House would embrace both the content and sentiment that he expressed.

This Bill is of the highest importance and consequence for the country and is vital in delivering our withdrawal from the European Union at the end of this month. In opening, the noble Lord, Lord Newby, was candid and—I would venture—generous in acknowledging the position in which we stand since the general election. This Bill is not about whether or not we will leave the European Union; it is not about determining the terms of our departure from the European Union; it is not about the future relationship. The Bill ensures that the withdrawal agreement and the associated agreements under the EEA, EFTA and Swiss separation agreements are implemented in domestic law in order that they can be given full effect and thereby allow the Government to fulfil their obligations under international law.

I echo the sentiment of my noble friend Lord Callanan in acknowledging the work of all our Select Committees, including that of the Constitution Committee; the noble Baroness, Lady Taylor, indicated that it would deliver its report tomorrow, and we appreciate the speed with which it has addressed these matters. I also thank all noble Lords who contributed to today's debate and discussion, although it will clearly not be possible for me in the time available between now and midnight to respond to each and every point that has been made.

The noble Earl, Lord Kinnoull, the noble Baroness, Lady Hamwee, my noble friend Lord Cope and other noble Lords raised the question of the prohibition the Bill places on the extension of the implementation period. The general election has clearly shown that the public want no further delay in our exit from the European Union, let alone potentially the 40 years' delay of Exodus, as cited by the noble Lord, Lord Beith. The prohibition in this statute binds the Government to their manifesto commitment not to extend the implementation period beyond December 2020.

However, I reassure noble Lords that all parties have committed to using good faith to secure agreement on our future relationship by the end of 2020, and we will work with great energy to achieve this. Indeed, article 184 of the withdrawal agreement refers in particular to the obligations on all parties and, in turn, refers to point 135 in part five of the political declaration, where the parties themselves express the intention to have the agreement in force by the end of 2020.

The matter of citizens' rights has been raised by a number of noble Lords, in particular by the noble Lords, Lord Newby and Lord Oates, the noble Baroness, Lady Hamwee, and the noble Lord, Lord Teverson—I will come on to the particular point he raised in a moment. EU citizens in the United Kingdom are our neighbours, colleagues and workplace friends, and of course we value the contribution they make to the United Kingdom and wish them to remain here. We have already provided certainty to over 2.5 million people who have been granted status through the EU settlement scheme. The scheme is free, there is plenty of support for applicants, and they have until at least 30 June 2021 to apply to it.

I understand that the issue of presettled versus settled status has generated concern in some quarters. I make it clear that presettled status is a pathway to settled status, because those with presettled status can move straight to settled status by making an application once they reach five years' continuous residence in the United Kingdom. I hope that puts some minds at rest. Indeed, we are taking a very pragmatic approach in trying to deal with applications, both of presettled and settled status. If an applicant needs to use the full five years of their presettled status, they will also receive an automatic reminder to apply for settled status before their leave expires. There is therefore no question of people being overlooked in this context. To that end, I understand that the Home Office's automatic status checker uses the government database to help applicants secure the right form of status in a smooth and effective manner.

Reference was made by the noble Lord, Lord Teverson, and the noble Baroness, Lady Miller, to the status of UK citizens in the EU. However, that is of course not a matter of domestic law and is therefore not a matter for the Bill, which is intended to implement the international legal obligations which we have undertaken pursuant to the withdrawal agreement. Therefore, the status of UK citizens in the EU will be the subject of the future relationship negotiations.

Questions were asked, particularly by my noble friend Lord Leigh of Hurley and the noble Baroness, Lady Ludford, about the status of the IMA. I assure noble Lords that the Bill guarantees that the IMA will be fully independent of government. As the Bill sets out, the IMA will be run by an independent board and contain the appropriate expertise on citizens' rights, and the Government will have no role in its day-to-day running or in its decisions. The noble Baroness, Lady Ludford, suggested that, pursuant to the provisions in Schedule 2 to the Bill, the IMA could be abolished. That is simply not the case. There can be a transfer of the IMA's functions at some point, but those functions must be continued and carried on. After a period of

[LORD KEEN OF ELIE]

eight years, it will be possible for the UK to negotiate with the EU on the matter of whether the IMA is still required, but the obligation to maintain it is one that we have undertaken in international law, pursuant to the withdrawal agreement, and one to which we as a Government will adhere. So, there is no question of the unilateral abolition of the IMA.

I listened to the concerns expressed across the House, particularly by the noble Lord, Lord Newby, in relation to the delegated powers in the Bill. The original sifting mechanism introduced in the EU withdrawal Act was a response to the exceptional circumstances we then found ourselves in. The situation now is quite different and it would not be appropriate to include a sifting mechanism in the Bill in this instance.

I listened also to the concerns expressed in relation to the power contained in Clause 21 to implement the protocol on Ireland and Northern Ireland. I also took note of the comments of noble and learned Lords on the DPRRC in this regard. But we in this space must be aware of what occurred in the other place and have regard to the response from the Government Benches to the concerns raised there. The Government have stated that providing certainty and reassurance to people and businesses in Northern Ireland is of paramount importance to them. The power contained in the Bill to implement the protocol provides that reassurance.

Furthermore, as my noble friend Lord Callanan pointed out at the beginning of the debate, the Bill's approach to implementing the protocol is the best way to ensure that the United Kingdom can fulfil its international obligations and make the necessary arrangements to implement the protocol in the time available. Any other approach would risk jeopardising the Government's ability to fully implement the protocol and would inevitably send a negative signal to both businesses and individuals in Northern Ireland. I hope that the House will agree that the fulfilment of these two aims—namely, ensuring that the Government can fully implement the protocol and reassuring businesses and individuals in Northern Ireland—should not be undermined.

Noble Lords asked about Parliament's oversight of the future relationship negotiations. It was interesting to observe the different views that came from different sides of the House. For a while, many noble Lords expressed concern about the removal of parliamentary oversight. I believe that I noted both my noble friend Lord Bridges of Headley and the noble Lord, Lord Darling, expressing the view that, at the end of the day, negotiation of such matters as international relations had to be a matter for the Executive, essentially, and not one for Parliament to be directly involved in—albeit that, at the end of the day, myriad pieces of legislation will require to be approved by Parliament and put in place in order that the future relationship can be established and maintained.

The political declaration agreed by the Prime Minister as part of our exit negotiation sets out the framework for a comprehensive and ambitious free trade agreement with the EU. The general election result has clearly shown that the public support that vision and we consider that we have been given the mandate to begin negotiations on that basis. As the Prime Minister said

in the debate on Second Reading in the other place, Parliament will be kept fully informed on the progress of these negotiations. Both Houses will have access to all their usual scrutiny tools, including Select Committees and the questioning of Ministers, and I have no doubt that the House will take full advantage of them. So, in these circumstances, we do not consider that there is a requirement for any additional statutory role. Furthermore, we are giving the EU Committee the ability to trigger debates on new pieces of law proposed by the EU that raise matters of national interest during the implementation period.

I turn now to the matter of unaccompanied asylum-seeking children, which was touched on by the noble Lord, Lord Dubs, and mentioned by a number of other noble Lords. Of course, concerns have been raised over family reunion for unaccompanied asylum-seeking children. I wish to make clear that the Government are fully committed both to the principle of family reunion and to helping and supporting the most vulnerable children. The Government, as my noble friend Lord Callanan observed, have a record of providing protection for vulnerable children, receiving 15% of all asylum claims from unaccompanied children in the EU.

Clause 37 does not represent a change to that existing government policy. It removes the statutory requirement to negotiate. This is appropriate as the Government have demonstrated their intentions by already writing to the European Commission to commence negotiations on this issue. It is vital that the Government are not legally constrained in those discussions. We are restoring the traditional division of competence between Parliament and the Executive when it comes to international negotiations. This clause fulfils the essential function of allowing us to continue negotiating a comprehensive agreement and rightly ensuring that Parliament is informed of the Government's policy intentions in respect of our future arrangements.

I shall move on to deal with the question of the case law of the CJEU. I have noted the concerns that have been expressed here. While clearly EU case law is a defined body of law, it is important that our courts are not eternally bound by historic decisions of the EU Court of Justice after the implementation period has expired. Let me provide some important points of reassurance. First, the approach that we have taken is consistent with our international obligations. Clause 26 already provides for how the separation agreements must be interpreted and nothing that we do here will cut across that. Secondly, we want to approach this matter in a sensible way.

Let me be clear that there is no intention to extend the divergence from retained EU case law to every court and tribunal in the United Kingdom. We must consult with the senior judiciary before making any regulations, and the clause provides for the Minister to consult with others as is appropriate. What we intend is that the power will be used to ensure that retained EU case law is a living law rather than one preserved in aspic. There will be legal clarity at the point when any case concerning this body of law is heard. The power can be used only until the end of the implementation period, and the courts will be interpreting retained EU law only after that period. So we have the period of the implementation time in which to address this issue

and it will then apply from the expiry of the implementation period. But I repeat that there is no intention on the part of the Government to extend the power to every court and tribunal in the land. We recognise the uncertainty that would be a consequence of such a move.

I turn to matters pertaining to devolution, which arose in a number of different contexts. First of all, the noble Duke, the Duke of Montrose, raised questions about the CAP and an agriculture Bill. I assure noble Lords that the CAP will continue to the end of the implementation period, by which time we will have taken forward the agriculture Bill. The noble Duke also referred to the frameworks, and perhaps I may remind noble Lords of the importance of these frameworks in the context of our relations with the devolved Administrations. Between October 2017 and March 2018, we published what was termed a common frameworks analysis, which set out about 153 areas in which EU law intersected with devolved competence. After discussion we have reduced that number, but have carried on an analysis of these areas with the devolved Administrations and continue to work closely with them on these issues.

One example of that is fisheries, which have already been mentioned in this debate, where we proposed a new UK framework to ensure access for UK fishing fleets throughout UK waters. That has been taken forward through discussion with the devolved Administrations and has been governed by principles agreed at the joint ministerial conferences. I give the detail of that just to underline the extent to which we are engaged with the devolved Administrations in this context.

As was suggested early on, the engagement between the UK Government and the devolved Administrations over the Bill has been rather unusual, because the recommendations coming back from the devolved Administrations have been principally concerned with reserved matters. The devolution settlement involved the reservation of specific matters to the United Kingdom Parliament. It was never intended that in the conduct of such reserved matters—for example, international affairs—the United Kingdom Parliament could be inhibited or frustrated by the devolved Administrations. That would not be normal under our devolution settlement, and that is reflected in the terms of the Sewel convention. For our part, the Government have followed the spirit and letter of the devolution settlement throughout the process pertaining to this Bill. The engagement of the devolved Administrations—

Baroness Hayter of Kentish Town: Does the Minister accept that while the negotiations may indeed be for reserved matters, in many cases the implementation is not reserved? That is why they are particularly worried about the lack of consultation.

Lord Keen of Elie: There are clearly circumstances in which the implementation of the withdrawal agreement will impact on the scope of executive competence of the devolved Administrations, and they are well aware of that, but those are not the issues they have sought to address with the UK Government in this context. They have sought to address matters that are reserved.

As I say, the fundamentals of the devolved settlement, going back to 1998, never intended that where the UK Government were exercising a reserved function they should be inhibited or prevented from doing so by the devolved Administrations. It is important to bear that in mind.

As I say, we consider that we are taking appropriate steps to engage with the devolved Administrations, and we will continue to do so. Indeed, we continue to hope that the Welsh Government in particular will reflect on this and revise their recommendations to the National Assembly on legislative consent. At the end of the day, what we are doing here is implementing an international treaty obligation; that is the role of the United Kingdom Parliament.

I will now touch on one or two additional points in the limited time remaining. The noble Baroness, Lady Thornton, raised a number of issues with regard to health. Clearly, nothing is going to change before the end of the implementation period, and thereafter it will be a matter for the negotiation on the future relationship. It is not a matter for this Bill, which is intended to implement the present withdrawal agreement. She also made reference to the clinical trials directive. I should observe that the new EU clinical trials directive has not yet been adopted, so we do not even know where the EU will be with regard to that. Of course, once we do know, it may form the subject of negotiations on the future relationship.

The noble Baroness, Lady Crawley, made a powerful point that, after 46 years of being subject to EU law, women have still not secured equal pay. I certainly hope that we will do better after we leave the EU.

The noble Baroness, Lady Parminter, referred to animal welfare. At the moment, we cannot prohibit the movement of live animals because of EU law. But when we leave, let us hope that we can address that, because we have expressed an intention to do so.

The noble Baroness, Lady Donaghy, referred to UK worker rights. I notice that, in many respects, UK worker rights are much higher than the norm within the other EU 27 states. One has only got to consider such issues as paternity and maternity leave, and other related issues, to appreciate that what we may hope for after exit is that the EU is able to catch up with us.

I look forward to tomorrow's Committee stage, where we can enter into more detailed scrutiny and debate on the issues that have been raised today. This Bill ensures that we honour the result of the 2016 referendum and leave the EU on 31 January, on the terms of the withdrawal agreement. It ensures that the agreements have full effect in domestic law and that, accordingly, the Government can discharge their obligations in international law.

Once the Bill is passed and the withdrawal agreement ratified, we will proceed to the completion of a free trade agreement with the EU by the end of December 2020. We can then go on to focus on other national priorities, such as the National Health Service, education and skills, and ensuring that we make our country safe. I commend the Bill to the House.

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

House adjourned at 10.22 pm.

Volume 801
No. 7

Monday
13 January 2020

CONTENTS

Monday 13 January 2020
