Vol. 828
No. 123

Tuesday
28 February 2023

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS

OFFICIAL REPORT

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The abbreviation [V] after a Member's name indicates that they contributed by video call.

The following abbreviations are used to show a Member's party affiliation:

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

No party affiliation is given for Members serving the House in a formal capacity or for the Lords spiritual.

House of Lords

Tuesday 28 February 2023

2.30 pm

Prayers—read by the Lord Bishop of Oxford.

Death of a Member: Lord Pendry

Announcement

2.36 pm

The Lord Speaker (Lord McFall of Alcluith): My Lords, I regret to inform the House of the death of the noble Lord, Lord Pendry, on Sunday 26 February. On behalf of the House, I extend our condolences to the noble Lord's family and friends.

Lindisfarne Highly Protected Marine Conservation Area

Question

2.37 pm

Asked by ***Lord Beith***

To ask His Majesty's Government what assessment they have made of the potential impact of the proposed creation of the Lindisfarne Highly Protected Marine Conservation Area on the fishing community and the local economy of Holy Island.

The Minister of State, Department for Environment, Food and Rural Affairs (Lord Benyon) (Con): My Lords, the Government have consulted on a proposal to designate five pilot highly protected marine areas. The Secretary of State announced this morning the Government's decision to designate three of these sites. The Lindisfarne site will not be taken forward. A Written Ministerial Statement has been deposited in both Houses.

Lord Beith (LD): Very timely, my Lords. Fishing and wildlife have coexisted around Holy Island since the days of St Aidan in the 7th century. The proposed Lindisfarne highly protected marine area would have destroyed the small-scale, well-regulated lobster fishery, which provides essential employment for island families. Does the Minister, who has taken a close interest in the matter himself, which I welcome, agree that the welcome decision not to go ahead with the plan helps Holy Island to remain a working community as well as a wonderful place of pilgrimage and tourism?

Lord Benyon (Con): The noble Lord's knowledge of this area is, of course, understood, and he is absolutely right. This was a meaningful consultation that sought the views of people from all sectors that affected the area, and it was deemed not right to take it forward as a highly protected marine area. It is, of course, a marine conservation zone. It has at least 850 species and a very valuable benthic population of seagrass in certain parts, and it is an extraordinary neighbourhood for tourists as well as people who exploit it in a sustainable way. We are now progressing designating other sites and making sure that we continue to listen to local people as well as conservationists, and that we get this right.

Baroness Jones of Moulsecoomb (GP): I was going to stand up today and congratulate the Government for actually doing something right for once. They were going to establish five of these highly protected marine areas. Do I understand that they have dropped two plus Lindisfarne, including Farnes Deep? What exactly is happening, and why are the Government so lackadaisical about something so important?

Lord Benyon (Con): When Michael Gove was the Secretary of State, he asked me to chair a panel of scientists and others to look at whether we should have highly protected marine areas as part of our suite of marine protections. The conclusion of the embarrassingly named Benyon review was that we should, and that it was vital to do this—but we had to do it in the right way. We recommended that five pilot sites be created, and that we should consult and learn from the lessons of not only this but the implementation of the Marine and Coastal Access Act about a decade ago, when we came across the same problem with what were then called reference areas. We will now take forward at least two further sites as part of the pilot project, so the noble Baroness will be reassured that we will have at least five pilot sites, and then we will continue to grow this. I could extol the virtues of highly protected marine areas exhaustively, but I cannot in the time allowed to me in this Question.

Lord West of Spithead (Lab): My Lords, are the Government concerned about the very large supertrawlers —foreign owned, very often—that are now starting to fish particularly off the west coast of the United Kingdom?

Lord Benyon (Con): Trawler activity on our seabeds is often incompatible with marine conservation. We want to make sure that while we are helping our fishing industry prosper in the new world in which we live, we are also mindful that what legitimate British fishing interests on these islands want is a rising biomass. That requires us to have marine conservation running alongside productive fisheries. The actions of some international vessels coming into our waters is of course of concern when they are breaking the rules, and we have available very strict enforcement policies.

Lord Cormack (Con): My Lords, I warmly congratulate the Government on getting two things right in two days.

Lord Benyon (Con): I am lost for words.

Lord Sentamu (CB): My Lords, I declare an interest in that the word "Lindisfarne" appears in my title. When this marine area was proposed, which would have caused a lot of the difficulty that the noble Lord, Lord Beith, talked about, he and I and the vicar of Lindisfarne consulted the people extensively. I was

[Lord Sentamu]
quite surprised that some locals thought that, by taking the title Baron Sentamu of Lindisfarne in the county of Northumberland, I had brought a curse to the island, so I am very glad that this afternoon I can go away without cursing anybody.

As it is a conservation area, will the same energy be put into ensuring that birds that come during their breeding season, particularly terns and others, and then go to north Africa, will continue to be protected? Secondly, the ferns on St Cuthbert's, particularly the little one, are being eroded by global warming. What further work will the Government undertake to ensure that we do not lose those ferns?

Lord Benyon (Con): The noble and right reverend Lord's knowledge and understanding of this area and his support for the people who live there are appreciated. I had a letter from his successor, the most reverend Primate the Archbishop of York, as well as letters from monks and many others, so I applaud the Church for its involvement in the consultation process. On his wider point, I entirely accept that there is an ongoing need for greater scientific understanding of what is going on. The value of our oceans in sequestering carbon is immense, and our understanding of blue carbon is increasing but not fast enough. In this area, some very valuable seagrass is deteriorating because of climate change and other factors, and we want to make sure that we are preserving it and, where possible, increasing it, because of its value to the environment.

Baroness Sherlock (Lab): My Lords, I agree with the praise heaped upon the Vicar of Holy Island, Sarah Hills, and the fishing community, which has done a wonderful job in standing up for its community. The Minister mentioned that lessons were learned from this review. What lessons were learned to help protect island communities doing sustainable fishing, such as those on Holy Island?

Lord Benyon (Con): It is a generalisation, but by and large local inshore fishing is much the most sustainable and we want to see it encouraged. It delivers most for our coastal communities, and the sense of place, the sense of community it brings to those areas benefits not just them but the vast numbers of people, including myself, who regularly go on holiday to places like Bamburgh and know that part of the world. It really is important that we listen to those voices, that we help them to ensure that their fisheries continue to be sustainable, and that we increase the biomass in the seas so that not only they but future generations can fish them productively.

Baroness Hayman of Ullock (Lab): My Lords, the first three highly protected marine areas have been designated, as the Minister said. One is in Allonby Bay, near me, in Cumbria. While I absolutely support marine conservation and the importance of these sites, Maryport Town Council has been in touch because it is concerned about the impacts on an area that has been struggling. I am aware that the Secretary of State said that the decision takes account of the needs of Maryport harbour, so what assurances can the Minister give to local fishers at Maryport marina that they will have government support to counteract any negative social or economic impacts of the decision?

Lord Benyon (Con): We amended the boundary of this site to reflect precisely the points raised by the noble Baroness and will continue to work with local people, particularly fishers, to do this. In the course of my review, we looked at highly protected marine areas around the world, and where they work best, their greatest supporters are the fishermen, because they see flowing out of them increased quantities of fish. These are areas where fish spawn and shoal at different times of year. The benefit of that to fishermen outside those areas, if we get this right, will be enormous. That is what we want for fishermen in that area.

Lord Watts (Lab): My Lords, are our seas safe to fish in, given the amount of pollution this Government and the regulators are allowing the sewerage companies to pump into our oceans?

Lord Benyon (Con): We want to continue to make sure that our marine areas achieve good environmental status, as we set out in our marine strategy. That involves dealing with plastics, litter and the quality of water flowing from land into the sea. It is at the heart of all our policies and we will work towards achieving it.

Lord Wrigglesworth (LD): In the light of what the noble Lord has just said, will he look at the predicament of fishing in Whitby, just down the coast from Holy Island, where there has been the terrible death of all the crustaceans—lobsters and crabs—decimating the fishing industry in North Yorkshire and south Durham?

Lord Benyon (Con): We are looking very carefully and determinedly to find a solution to this. The noble Lord will know that we commissioned our chief scientific adviser, Professor Henderson, to lead a panel of 10 experts to look into this, including the maintenance dredging going on there, the dredging around the new freeport and the pathology we can find from the dead crabs that have been washed up. It is regrettable that we have yet to find a reason for it, but that does not mean we have stopped looking. We are using the expertise not only in Defra and its wider agencies but in other areas of academia to try to find out what caused this serious problem.

Eurostar St Pancras: Border Control

Question

2.48 pm

Asked by ***Lord Berkeley***

To ask His Majesty's Government what steps they will take to increase the flow of passengers through the border control at the Eurostar terminal at St Pancras station.

The Parliamentary Under-Secretary of State, Home Office (Lord Murray of Blidworth) (Con): The United Kingdom operates juxtaposed immigration controls on the Eurostar routes. Therefore, our immigration checks are carried out prior to departure from the stations in France, Belgium and the Netherlands. Passengers disembarking on arrival at St Pancras are not routinely subject to any further checks. French border checks take place outbound at St Pancras as part of the juxtaposed controls agreement.

Lord Berkeley (Lab): I am grateful to the Minister for that Answer—as usual, blaming the French for everything. Eurostar says that, whoever's fault it is and at whichever end, it is losing 30% of its traffic because the frontier controls are not working properly, four years after Brexit started. Is it not about time that the British and French Governments got their act together to allow people more free movement without being held up for hours and hours at St Pancras, Paris, Lille and Brussels?

Lord Murray of Blidworth (Con): I simply do not recognise the noble Lord's characterisation. Border Force has deployed in Paris e-gates which, in the last 12 months, have processed more than 1.2 million passengers. The service standard of a wait of no longer than 25 minutes for Border Force officers has been maintained throughout that period. There are no delays which are the fault of Border Force.

Viscount Hailsham (Con): My Lords, in the interests of increasing passenger flow and in the spirit of co-operation, would it not be possible to agree a single, jointly manned border control?

Lord Murray of Blidworth (Con): As my noble friend will recall, the agreement at the time of the implementation of the Channel Tunnel was an international one between the United Kingdom and the French Republic. The agreement was that we should have controls in the way that we do. As I say, they work well, and the arrangements are successful.

The Earl of Clancarty (CB): My Lords, can the Minister say why Eurostar at St Pancras has not been made a designated port for CITES? If a decision has been made, will it be reviewed? This was a particular and reasonable ask from the music sector which would be, or would have been, very helpful. At the moment, UK musicians touring in Europe need all the help they can get.

Lord Murray of Blidworth (Con): St Pancras does not have infrastructure to process CITES goods. There is no red lane or counter, and no lock-up for detained goods. There is no need to overhaul the infrastructure at St Pancras to become a designated Border Force port for these purposes, but, of course, I am open to keeping the matter under review. The noble Earl can write to me, and I am sure we can look at this.

Viscount Stansgate (Lab): The Minister says he does not recognise the difficult situation of going through the Eurostar terminal. As a declaration of interest, I often have occasion to do that, so I see for myself what it is like. The infrastructure both there and at Eurotunnel was built at a time when there was, and on the basis that there would be, completely free movement of citizens between the UK and the EU. Looking ahead, is the Minister aware that the EU, at some stage, wishes to introduce fingerprinting for people who travel from the UK through Dover, Eurostar or Eurotunnel? What plans are the Government making to deal with that, considering the additional time that this is going to take?

Lord Murray of Blidworth (Con): I thank the noble Viscount for raising that important point. We anticipate that future digitisation, both in the EU system and in our own electronic travel authorisation scheme, will accelerate the rate at which people can cross the border. We are implementing infrastructure in Paris which will be able to accelerate the rate at which people can pass through our e-gates.

Baroness Randerson (LD): The Minister seems remarkably complacent in his answers. I invite him to travel more frequently on Eurostar to see the reality of the situation. Looking forward, the new EES will be accompanied next year by the European Travel Information and Authorisation System, or ETIAS. That will cost us €7 each to visit EU countries, as well as introducing new systems that require fingerprints. Can the Minister tell us what preparations the Government are making to expand capacity at border control for these more comprehensive checks and to raise public awareness of the new requirements?

Lord Murray of Blidworth (Con): As the noble Baroness will be aware, the European scheme requires people in advance to obtain these authorisations and to deposit the biometrics. It is not anticipated that this will cause delays at the border at St Pancras, as far as I am aware. As I say, for the reasons I gave to the noble Viscount, the anticipation is that increased digitisation will lead to faster use of e-gates.

Baroness Blackwood of North Oxford (Con): My Lords, I was very interested in the Minister's answer to the noble Viscount, Lord Stansgate, and the recent answer regarding digitisation at ports. Does the Home Office intend to update the biometrics strategy, which was last updated in 2018, given some of the challenges with future-proofing these technologies and keeping up to date with AI and other technologies?

Lord Murray of Blidworth (Con): I can confirm to my noble friend that the Home Office takes seriously its duties to review the ethics of the biometrics that are retained. That is definitely on our radar as we progress the future border improvement scheme and the increasing use of digitisation to accelerate the rate at which people pass through ports and airports.

Lord Blunkett (Lab): My Lords, will the Minister be kind enough to do a bit of homework so that in three weeks' time, when answering my Question on the

[Lord Blunkett]
Order Paper, we might have a detailed appraisal of the real challenges that will exist on the back of the questions that have just been asked?

Lord Murray of Blidworth (Con): I of course differ from the noble Lord on the quality of the research carried out by my officials: I am satisfied that I have correctly answered the questions.

Baroness Coussins (CB): My Lords, on speeding things up, is there any truth in the rumour that the Government want to deal with the asylum backlog by requiring applications in writing in English, using online translation tools? If so, is the Minister aware that where complex details and evidence on trafficking, for example, are machine translated, the frequency and severity of errors in this unregulated field is notoriously high, and should not be used without human oversight, such as the provision of professionally qualified public service interpreters?

Lord Murray of Blidworth (Con): I am afraid that that question is a very long way from the Question about steps to increase the flow of passengers through the border control at Eurostar, and the *Companion* is quite clear on this topic. If the noble Baroness wishes to ask questions about this, she must do so in the correct way.

Lord Snape (Lab): Is the Minister aware that it is not just at St Pancras that these extra checks are causing problems? Eurostar trains have not stopped at Stratford International or Ebbsfleet International for some time and, according to the train company, there is no prospect of their doing so because of the extra delays caused by these checks. Does the Minister regard the fact that people living in those areas must travel to St Pancras to get to Paris, Brussels or anywhere else as a triumph of Brexit, or shall we just put it down as something that the Foreign Office is really not conscious of in the first place?

Lord Murray of Blidworth (Con): I thank the noble Lord for that question. He is of course right that Eurostar trains no longer stop at those intermediate stations to take international passengers. I am not sure there is any reason from the Border Force perspective why they have not been reopened; as I understand it, these are matters for the train operating company. I am happy to look into the matter further, but that is the only answer I can give at this time.

Lord Kennedy of Southwark (Lab Co-op): My Lords, the Minister has given some very optimistic answers today, and I hope he is correct. What if he is wrong?

Lord Murray of Blidworth (Con): I am sure the noble Lord will bring me back to answer questions about it.

Lord McLoughlin (Con): My Lords, the simple fact is that, yesterday, we saw a great achievement by the Prime Minister in the Windsor agreement. If there are further problems for Eurostar being able to operate up to capacity, does not the Minister think that there is now a better chance of getting a negotiated agreement with the French and other Governments on this issue?

Lord Murray of Blidworth (Con): I certainly agree with my noble friend. It is clear that we have an ongoing dialogue with the French on many issues, particularly in the department for which I appear. I entirely agree with what my noble friend says.

Heat and Buildings Strategy: Gas Boilers

Question

2.58 pm

Asked by ***The Lord Bishop of Oxford***

To ask His Majesty's Government what assessment they have made of progress on their Heat and Buildings Strategy, published on 19 October 2021; and whether they have any plans to change the date of 2025 for banning the installation of gas boilers in new-build homes.

The Parliamentary Under-Secretary of State, Department for Energy Security and Net Zero (Lord Callanan) (Con): My Lords, the Government have made good progress towards their target. Between October 2021 and November 2022, 240,300 measures were installed through Help to Heat schemes. The building regulations will continue to set a performance-based standard rather than banning specific technologies. However, to ensure that new homes are carbon-zero ready, we plan to ensure that the future homes standard is set at a level that will effectively preclude new homes being built with fossil fuel heating.

The Lord Bishop of Oxford: My Lords, I thank the Minister for his Answer and draw attention to my membership of your Lordships' Environment and Climate Change Committee. I note that in 2020 the Government brought forward, in a very welcome way, the date for phasing out new petrol and diesel cars from 2035 to 2030, which has had a significant positive effect on that market. Has further consideration been given to bringing forward to 2030 the present date of 2035 for prohibiting the installation of new gas boilers to further encourage the rapid development of low-carbon domestic heating?

Lord Callanan (Con): I can correct the right reverend Prelate. We have not set a date of 2035 for prohibiting the installation of new gas boilers; we have said that this is our aim but, crucially, it will depend on the availability of cheap alternatives for people to heat their homes with.

Lord Teverson (LD): My Lords, the overwhelming evidence is that hydrogen will never work in domestic heating. Will the Government stop their trials of hydrogen villages and concentrate their efforts where hydrogen really can make a difference?

Lord Callanan (Con): The noble Lord is right to an extent. At the moment, hydrogen heating for homes is an unproven technology, which is why we need to carry out trials and research to ascertain whether it is a viable technology. In the meantime, we know that heat pumps and electrification work and are operable technologies, which is why we support them.

Lord Naseby (Con): My Lords, I remind my noble friend the Minister that there are millions and millions of terraced houses throughout the United Kingdom. It is absolutely impossible for them to have heat pumps. Against that situation, would it not be much more sensible to ask the gas industry to produce, in the interim, new boilers that are less difficult in relation to zero carbon? In addition, the point that was just made about hydrogen seems equally relevant to me.

Lord Callanan (Con): I am afraid that I do not agree with my noble friend. It is perfectly possible for heat pumps to be used in terraced properties. The thing about the UK is that there is a multiplicity of different property types and flavours; not all solutions will be appropriate for all properties, so we need to look at a number of options. We also need to continue to improve the efficiency and effectiveness of gas boilers. In whatever scenario, there will still be millions of gas boilers fitted in existing properties in the next few years; there is more that we can do to improve existing efficiencies.

Baroness Jones of Whitchurch (Lab): My Lords, one of the main reasons given for the relatively low take-up of heat pumps is that there are not enough skilled engineers to install them. What work is being done to retrain existing gas boiler installers so that they can install this new technology, speed up installation and help us meet our carbon targets?

Lord Callanan (Con): The noble Baroness makes an important point. We are rapidly increasing the number of available skilled installers. I have opened a number of schemes in both the public sector and the private sector. In September we launched the home decarbonisation skills training competition, a £9.2 million fund for training people who work in the energy efficiency, retrofitting and low-carbon heating sectors. Of course, the industry itself is also investing in training capacity; for example, Octopus Energy is investing £10 million in a new training centre and Ideal Heating has announced a new £1 million training centre near Hull. So there is a combination of public and private sector investment in this area.

Baroness Boycott (CB): My Lords, as a further incentive for people to change their energy sources, will the Government give consideration to an energy-saving stamp duty under which energy-efficient homes pay an adjusted lower rate, with a rebate paid to new home owners who improve the energy efficiency of their home within two years of purchase? Will they also consider reintroducing the landlord's energy saving allowance, which used to encourage landlords to undertake energy-efficiency measures but was abolished in 2015?

Lord Callanan (Con): The noble Baroness will be aware that these are matters for the Chancellor. As a Minister, I have long observed not getting into predicting taxation policy. I will certainly pass her suggestions on to the Chancellor.

Lord Forsyth of Drumlean (Con): My Lords, further to the questions from the right reverend Prelate and my noble friend Lord Naseby, I was involved in raising funds to refurbish our rectory. The church insisted on putting in a heat pump; because of the nature of the property, it cost nearly £40,000 just to insulate it in order to make the heat pump work efficiently. Heat pumps are not suitable for all buildings, which is why it is essential that we look for an alternative.

Lord Callanan (Con): I partly agree with my noble friend. It is a good thing that the rectory was insulated anyway, whatever kind of heating was installed in it. Heat pumps obviously work best in well-insulated properties, but you can now get high-temperature heat pumps that work in all scenarios. I agree with my noble friend that, as I said earlier, there is a multiplicity of property types and different technologies will work in different properties.

Lord Browne of Ladyton (Lab): My Lords, from the evidence that it received, the Environment and Climate Change Committee, of which I was a member at the time, concluded in its inquiry on the boiler upgrade scheme that a shortage of relevant skills is a major barrier to the take-up of the boiler upgrade scheme and low-carbon heat. The microgeneration certification scheme, which certifies whether companies are capable of fitting renewable heat products, gave evidence to the committee that the three-year duration of the scheme and

"the delayed release of the market-based mechanism to support heat pump growth"

did not

"provide sufficient long-term certainty to grow the sector and encourage retraining."

Despite this investment in training, does the Minister agree with the MCS that a long-term policy of decadal length is required to create a stable policy landscape to encourage investment in training? If he does, what do the Government intend to do about that?

Lord Callanan (Con): The noble Lord will be aware that the next Question is on the boiler upgrade scheme; his question might perhaps have been more appropriate there, but I agree with him. The Answer I gave earlier shows what we are doing to invest in upgrading existing skills. It is a long-term job over decades, as the MCS correctly said. I was at a reception with the MCS last week, talking to it about this very issue.

Baroness Worthington (CB): I agree with the Minister in his statement that there is a multiplicity of solutions for decarbonising heat. One very promising technology is the use of heat loops, or networked ground source heat pumps. These are much more efficient than even air source heat pumps and are an excellent technology that we should be trialling, perhaps instead of hydrogen.

Lord Callanan (Con): I am aware of the noble Baroness's scepticism about hydrogen—we have discussed it a number of times. I agree with her about ground source heat pumps. There are some great, innovative UK companies developing them and we support them under the boiler upgrade scheme.

Lord Lennie (Lab): My Lords, the Committee stage of the Energy Bill started in September 2022, and we still have not reached Report. Is this delay down to the Government adopting the Labour Party's suggestions in Committee, which would make targets of the future homes standard and ban the installation of gas boilers in new homes? I guess from the Minister's response so far that this is not the case. Can he say what is causing the delay?

Lord Callanan (Con): I am sorry to tell the noble Lord that it is nothing to do with the Labour Party's policies. My responsibilities do not extend to predicting the business of this House. I am sure that the Chief Whip has taken careful note of the noble Lord's comments.

Baroness Parminter (LD): My Lords, permitted development rights are still insisting that heat pumps are sited a metre away from the boundary of properties. Given the Minister's welcome commitment to heat pumps and to getting these new homes with low-carbon solutions, what plans do the Government have to update PDR to ensure that heat pumps can play the role that we need them to?

Lord Callanan (Con): One of the factors of the UK's planning system is that different interpretations are given by different local authorities. I suspect that certain Members on the Opposition Benches would criticise us if we dictated to local authorities how they should implement their own planning policies. Clearly, we need to work with them. As I said earlier, there is a huge range of different areas and property types. Some local authorities are quite permissive in what they will allow and some are not, but we continue to work with them to make sure that they are abreast of all the latest guidance.

Domestic Heat Pumps: Budget Underspend

Question

3.08 pm

Asked by ***Baroness Sheehan***

To ask His Majesty's Government what assessment they have made of the reasons for the underspend in the annual £150 million budget to install domestic heat pumps and other low-carbon alternatives to gas boilers.

The Parliamentary Under-Secretary of State, Department for Energy Security and Net Zero (Lord Callanan) (Con): My Lords, despite it being a challenging year for the energy sector, provisional data from Ofgem shows that we have received 14,100 applications so far. Industry has reacted positively to the scheme during its first year, with suppliers developing competitive offers alongside the grant. The Government recently launched a targeted marketing campaign to increase public awareness. We will consider options such as increased marketing, as well as keeping grant levels under close review.

Baroness Sheehan (LD): My Lords, I thank the Minister for his Answer. We know that heat pumps are the only show in town today that can deliver low-carbon domestic heating cheaply and quickly. In 2022, a whopping 20 million heat pumps were installed across 16 EU countries, yet our Government fall short time after time in delivering even the basics needed for success, such as home insultation measures, a skilled workforce and improved public awareness. What plan do the Government have to move their woeful current rate of under 10,000 in almost a year on the boiler upgrade scheme to their target of 600,000 a year by 2028? Without a plan, the target is pie in the sky.

Lord Callanan (Con): The noble Baroness obviously did not listen to the Answer that I gave her, because I just said that we have received 14,100 applications for the scheme. But this is not the only scheme by which heat pumps are installed. There are those that are installed by the private sector, and they are already starting to be installed in many new properties. A range of our other schemes—the social housing decarbonisation fund, home upgrade grant, et cetera—also support the installation of heat pumps.

The Lord Speaker (Lord McFall of Alcluith): My Lords, the noble Lord, Lord Campbell-Savours, will participate remotely.

Lord Campbell-Savours (Lab) [V]: My Lords, with heat pump technology plagued by misinformation, can the Government not sponsor a network of privately or commercially occupied exhibition homes with air source heat pumps installed, where potential investors can be advised on the efficacy of their installation and the need for accompanying measures of draught and insulation control, without which they are ineffective and a waste of money? A well-designed installation will give 3 to 4 kilowatts of heat output per kilowatt of mains supply. That is a good return.

Lord Callanan (Con): I agree with the noble Lord's figures on the efficiency of heat pumps. He will find that there are a number of show properties around the country already; a lot of the installers or manufacturers already have showrooms demonstrating the technology for prospective purchasers.

Lord Howell of Guildford (Con): My Lords, I declare an energy interest, as in the register. Further to this and the last Question, do the Government accept that, with their full commitment to future renewables, the removal of all gas heating and cooking, and millions of new electric vehicles, we will see an enormous need not only for more generating plant but, more importantly, for a completely new electrical transmission system nationwide? It is estimated that the burden on the

transmission system will increase 400%, when it is already at 100% and overloaded. Do we have the plans in place to cope?

Lord Callanan (Con): My noble friend makes a very good point: huge investment is required to both upgrade and reconfigure the transmission grid. We are moving away from a system based on point loads to a much more diversified system of renewables, et cetera. The point is valid. Billions of pounds are being invested in the grid and we have a plan to upgrade it. It is worth saying that there will be ongoing demand for gas; it will be declining, but we will still be using it.

Lord Vaux of Harrowden (CB): My Lords, we have just heard claims that are often made about heat pumps—that they generate four to five times the energy you put in. That is only in ideal circumstances, typically where the outside temperature is 15 degrees and the water temperature is about 38 degrees. The reality is that you get out about two and a half times the energy you put in. That is a good result, but not if you are expecting four to five times. I worry that these unrealistic claims of real-life performance may undermine consumer confidence and reduce the uptake of heat pumps. Can the noble Lord please ensure that real-life performance is always made clear and included in the MCS database?

Lord Callanan (Con): The noble Lord makes a very good point. Performance will vary depending on the temperature outside. It is also worth saying that heat pumps have been installed extensively across Europe, including in countries which typically have much lower ambient air temperatures than the UK does, such as Norway. But his point is valid: we need to make sure that people are given accurate information.

Lord Foulkes of Cumnock (Lab Co-op): Would the noble Lord, Lord Callanan, be a little less pedantic than his noble friend Lord Murray? Since the noble Lord, Lord Callanan, mentioned Ofgem in his initial reply, could he explain why Ofgem wants us to pay more for all our heating, despite the wholesale cost of gas reducing? What are the Government going to do about this?

Lord Callanan (Con): I thank the noble Lord for a question not at all related to heat pumps. He makes a valid point: the price cap has been reduced in line with the reduction of wholesale prices. At the same time, there is a gap in funding because of government support. We have—the taxpayer has—been paying about one-third of people's energy bills through the winter. That support is unsustainable in the longer term and is starting to be withdrawn, but I am sure the Chancellor is looking at this very closely.

Lord Greenhalgh (Con): My Lords, is it not fair to say that implicit in the last two Questions is the rather disappointing uptake in the number of homes putting in heat pumps? I declare that I put in a gas boiler recently and got change from £5,000. Have the Government done any work on the point raised by my noble friend Lord Forsyth on the cost for the average punter to change their home? The reality is that the markets determine what people put in. We need to look at the actual cost of installing a heat pump. If we imagine a scenario where 10% of new builds have heat pumps and the retrofit programmes go in great guns, what would it cost to install one of these things? Have we got research? If the Minister cannot answer me directly at the Dispatch Box, will he please write to me with a detailed response?

Lord Callanan (Con): I can answer my noble friend directly: we have done lots of research on these matters. I will give him a couple of examples of existing offers. British Gas has a starting price for an air source heat pump of £2,999 and Octopus Energy is offering one for £2,500 including the upgrade grant that we are offering. It obviously depends on the circumstances of the property. There are huge number of variable factors, such as how many radiators you need—whether your existing radiators can be reused will depend on their size. There are a lot of different factors to take into consideration, but his point is ultimately valid, in that we have to make sure that the prices of heat pumps come down over time. As consumers get more used to them and volumes go up, I think that they will.

Baroness Worthington (CB): My Lords, I request a similarly detailed answer from the Minister on the costs of the hydrogen trials. As he will know, I do not support this way of moving forward. However, had we taken the same approach to heat pumps, ground source heat pumps in particular, how much would it have cost us per household for 2,000 homes? How much are we spending per household on the hydrogen trials?

Lord Callanan (Con): As the noble Baroness is aware, we have two potential trial villages at the moment. We will make a decision later this year on which one will be selected, assuming that we get the powers to do so in the Energy Bill. We are still looking very closely at the costs of the trial. They are still to be determined, so I cannot give her an answer yet. The two gas networks are looking at the costs as we speak.

Lord Lennie (Lab): My Lords, in addition to the underspend highlighted in the Question by the noble Baroness, Lady Sheehan, about £2.1 billion remains unspent of the £6.6 billion promised in the Conservative manifesto to be used on energy efficiency and decarbonisation of heat. The think tank E3G puts this down to a lack of effective policies on domestic insulation and decarbonisation. Can the Minister say if and how the Government intend to deliver on that manifesto promise?

Lord Callanan (Con): The noble Lord will have to have a little patience and wait for the Chancellor's spending announcement. As I have said before, there has been no lack of government commitment in this area: we are spending £6.6 billion over this Parliament, and we have already had another £6 billion committed by the Chancellor for energy-efficiency schemes from 2025. It is going well.

Lord Lansley (Con): My Lords, I draw my noble friend's attention to the Swaffham Prior Heat Network—

Noble Lords: This side!

Lord Lansley (Con): I gave way last time.

Baroness Parminter (LD): My Lords, one of the reasons for the so far disappointing uptake of the welcome boiler upgrade scheme is the lack of consumer awareness. Even the Minister's own figures from what was BEIS said that 80% of people have little or no awareness of heat pumps. He mentioned that there will be further marketing: my understanding is that this will be ads on search engines and social media. Does he really believe that £300,000 spent is sufficient for the scale of the challenge and to make this welcome scheme work?

Lord Callanan (Con): It is certainly a good start. I was talking to officials about it earlier today. It started only in the middle of January and has already driven about a 62% increase in traffic to the GOV.UK website that provides information about heat pump offers. As the scheme moves into its second year, we will move into what further marketing activity we can do.

I will go back to the question from my noble friend, who I believe was going to ask me about the Swaffham Prior scheme. For those in the House who are not aware, Swaffham Prior is a village in Cambridgeshire. I suspect that it was in his constituency—

Lord Lansley (Con): No.

Lord Callanan (Con): Anyway, I have visited it, and it is a great example of a community coming together to install heat pumps and a domestic heat network, supported by government funding. It is an excellent project and is going extremely well. I give my congratulations to Cambridgeshire County Council and Swaffham Prior on implementing it.

Bishop's Stortford Cemetery Bill [HL]

Second Reading

3.20 pm

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

That the Bill be now read a second time.

Bill read a second time.

Nuclear Regulated Asset Base Model (Revenue Collection) Regulations 2023

Motion to Approve

3.20 pm

Moved by ***Lord Callanan***

That the draft Regulations laid before the House on 15 December 2022 be approved. *Considered in Grand Committee on 22 February*

Motion agreed.

Social Security Benefits Up-rating Order 2023

Guaranteed Minimum Pensions Increase Order 2023

Benefit Cap (Annual Limit) (Amendment) Regulations 2023

Motions to Approve

3.21 pm

Moved by ***Viscount Younger of Leckie***

That the draft Orders and Regulations laid before the House on 16 January be approved. *Considered in Grand Committee on 22 February*

Motions agreed.

Northern Ireland Protocol

Statement

3.22 pm

The Lord Privy Seal (Lord True) (Con): My Lords, I shall now repeat a Statement made in the other place.

"Mr Speaker, before I begin, I know the whole House will join me in paying tribute to Betty Boothroyd, who passed away earlier yesterday. She was a remarkable woman who commanded huge admiration and respect as the first female Speaker of this House. She was as firm as she was fair, and she presided over many historic moments in this House, among them the debates on the Belfast/Good Friday agreement. Her passion, wit and immeasurable contribution to our democracy will never be forgotten."

My Lords, although those were the words of the Prime Minister yesterday, if I may break off, the House has already made it clear that I speak for the whole House in saying how much we in this House agree with those words from the Prime Minister about our late and much-loved colleague.

Noble Lords: Hear, hear.

Lord True (Con): "And, Mr Speaker, let us also send our very best wishes to Detective Chief Inspector John Caldwell and his family. He is a man of immense courage, who both on and off duty has devoted himself to the service of others. This House stands united with the people and leaders of all communities across Northern Ireland in condemning those who are trying to drag us back to the past. They will never succeed.

With permission, I would like to make a Statement on the Northern Ireland protocol. After weeks of negotiations, we have made a decisive breakthrough. The Windsor Framework delivers free-flowing trade within the whole United Kingdom. It protects Northern Ireland's place in our union, and it safeguards sovereignty for the people of Northern Ireland. By achieving all this, it preserves the delicate balance inherent in the Belfast/Good Friday agreement. It does what many said could not be done: removing thousands of pages of EU laws and making permanent, legally binding

changes to the protocol treaty itself. That is the breakthrough we have made. Those are the changes we will deliver. Now is the time to move forward as one country, one United Kingdom.

Before I turn to the details, let us remind ourselves why this matters. It matters because at the heart of the Belfast/Good Friday agreement and the reason it has endured for a quarter of a century is equal respect for the aspirations and identities of all communities and all its three strands. But the Northern Ireland protocol has undermined that balance. How can we say the protocol protects the Belfast/Good Friday agreement when it has caused the institutions of that agreement to collapse? So, in line with our legal responsibilities, we are acting today to preserve the balance of that agreement and chart a new way forward for Northern Ireland.

I pay tribute to: our European friends for recognising the need for change, particularly President Von der Leyen; my predecessors for laying the groundwork for today's agreement; and my right honourable friends the Foreign and Northern Ireland Secretaries for their perseverance in finally persuading the EU to do what it spent years refusing to do—rewrite the treaty and replace it with a radical, legally binding new framework.

Today's agreement has three equally important objectives: first, allowing trade to flow freely within our UK internal market; secondly, protecting Northern Ireland's place in our union; and, thirdly, safeguarding sovereignty and closing the democratic deficit. Let me take each in turn.

Core to the problems with the protocol was that it treated goods moving from Great Britain to Northern Ireland as if they were crossing an international customs border. This created extra costs and paperwork for businesses, which had to fill out complex customs declarations. It limited choice for the people of Northern Ireland and it undermined the UK internal market—a matter of identity as well as economics. Today's agreement removes any sense of a border in the Irish Sea and ensures the free flow of trade within the United Kingdom.

We have secured a key negotiating objective: the introduction of a new green lane for goods destined for Northern Ireland, with a separate red lane for those going to the EU. Within the green lane, burdensome customs bureaucracy will be scrapped and replaced with data sharing of ordinary, existing commercial information. Routine checks and tests will also be scrapped. The only checks will be those required to stop smugglers and criminals. Our new green lane will be open to a broad, comprehensive range of businesses across the United Kingdom.

I am pleased to say that we have also permanently protected tariff-free movement of all types of steel into Northern Ireland. For goods going the other way, from Northern Ireland to Great Britain, we have scrapped export declarations, delivering, finally, completely unfettered trade. The commitment to establish the green lane is achieved by a legally binding amendment to the text of the treaty itself. That is fundamental, far-reaching change and it permanently removes the border in the Irish Sea.

Perhaps the single most important area of trade between Great Britain and Northern Ireland is food. Three quarters of the food in Northern Ireland's supermarkets comes from the rest of the United Kingdom, yet the protocol applied the same burdens on shipments from Cairnryan to Larne as between Holyhead and Dublin. If it was implemented in full, we would see supermarket lorries needing hundreds of certificates for every individual item, every single document checked and supermarket staples such as sausages banned altogether—more delays, more cost, less choice.

Today's agreement fixes all this with a new, permanent, legally binding approach to food. We will expand the green lane to food retailers, and not just supermarkets but wholesalers and hospitality, too. Instead of hundreds of certificates, lorries will make one simple, digital declaration to confirm that goods will remain in Northern Ireland. Visual inspections will be cut from 100% now to just 5%. Physical checks and tests will be scrapped unless we suspect fraud, smuggling or disease, so there will be no need for vets in warehouses.

Of course, to deliver this we need to reassure the European Union that food imports will not be taken into the Republic of Ireland, so we will ask retailers to mark a small number of particularly high-risk food products as 'Not for EU', with a phased rollout of this requirement to give them time to adjust. More fundamentally, we have delivered a form of dual regulation for food, the single biggest sector by far for east-west trade and one of the most important in people's lives.

Under the protocol, retail food products made to UK standards could not be sold in Northern Ireland. Today's agreement completely changes that. This means the ban on British products such as sausages entering Northern Ireland has now been scrapped. If it is available on supermarket shelves in Great Britain, it will be available on supermarket shelves in Northern Ireland. We will still need to make sure that goods moved into Northern Ireland do not risk bringing in animal and plant diseases, but that is clearly a common-sense measure, never opposed by anyone, to prevent diseases circulating within the long-standing single epidemiological zone on the island of Ireland.

That brings me to the treatment of parcels. If the protocol were fully implemented, every single parcel travelling between Great Britain and Northern Ireland would be subject to full international customs. You would have needed a long, complex form to send every single parcel, even a birthday present for a niece or nephew, and you could only have shopped online from retailers willing to deal with all that bureaucracy, with some already pulling out of Northern Ireland. Today's agreement fixes all this. It achieves something that we have never achieved before: removing requirements of the EU customs code for people sending and receiving parcels. Families can, rightly, send packages to each other without filling in forms, online retailers can serve customers in Northern Ireland as they did before and businesses can ship parcels through the green lane, all underpinned by data sharing by parcel operators, with a phased rollout and time for them to adjust.

There is no burdensome customs bureaucracy and no routine checks. Bans on food products: scrapped. Steel tariff rate quotas: fixed. The tariff reimbursement scheme: approved. Vet inspections: gone. Export declarations: gone. Parcels paperwork: gone. We have

[Lord True]
delivered what the people of Northern Ireland asked for and the Command Paper promised: we have removed the border in the Irish Sea.

However, to preserve the balance of the Belfast/Good Friday agreement, we also need to protect Northern Ireland's place in our union. The Windsor framework is about making sure that Northern Ireland gets the full benefit of being part of the United Kingdom in every respect. Under the protocol, in too many ways that simply was not the case. Take tax: when I was Chancellor, it frustrated me that when I cut VAT on solar panels or beer duty in pubs, those tax cuts did not apply in Northern Ireland. Now we have amended the legal text of the treaty so that critical VAT and excise changes will apply to the whole of the United Kingdom. This means that zero rates of VAT on energy-saving materials will now apply in Northern Ireland. Reforms to alcohol duty to cut the cost of a pint in pubs will now apply in Northern Ireland. Because we now have control over VAT policy, we can make sure that the EU's plan to reduce the VAT threshold by £10,000 will not apply in Northern Ireland, nor will the SME VAT directive that would have brought huge amounts of EU red tape for small businesses.

We are also making subsidy control provisions work as intended. Already, just 2% of subsidy measures in Northern Ireland fall within the scope of EU approvals under the protocol. Nevertheless, today's agreement goes further, addressing the so-called reach-back of EU state aid law by imposing stringent new tests. For the EU to argue that we are in breach of its rules, it would now have to demonstrate that there is a real, genuine and material impact on Northern Ireland's trade with the EU. That is a much higher threshold than the protocol, limiting disputes to what the 2021 Command Paper called

'subsidies on a significant scale relating directly to Northern Ireland'.

We have also protected the special status of agriculture and fisheries subsidies in Northern Ireland, which will be completely outside the EU's common agricultural policy. All of which means that the problem of reach-back is fixed.

As well as tax and spend, the UK Government have a responsibility to protect the supply of medicines to all their citizens, but our ability to do that was constrained by the protocol. The biggest problem is that drugs approved for use by the UK's medicines regulator are not automatically available in Northern Ireland. Imagine someone suffering with cancer in Belfast seeing a potentially life-changing new drug available everywhere else in the UK but unable to access it at home. When the current grace period ends in 2024, the situation will get worse still: expensive and burdensome checks on all medicines, companies having to manufacture drugs with two completely different labels and supply chains, and pharmacies needing to check every package with complex scanners. When 80% of Northern Ireland's medicines come from Great Britain, those frictions pose a serious risk to the supply of medicines to the people of Northern Ireland.

To fix this, today's agreement achieves something unprecedented: it provides dual regulation for medicines. The UK's regulator will approve all drugs for the whole UK market, including Northern Ireland, with no role for the European Medicines Agency. This fully protects the supply of medicines from Great Britain into Northern Ireland, once again asserting the primacy of UK regulation. The same medicines, in the same packs with the same labels, will be available in every pharmacy and hospital in the United Kingdom. Crucially, dual regulation means that Northern Ireland's world-leading healthcare industry, which brings much-needed jobs and investment, can still trade with both the EU and UK markets. This is a landmark deal for patients in Northern Ireland. It is a permanent solution that brings peace of mind.

The protocol also banned quintessentially British products going to Northern Ireland. When people wanted to import oak trees to mark Her late Majesty's Platinum Jubilee, the protocol stood in their way. It suspended the historic trade in seed potatoes between Scotland and Northern Ireland. If implemented, it would create massive costs and bureaucracy for people travelling around the UK with their pets, disrupting family life and our family of nations. That is why today's agreement will lift the ban on shrubs, plants and trees going to Northern Ireland. It lifts the ban on the movement of seed potatoes, particularly important for Scottish businesses. We will deliver that by expanding the existing UK plant passport scheme.

When it comes to pets, we have made sure that people from Northern Ireland will have completely free access to travel to Great Britain. If you are a pet owner travelling from Great Britain to Northern Ireland, just make sure that your pet is microchipped and then all you will need to do is simply tick a box when booking your travel. Whether it is lower VAT rates, lower beer duty, jubilee oaks in garden centres, seamless travel with pets, seamless trade in seed potatoes or the seamless supply of cutting-edge medicines, all that is now available for everyone everywhere in the United Kingdom.

The Windsor framework goes further still, safeguarding sovereignty for the people of Northern Ireland and eliminating the democratic deficit. Fundamentally, the protocol meant that the EU could impose new laws on the people of Northern Ireland without their having a say. I know that some Members of this House, whose voices I deeply respect, say that EU laws should have no role whatsoever in Northern Ireland. I understand that view and I am sympathetic to it, but for as long as the people of Northern Ireland continue to support their businesses having privileged access to the EU market, and if we want to avoid a hard border between Northern Ireland and Ireland—as we all do—then there will be some role for EU law. The question is: what is the absolute minimum amount necessary to avoid a hard border?

Today's agreement scraps 1,700 pages of EU law. The amount of EU law that applies in Northern Ireland is less than 3%, and the people of Northern Ireland retain the right to reject even that 3% through next year's consent vote. However, that consent vote is about the whole protocol so it cannot, by its nature, provide oversight of individual new laws. It does not address the No. 1 challenge to sovereignty made by the protocol: the ability of the EU to impose new or

amended goods laws on Northern Ireland without its having a say. To address that, today's agreement introduces a new Stormont brake.

The Stormont brake does more than just give Northern Ireland a say over EU laws; it means that it can block them. How will that work? The democratically elected Assembly can oppose new EU goods rules that would have significant and lasting effects on everyday lives. It will do so on the same basis as the petition of concern mechanism in the Good Friday agreement, needing the support of 30 Members from at least two parties. If that happens, the UK Government will have a veto. We will work with the Northern Ireland Assembly and all parties to codify how the UK Government will use that veto.

Let me tell the House the full significance of this breakthrough. The Stormont brake gives the institutions of the Good Friday agreement a powerful new safeguard. It means that the United Kingdom can veto new EU laws if they are not supported by both communities in Northern Ireland. Yes, it is true that until now the EU had refused to consider treaty change; we were told that it was impossible and that EU negotiators would never consider it. The Stormont brake has been introduced by fundamentally rewriting the treaty—specifically, the provisions relating to dynamic alignment. That is a permanent change. It ends the automatic ratchet of EU law and, if the veto is used, the European courts can never overturn our decision.

The EU has also explicitly accepted an important principle in the political declaration. It is there in black and white that the treaty is subject to the Vienna convention. This means that, unequivocally, the legal basis for the Windsor Framework is in international law. I would like to thank my honourable friend the Member for Stone for his support in negotiating this point. It puts it beyond all doubt that we have now taken back control.

Mr Speaker, from the very start, we have listened closely and carefully to views on all sides of this debate. I am grateful to many Members of this House, the communities of Northern Ireland, and the voices of business and civil society for putting forward their suggestions. I want particularly to thank the Northern Ireland business groups that I have spoken to. I hope in today's agreement they recognise that we have addressed their concerns. We are delivering stability, certainty, simplicity, affordability and clarity, as well as strengthened representation for the businesses of Northern Ireland.

I also want to speak directly to the unionist community. I understand and have listened to your frustrations and concerns, and I would not be standing here today if I did not believe that today's agreement marks a turning point for the people of Northern Ireland. It is clearly in the interests of the people, and those of us who are passionate about the cause of unionism, for power-sharing to return.

Of course, parties will want to consider the agreement in detail, a process that will need time and care. There are, of course, many voices and perspectives within Northern Ireland, and it is the job of the Government to respect them all, but I have kept the concerns raised by the elected representatives of unionism at the forefront of my mind, because it is their concerns with the protocol that have been so pronounced.

What I can say is this: our goal has been to ensure the economic rights of the people of Northern Ireland under the Act of Union and Belfast/Good Friday agreement, placing them on an equal footing with the rest of the UK with respect to tax, trade and the availability of goods. We have worked to end the prospect of trade diversion, removed any sense of a border for UK internal trade, removed routine customs or checks for goods destined for Northern Ireland, removed thousands of pages of existing EU law and introduced a UK veto on dynamic alignment through the Stormont brake. We have created a form of dual regulation, where it works and is needed the most, in sectors such as medicines and food retail. We have delivered unfettered access to the whole UK market for Northern Ireland's businesses, and we will take further steps to avoid regulatory divergence in future. We have secured a clear EU commitment and process to manage future changes with a special goods body.

All of this means that Northern Ireland's businesses have continued access to the EU market, as they requested. It means we have protected the letter and the spirit of Northern Ireland's constitutional guarantee in the Belfast agreement, with the Stormont brake creating an effective cross-community safeguard. There are two distinct economies on the island of Ireland, and that will remain the case. Today's agreement puts it beyond all doubt that Northern Ireland's place in the internal market and the United Kingdom is fully restored.

I want to conclude by directly addressing the question of the Northern Ireland Protocol Bill. As I and my predecessors always said, the Bill was only ever meant to be a last resort, meant for a world where we could not get negotiations going. As the Government said at the time of its introduction, our

'clear preference remains a negotiated solution'.

Now that we have persuaded the EU to fundamentally rewrite the treaty text of the protocol, we have a new and better option.

The Windsor Framework delivers a decisively better outcome than the Bill, achieving what people said could not be done and what the Bill does not offer. It permanently removes any sense of a border in the Irish Sea. It gives us control over dynamic alignment through the Stormont brake, beyond what the Bill promised. The Bill did not change a thing in international law, keeping the jurisdiction of the ECJ and leaving us open to months—perhaps years—of uncertainty, disruption and legal challenge. Today's agreement makes binding legal changes to the treaty itself and is explicitly based on international law. Unlike the Bill, it is an agreement that provides certainty, stability and, crucially, can start delivering benefits almost immediately for the people and businesses of Northern Ireland.

Of course, the House would expect to be informed of the Government's updated legal position on whether there is a lawful basis to proceed with the Bill, so I am publishing it today. It says that, because we have achieved a new negotiated agreement, which preserves the balance of the Belfast/Good Friday agreement, the original and sound legal justification for the Bill has now fallen away. In other words, neither do we need the Bill, nor do we have a credible basis to pursue it.

[Lord True]
As such, we will no longer proceed with the Bill, and the European Union will no longer proceed with its legal proceedings against us. Instead, we will pursue the certainty of a new way forward, with the Windsor Framework.

Let me remind the House of the full breadth and significance of what we have achieved today. We have achieved free-flowing trade, with a green lane for goods, no burdensome customs bureaucracy, no routine checks on trade, no paperwork whatever for Northern Irish goods moving into Great Britain and no border in the Irish Sea. We have protected Northern Ireland's place in the union, with state aid reach-back fixed, the same tax rules applying everywhere, vet certificates for food lorries gone, the ban on British sausages gone, parcel paperwork gone, pet paperwork gone, garden centres now selling the same trees, supermarkets selling the same food and pharmacies selling the same medicines. We have safeguarded sovereignty for the people of Northern Ireland, with the democratic deficit closed, the Vienna convention confirmed and thousands of pages of EU law scrapped. With the Stormont brake, we have safeguarded democracy and sovereignty for the people of Northern Ireland.

That is the choice before us. Let us seize the opportunity of this moment—the certainty of an agreement that fixes the problems we face, commands broad support and consensus, and offers us, at last, the freedom to move forward together. That is what the people of Northern Ireland deserve; that is what the Windsor Framework delivers. As a Conservative, a Brexiteer and a unionist, I believe passionately, with my head and my heart, that this is the right way forward—right for Northern Ireland, right for our United Kingdom. I commend it to this House."

3.47 pm

Baroness Smith of Basildon (Lab): My Lords, I thank the Minister for repeating the Statement—that was quite a feat of endurance. He should be grateful that we have a time limit today; the Prime Minister was on his feet for over two hours yesterday.

I also thank the Minister for his comments about Betty Boothroyd—the noble Baroness, Lady Boothroyd. So many Members of this House will have memories of her that we cherish and enjoy sharing. I can hear her voice today: I remember answering the phone and hearing her opening words, "Now listen, luvvie"—and of course I would. As sad as we are at her passing, we can only celebrate a long life, well lived. We look forward to the opportunity to commemorate her and share our stories with a smile.

It is with real sadness that I echo the comments about the shocking and cowardly attack on PSNI Detective Chief Inspector John Caldwell. The impact on him, his family, his friends, his colleagues and all who know him is devastating. For DCI Caldwell and his family, life may never be the same again. For his colleagues and the community he serves, this is a stark reminder that there remain a few who do not share their commitment to peace. The most moving, emotional and, in many ways, uplifting scenes that I saw on TV this past weekend were of the people of Omagh—a town that suffered so much—standing united to proclaim, "No going back". They represent the people of Northern Ireland. The immediate and unequivocal joint statement from Sinn Féin, the DUP, the SDLP, the Alliance Party and the UUP was, in so many ways, a manifestation of how far we have come since the signing of the Good Friday/Belfast agreement in 1998. The shooting of DCI Caldwell is a reminder of just how crucial it is to continue working together to uphold peace and support Northern Ireland's institutions.

When the people of Northern Ireland overwhelmingly endorsed the Good Friday agreement, the UK Government took on responsibility as a joint guarantor, so a key question for many of us, when the protocol was negotiated and signed by then Prime Minister Boris Johnson, was its compatibility with the agreement. We knew it could never be perfect, but we also recognised that the assurances given by Mr Johnson that there would be

"no forms, no checks, no barriers of any kind"

on goods crossing the Irish Sea post Brexit were not based in reality. Who can forget his flamboyant promise to an audience of Northern Ireland businesspeople that they should call him if anyone tried to get them to complete a form? That was not just wrong; the lack of honesty was disrespectful to those who had raised legitimate concerns.

The solution to the problems was never going to be the aggressive approach of, in effect, tearing up an international treaty that the Prime Minister and Ministers had negotiated and signed. Not only would it not work but it would signal to the world that the UK could not now be trusted to keep its word. That is a dangerous position to be in when we have to negotiate post-Brexit trade deals.

It is no surprise that, during our long and at times passionate debate on the Second Reading of the Northern Ireland Protocol Bill, the key questions from across the House were: why were Ministers not at the negotiating table trying to resolve legitimate outstanding issues with the protocol, rather than standing at the Dispatch Box trying to defend the unilateral tearing up of that binding international treaty? Why were the Government not engaging effectively with unionists' concerns? Why were they not listening to businesses about the need for common sense, clarity and honesty? Why did the Government negotiate and sign the treaty, given its failings?

On a recent visit to Northern Ireland with Keir Starmer and Peter Kyle, businesses had a common message for us. They had different concerns about the protocol, but they all wanted to make it work and they all had suggestions of how, through negotiation, changes could be made that would minimise problems. My party has always said that if the Prime Minister were serious about negotiating a deal with our partners in the EU, we would back him. So we welcome the Prime Minister's Statement and the publication of the Windsor Framework announced by Mr Sunak and President von der Leyen. It proves that the complex legal and trade issues are best resolved through diplomacy, not unilateral action or headline-seeking bluster. We welcome the Prime Minister's change of approach.

We also welcome that Mr Sunak has now, as part of the agreement, finally committed not to proceed with the Northern Ireland Protocol Bill. We will never

know how much sooner this new framework could have been agreed if the time and energy put into that Bill had been used instead to focus on negotiations from the beginning.

Lord Lilley (Con): My Lords—

Baroness Smith of Basildon (Lab): The noble Lord heckles me from a sedentary position. I suggest that he should apologise to those who have had to deal with these negotiations to change the protocol that he supported. Had he not—

Lord Lilley (Con): My Lords—

Baroness Smith of Basildon (Lab): No, I am not giving way. I am not prepared to give way to the noble Lord who tried to heckle me from a sedentary position. He will have the opportunity to ask questions later. If he wants to heckle, he should understand that people respond to heckles like that. We just do not know—

Lord Lilley (Con): My Lords—

Baroness Smith of Basildon (Lab): No, I am not giving way, and he should not heckle. He should behave in this House; he has been here long enough.

How much sooner could this new framework have been agreed if the time and energy put into the Northern Ireland Protocol Bill had been put into negotiating the framework? The outline of a deal has been clear for months. Business organisations have been crying out for certainty for even longer, not only because of short-term stock issues or the burdens of additional paperwork but because the uncertainty was creating systemic problems on the ground. A lack of clarity on trade terms, both within the UK internal market and with the EU, was extremely challenging to those seeking to attract investment into Northern Ireland's economy.

As the detail of the agreement is examined, debated and challenged, we urge the Prime Minister to be honest about the compromises that have had to be reached —compromises made in the best interests of Northern Ireland and the UK as a whole.

When arguing against the protocol, a key issue raised by the DUP, as we heard in yesterday's debate on the Northern Ireland executive formation Bill, is the democratic deficit caused by the protocol. Those concerns must be understood but, as my noble friend Lord Murphy of Torfaen, who has considerable experience on this issue, asked the House yesterday, is there not a bigger democratic deficit in the people of Northern Ireland not having a functioning Assembly or Executive? Crucial decisions are either not being taken or being taken by civil servants rather than Ministers. Meanwhile, the people of Northern Ireland are not being served properly in the face of a cost of living crisis affecting the entire UK. If we are making the case that the Good Friday agreement is undermined by the protocol, we must understand that the absence of those political and related institutions is also breaching the agreement.

The tone of DUP leader Jeffrey Donaldson's comments yesterday, when he said he would examine the detail of the new framework, is welcome, as is the Prime Minister's commitment to giving Northern Ireland's political parties the time and space for their own deliberations and to address any points raised. This new agreement should provide a path through the political stalemate and towards the restoration of power-sharing, even if that is not immediate. In this 25th anniversary year of the Good Friday agreement, I hope we can move forward in a spirit of co-operation rather than seeking more negotiations.

The Windsor Framework will not in isolation solve all Northern Ireland's problems, nor completely reset the UK's relationship with the EU. Beyond the protocol, the Government are pressing ahead with the revocation of vast swathes of retained EU law at the end of this year. Such a step would likely have implications for the trade and co-operation agreement, which relies on minimum standards in several areas. We accept that the Government want a framework for replacing retained EU law and that we need to establish the future status of laws carried over from our time in the European Union.

However, having sought the Windsor Framework to provide certainty for businesses in Northern Ireland, it is counterintuitive to create uncertainty for businesses across the whole UK by introducing a regulatory cliff edge at the end of this year. Surely it is illogical, impractical and reckless to allow potentially important pieces of law to fall off the statute book by default because a department lacks the capacity to identify and rewrite them in the next 10 months. Perhaps the Leader can help me on this. Was it discussed with the Commission President yesterday? Can he now look again at our common-sense and pragmatic approach to review the process of existing retained law?

In conclusion, this important deal may not be perfect, but it represents a significant step forward. In welcoming it, we should pause for a moment to consider the wider context. For the past six and a half years, the at times toxic debate around Brexit, both in Parliament and in the wider country, has cast a shadow over our politics and civic debate. One of the worst aspects has been that the expression of any doubt about the process, let alone the outcome, has generated abuse and false accusations of not respecting the referendum. At the very outset of our debates, I said that the process and delivery of Brexit should not be led by those who had no doubt, because it is through doubt that we have challenge. It is through challenge that we have scrutiny and through scrutiny that we get better decisions and better legislation. The Prime Minister's Statement is an admission that the Government made mistakes in negotiating and signing the protocol, and that there was a lack of honesty. We welcome today's Statement. As we move forward, this should be an opportunity to reset our politics.

Lord Newby (LD): My Lords, I too thank the Leader for repeating this very long Statement. My principal emotion on hearing that an agreement had been reached and on reading the documentation was overwhelmingly one of relief. I suspect that this feeling is shared on a widespread basis across the House. For months the wrangling over the protocol has taken up a huge amount of time and political capital. It preoccupied your Lordships' House with the Northern Ireland Protocol Bill and acted as a blockage to

[Lord Newby]
constructive engagement between the UK and the EU on a range of other issues that had absolutely nothing to do with the protocol itself.

The Windsor framework represents an outbreak of common sense on both sides and it should bring great relief to many in Northern Ireland who were worried about the practical costs of the previous trading arrangements or what they saw as threats to the Good Friday agreement. The Prime Minister and other Ministers involved in securing this agreement are therefore to be heartily congratulated on achieving it. It would perhaps be churlish to point out, however, that the only reason all this effort was needed, and that all the contortions required to get to today's position were necessary, was the deeply flawed original agreement, an agreement enthusiastically supported at the time by those who have now fundamentally renegotiated it. So I shall not dwell on that point today.

On the actual contents of the agreement, the only aspect which raises an immediate warning flag to me is the Stormont brake. If it is indeed used in only exceptional circumstances, that is one thing; but if it came to be used regularly, it could in itself lead to serious instability and uncertainty. I know that this issue is of particular concern to my colleagues in the Alliance Party. Having had an initial brief meeting today, they have asked to see the Prime Minister again to discuss this in detail. I hope the Leader can give me an assurance that the Prime Minister will not now simply be spending a lot of time with the DUP but will equally meet with the other parties in Northern Ireland to discuss any outstanding issues they might have.

In the short term, however, yesterday's agreement will bring relief for many people in Northern Ireland and will hopefully, one would have thought, lead to a rapid resumption of the Northern Ireland Executive. This, though, is entirely down to the attitude taken by the DUP. We have heard much from them about the democratic deficit caused by the protocol, but as the noble Baroness, Lady Smith, pointed out, the democratic deficit caused by the continued absence of an Assembly is surely even more pressing for the daily lives of the population in Northern Ireland. To make an obvious point, if the Stormont brake is to rectify the democratic deficit, there needs to be an operational Administration in Stormont to pull it, so I hope the DUP will now allow the Assembly to function once again without further delay.

Beyond this, we need to use this outbreak of civility and the commitment by the Government and the EU to, in the words of the Command Paper,

"a positive, constructive relationship as partners"

to serve as a reset of our overall relationship with the EU, so that we can begin to mitigate some of the other costs of Brexit. It is, for example, welcome that the EU is now prepared to unblock the UK's participation in the Horizon programme. This is long overdue, and I hope the Government grasp this opportunity with both hands, but this should surely be only the start. If it were possible, following the precedent of this agreement, to remove many of the costly barriers to trade with mainland Europe itself, there would be an even greater benefit for the economy as a whole than sorting out the protocol. If, for example, much of the red tape created by the TCA could be removed, small businesses, fishermen and farmers could trade with the EU at much lower cost. With a spirit of good will, the problems facing travelling artists could be mitigated, the lack of comprehensive financial services arrangements could be rectified and the many remaining issues on immigration between the UK and EU could be addressed in a serious manner.

This agreement offers the prospect that, if the EU believes that the UK is acting in good faith and can be a reliable partner, we can make progress across a much broader range of issues. Reaching agreement on the Northern Ireland protocol is a good start, but there is a lot more to do.

Lord True (Con): My Lords, I thank the noble Baroness and the noble Lord for the manner of their responses and the broad and deep welcome, I felt, they gave to the great and distinguished efforts made by my right honourable friend the Prime Minister and the other parties in the negotiation—any negotiation needs two parties—in getting to this place. I will take back to the Prime Minister those very positive comments.

I do not wish to put anybody in any kind of box or to say that anyone will be responsible for anything at this time. This is a moment of opportunity but, as the noble Lord said, it is right that all parties be given time and space to reflect on the details of what has been placed before Parliament, not only the Command Paper but the detailed text alongside it. I will not challenge anybody at this Dispatch Box to do anything, although obviously we would all agree that the restoration of the institutions in Northern Ireland is a high priority and in the interests of its people.

I can give the noble Lord the assurance he asked for: not only are we committed to providing a proper say for Stormont in the joint committee process and will codify the process around the Stormont brake in domestic legislation, but we will engage in detail with the political parties in Northern Ireland, not just one set, on the best way to enshrine a meaningful say for Stormont in the scenario where the UK Government are deciding whether or not to veto a completely new rule being applied under Article 13.4. Those conversations must go on.

The House always indulges itself in criticising my right honourable friend the former Prime Minister. I must put on the record that, but for him, we would never have left the EU, as the public requested in a referendum. We should also remember that the Northern Ireland protocol, with all its imperfections, was born of a situation where a majority in both Houses were seeking to frustrate that. However, I agree with the sentiment expressed by the noble Baroness in her very statesmanlike response that we should leave these matters behind us.

On the Northern Ireland Protocol Bill, we will have to leave it to future memoir writers to know the motivations of the people who came to the negotiating table, or not. I am not as certain as others might be about whether the Northern Ireland Protocol Bill had an effect or not, but I do not believe it is a fruitful subject for debate. To repeat what the Prime Minister has said and I have said from this Dispatch Box on a

number of occasions, the important thing is that His Majesty's Government—and Her Majesty's Government, as they were in those days—always preferred agreement and negotiation as the way forward. For whatever motivation and reasons, that negotiation has been undertaken in good faith and has delivered this framework agreement, which will hopefully secure the prosperity of Northern Ireland, the key aim of us all.

I do not know whether the retained EU law Bill, about which I was asked, was discussed yesterday. Obviously, the Government intend to proceed with the Bill, but I was present on the Front Bench to hear some of the discussions on the first day and will continue to listen to your Lordships' House. I hope that we make reasonable progress in considering it.

I thank noble Lords for their response. I agree with those who have said that good relations between us and all our allies and neighbours is in our interests and theirs. On the basis of this agreement and the remarks made across this House, I hope we can now move forward in that purposive and positive spirit.

4.09 pm

The Earl of Kinnoull (CB): Many matters between the UK and the EU remain in cold storage: Horizon, as the noble Lord, Lord Newby, said; the agreement to have co-operation in financial services regulation; and, indeed, the 24 committees that exist under the trade and co-operation agreement, which today are operational but are not truly operating to the benefit of all 500 million people concerned. Could the Minister say what has been agreed with the European Union about the speed of the thaw—the speed with which these things can be started up—now that we are set on a new track of a relationship?

Lord True (Con): My Lords, I have only just served out breakfast to your Lordships' House, so I am not going to describe when we might reach dinnertime. I think that the intent and aim is there that we should proceed constructively. Indeed, the Windsor Framework envisages not consent mechanisms but mechanisms for consideration and discussion of some of the aspects of the agreement going forward. Nor am I going to speculate on specific instances or committees. I repeat that, in these difficult times, when we face peril and violence in eastern Europe among other things, we hope that the earnest and the spirit that the Prime Minister and the President of the European Commission both put on the table will be fruitful in many ways.

Lord Lilley (Con): Would my noble friend agree that the unionists in Northern Ireland are sensible to want a full analysis from the lawyers before they decide whether this is something they can implement? However, all of us can agree that the Prime Minister has achieved a major step forward. This is infinitely superior to what was in the protocol and validates his decision to ignore those who wanted to make a temporary and transitional arrangement permanent and implement it in full, as so many on the other side of the House did. Was not the Prime Minister right to follow Teddy Roosevelt's advice and negotiate with a quiet voice but carrying a big stick?

Lord True (Con): My Lords, that last remark takes me back to the memoir writers. We shall see whether the big stick played its part. As I said—I am grateful to the noble Baroness opposite for also saying this—it is absolutely right and reasonable that all parties in Northern Ireland should look very carefully at the text and the details that the Government have laid out. That is why we have sought to lay out a detailed text in co-operation with the European Union. Of course this is better than the Northern Ireland protocol. I am delighted that that is the case, and I clearly agree with what my noble friend said on that point.

Lord Reid of Cardowan (Lab): My Lords, this is an occasion for bringing the House together rather than dividing it, given the importance of this issue. For my part, I have no hesitation in congratulating the Government and all the Ministers who were involved—including those on the Front Bench—on what I think is quite a stunning success. As the noble Lord, Lord Cormack, said earlier, two successes in two days is quite a record at the moment.

I would merely make a couple of comments on the Stormont brake. The first is that it is a major step forward in negotiations with the European Union but, as I understand it, it can work only if there is an Assembly sitting, as has been said. Effectively, not to have that Assembly sitting snatches defeat from the jaws of success and allows the EU to impose anything it likes. I know that our colleagues in the DUP will be considering this, and that is one of the aspects they will wish to look at. I will say no more on that. The second point is that the brake is a sort of sudden, 100% brake—a veto—even if the Assembly is sitting. Is there not a mechanism for allowing consultation prior to a brake being used, or prior to the EU bringing in legislation? If there is the possibility of that, could we look at what mechanism we might have for discussing this?

Lord True (Con): I thank the noble Lord for his opening remark, from his long personal perspective of service. That is why I said I did not want to put anybody in a box on this occasion; I think time, space and consideration are extremely important.

As far as the brake is concerned, the noble Lord is of course right to say that it will need the Stormont Executive to be in place. We believe that this agreement could mark a turning point for Northern Ireland and potentially puts power back into the hands of the people of Northern Ireland, where it always should be and should have been, and a restored and functioning Executive are important. To repeat, it is now for the parties to decide how they want to move forward with that mechanism. The advantage of the brake over what we had before is that it can be applied to points of detail, provided they have a significant impact, potentially, on the people of Northern Ireland; whereas, with the protocol, it was all or nothing, throwing a lot of stuff out. Within the process of the brake, which I am sure will be carefully examined over the coming days and weeks, there are various points for discussion and scrutiny.

Lord Dodds of Duncairn (DUP): My Lords, the crucial question is whether or not people in Northern Ireland are to continue to be denied equal status,

[Lord Dodds of Duncairn]
democratically and constitutionally, with our fellow country men and women, and the resultant consequences for separation and economic divergence from the rest of the United Kingdom.

Overnight, we have had greater analysis and some of the unhelpful exaggeration around the deal has been stripped away. For accuracy, can the Leader, for whom I have great personal respect, confirm to what extent Northern Ireland will continue to be governed by EU laws and subject to EU legal jurisdiction for large parts of our economy, for which no consent has ever been sought or given? Can he confirm how many of the 300 areas of EU sovereignty in Annex 2 to the protocol will be removed? He talked about pages being removed, but how many of those areas will be removed? On the Stormont brake—it is important to remember that this is still, as I understand it, subject to negotiation—can he confirm that, as currently set out, it does not give the final say or block to the Northern Ireland Assembly, even on a cross-community vote, but can be overridden by a Minister here and will leave us subject, in terms, to retaliatory measures against the United Kingdom as a whole by the EU?

Lord True (Con): My Lords, on the last point, as the noble Lord has set out, clearly the initiative comes from the request, which is consonant with the existing petitioning system that action should be taken and then that matter discussed in the joint committee between the two Governments. It would be the British Government who would operate the veto, but that would be a very open process. Obviously, I cannot commit future British Governments, but one would expect that, in those circumstances, the British Government would give the very greatest weight to the points that have been put forward by the Stormont Assembly.

As for as the range of EU law, I will have to write to the noble Lord on the specific number of instruments, but, as the Prime Minister set out very clearly, about 1,700 pages of EU law will be removed. The Statement was absolutely honest that about 3% of EU law provisions will remain in relation to goods and the matters covered by the protocol, but I submit that some of them, for instance, relate to the single electricity market on the island of Ireland. These are matters where Northern Ireland itself gains a great deal from being within the all-Ireland and wider single market, and Northern Ireland businesses have argued for it. I must repeat that we are talking about 3% here, as against 97% removed.

It was very kind of the noble Lord to speak kindly of me, and I have equal respect for him. I urge him and his colleagues to reflect and think carefully in the future, and realise that there may be some aspects where it may be to the advantage of all the people of Northern Ireland for that 3% to stay. But on the other areas, the Statement is absolutely clear, and this is an important treaty change—I repeat, a treaty change—that what will apply to so much in this framework now is not EU law but international law governed by the Vienna convention.

Baroness Ritchie of Downpatrick (Lab): My Lords, I thank the Leader of the House for the Statement. I welcome the progress made in the Windsor Framework because it will lead to a reduction in Brexit friction and lead the way forward for those in Northern Ireland who are interested in consensus and prosperity. Does he agree that there should now be a restoration of the political institutions in Northern Ireland, notwithstanding the concerns around the Stormont brake? We should also consider the fact that 56% of the people of Northern Ireland voted to remain in the European Union and support the protocol because of its provisions on dual access. Can he provide the House with an assurance that dual access to both markets, which is required by businesses in Northern Ireland, will continue? Further, can he provide clarification in relation to the Stormont brake? Who will trigger the process, what will that process contain, and what will constitute the need for such a triggering of the process?

Lord True (Con): My Lords, as set out in the Statement, I say that the brake will come from the Assembly and, as with the petition, from 30 MLAs; however, it will have to come from more than one party, as in the current arrangements. Obviously, the intention of the framework is not to deny Northern Ireland access to the market in the rest of the island of Ireland. Indeed, for some industries, there is great dependency on trade across the border; that is inherent in the small part of the trade and co-operation agreement that I was discussing with the noble Earl, Lord Kinnoull. We hope that openness to the Republic of Ireland in respect of the market and trade in it will be preserved in this agreement; however, the fundamental point is that the agreement also addresses our UK internal market and strips down unacceptable barriers to east-west trade, which have rightly caused concern and regret in Northern Ireland.

Lord Jay of Ewelme (CB): My Lords, this is an ambitious and far-reaching agreement with a great deal of material that will need to be digested and carefully analysed; the Northern Ireland protocol committee, which I have the honour of chairing, will start on that shortly. Can the Minister assure us that, now that an agreement has been reached, the Foreign Secretary will give evidence to our committee and therefore help us in the inquiry that we are about to start? Secondly, on behalf of the committee, I wrote to the Foreign Secretary last Friday on the supply of medicines to Northern Ireland. I argued that the falsified medicines directive might be disapplied and, for example, that single packs of medicines should be available throughout the United Kingdom. Yesterday's announcement suggests that this has all been agreed. Can the Minister confirm that? Does he agree that a letter sent on Friday and a positive reply received on Monday represent a remarkably quick turnaround, even by the high standards of your Lordships' House?

Lord True (Con): The noble Lord should not ask for too much; he cannot ask me to control the Foreign Secretary's diary, but I will certainly let the Foreign Secretary know about the great interest of the noble Lord and his committee, whose work I very much value, in that matter, but I cannot commit to him in any way. Although I think it invidious to single out individuals I say that, in addition to my right honourable friend the Prime Minister, the Foreign Secretary and

the Secretary of State for Northern Ireland have both played an enormously distinguished part in bringing about these arrangements. As we laid out in the Statement, we believe that we now have a situation where we will have a single medicines pack for the whole of the United Kingdom, including Northern Ireland. To supply to Northern Ireland, business will need to secure approval for a UK-wide licence from only the UK's MHRA and not the EMA as well.

Lord Howell of Guildford (Con): My Lords, I am a big admirer of Northern Ireland and its people, having served there for some years. Does my noble friend agree that those who argue that they now want Northern Ireland to be treated and governed in exactly the same way as the rest of the United Kingdom are quite wrong? On the contrary, does not the Windsor Framework confer or confirm an enormous advantage on the people of Northern Ireland and the economy of Northern Ireland which will give them great gain and benefit in the future? All that is needed now is for the people of this nation with the most devolved and established parliament of its own in the United Kingdom to get together and make that parliament work.

Lord True (Con): My noble friend is right. There are certainly advantages which this framework enables to continue in north-south access and north-south trade. However, I repeat that there is the corollary, which was neglected and which the UK and the EU have addressed in this agreement, of obstruction to east-west trade. I agree on the institutions, but I stick by what I said at first. I am not going to put anybody in a box. It is reasonable that all those who have suffered and considered and laboured in very difficult years across many decades—indeed, I go back to the time when my noble friend was a Minister—reflect and examine the documents before us.

Lord Campbell of Pittenweem (LD): My Lords—

Lord Hain (Lab): My Lords—

Noble Lords: Hain!

Lord Campbell of Pittenweem (LD): My Lords, I welcome the Statement. However, we should pause and remind ourselves that there were two parties in this negotiation. Justifiably, the House has already been generous to the Government. We should show similar generosity to the European Union, without whose concessions this agreement would not have been reached.

Lord True (Con): I believe that I had sought to do that, my Lords.

Lord Cormack (Con): My Lords—

Lord Hain (Lab): My Lords—

Noble Lords: Hain!

Baroness Williams of Trafford (Con): My Lords, I am trying to be as fair as possible and get as many people as possible in. Can we hear from my noble friend Lord Cormack, followed by the noble Lord, Lord Hain?

Lord Cormack (Con): My Lords, I salute the courageous persistence of the Prime Minister in achieving this for our country. Will my noble friend make another appeal to those who represent the people of Northern Ireland in the Northern Ireland Assembly? Surely they should seize the opportunities that my noble friend Lord Howell talked about a second ago and meet. This is not perfect, but it is the right way forward.

Lord True (Con): My Lords, it is in the nature of any agreement, particularly one that is ultimately successful, that there must be some element of compromise. However, I will not add further to what I have said, which was the right position. We wish to see restitution of the institutions but that must come, like everything else, from and for the people of Northern Ireland.

Lord Hain (Lab): My Lords, I congratulate the Prime Minister on achieving an agreement which frankly has far surpassed all expectations. Can the Minister comment on those rather intemperate instant reactions that we have seen from some in his own party, and indeed from Northern Ireland, which are almost saying that Northern Ireland should not remain within the single market? The logic of that would be that the external customs frontier of the European Union would be across the island of Ireland and would be a hard border. They should come clean on that if that is what they really mean.

Lord True (Con): My Lords, I always think it is good to reflect before speaking; being at this Dispatch Box does not always give you that opportunity, but I agree with what the noble Lord said. It is also the case, and again I repeat myself, that trade between the north and south is important to business and to the life of the island. The best thing for the people of Northern Ireland and the whole of the United Kingdom is prosperity, which is assisted by free and wide trade. I hope that this agreement contributes to both north-south and east-west trade.

Baroness Hoey (Non-Afl): My Lords—

The Deputy Speaker (Baroness Fookes) (Con): My Lords, I think that concludes the time for questions, unless the House decides otherwise.

Baroness Williams of Trafford (Con): My Lords, can I just appeal to the House to hear the noble Baroness, Lady Hoey?

Baroness Hoey (Non-Afl): Thank you, my Lords. This is a hugely optimistic Statement from the Prime Minister and understandably, because it makes things so much better than the protocol did. But sometimes optimism can be taken back when the detail is examined. I have a specific question for the Leader of the House. Yesterday in Parliament, and in an article today for the Belfast *News Letter*, the Prime Minister stressed the importance of the Acts of Union. That is welcome, but the agreement is lacking a legal text and the Command Paper is lacking further explanation on

[Baroness Hoey]
how the Government plan to lift the subjugation of the Acts of Union in domestic law. Could the Minister tell me what actual steps will be taken in domestic law to release the Acts of the Union from their present subjugation, as said by the Supreme Court? In the absence of legal provisions to remedy the effect of Section 7(1)(a) of the 2018 Act on the Acts of Union, all references in the world to our foundation and constitutional situation will mean nothing.

Lord True (Con): My Lords, we believe that the framework we have put forward is consistent with the Act of Union in its fullest sense. In my personal opinion as a unionist, that is a vital text. On the noble Baroness's specific questions about how we will take this forward and what action might be taken, I will write to her, if she will allow me, as part of the ongoing discussion. If there are any worthwhile observations, I will put that in the Library.

Lord Lexden (Con): My Lords—

The Deputy Speaker (Baroness Fookes) (Con): I am sorry; time is now up.

Royal Assent

4.32 pm

The following Act was given Royal Assent:

Northern Ireland (Executive Formation and Organ and Tissue Donation) Act 2023.

Retained EU Law (Revocation and Reform) Bill

Committee (2nd Day)

Relevant documents: 28th Report from the Secondary Legislation Scrutiny Committee, 25th Report from the Delegated Powers Committee, 13th Report from the Constitution Committee. Scottish Legislative Consent withheld, Welsh and Northern Ireland Legislative Consent sought

4.34 pm

Clause 1: Sunset of EU-derived subordinate legislation and retained direct EU legislation

Amendment 7

Moved by ***Baroness Randerson***

7: Clause 1, page 1, line 4, at beginning insert "Except for the Motor Vehicles (Wearing of Seat Belts by Children in Front Seats) Regulations 1993 (S.I. 1993/31),"

Member's explanatory statement

This amendment excludes the Motor Vehicles (Wearing of Seat Belts by Children in Front Seats) Regulations 1993 from the sunset in Clause 1. The Regulations protect children from serious injury or death in vehicle accidents.

Baroness Randerson (LD): My Lords, this group includes four pieces of transport-related retained EU law, simply to illustrate how fundamental it is to our own protection, both physically and as consumers, with compensation and assistance when things go wrong.

There are many regulations from our 40 years of EU membership that I could have chosen because they have reduced death and injury on our roads. In Amendment 7, I focus on the 1993 regulations on the wearing of seat belts in the front seat of cars by children. These regulations were a consolidation of earlier ones that, in 1983 and 1989, had gradually enforced seat-belt wearing for children.

There are also detailed EU-derived regulations on child car seats, specifying designs by height and weight. Children are not just small adults: they are proportioned differently, their bones are not fully formed, their skeletal structure does not protect their internal organs in the same way, and their necks and heads need greater support. Child car seats reduce the chances of a child's death in an accident by nearly half, in comparison with them wearing a regular adult seat belt.

I hope that the Minister will clarify that the Government have absolutely no intention of reducing car safety standards for children, but this example illustrates that one person's deregulation is another's lifesaver. These regulations have been developed over many years. It is 40 years since the introduction of compulsory seat belts, but it was recently possible for our Prime Minister to be so unaware of their importance in saving lives that he was happy to record a video sitting in a moving car without one. Even today, around a quarter of car occupants killed in road accidents are not wearing seat belts. In the case of young men, it is a third of deaths.

Noble Lords cannot take for granted that our Government will want just to maintain existing regulations. We also need to look at the need to upgrade them. The Bill incorporates a fundamental principle that there should be no increase in regulatory burdens. That is clearly at odds with higher safety standards on seat belts and child seats. We received a letter in the last few minutes from the Minister that states quite clearly that the Government's definition of "no additional regulatory burdens" means that one can upgrade one aspect of a regulation but, overall, within an SI, there can be no increase in administrative burden. As technology moves on, that will be jolly difficult with something such as seat-belt wearing.

Amendment 24 refers to the Road Vehicles (Approval) Regulations 2020. These ensure that new cars, buses and goods vehicles comply with high standards of safety and environmental protection. If these regulations were to be revoked on 31 December, those vehicles would not be able to be registered from 1 January next year, thus stifling the development of new vehicle design and greater efficiency.

The recently published GB type approval scheme would be revoked before its mandatory application date of 1 February next year, wasting two years of government/industry collaboration. The key point here is that the subsequent lack of environmental and safety regulations would immediately strike at the competitiveness of UK vehicle manufacturers and retailers. New entrants to the market would not be required to meet current

high standards, and there would be no requirement for further improvement. Will the new GB type approval scheme be considered a new regulatory burden and, hence, revoked before it even starts?

Furthermore, there is now a package of 50 new measures planned for adoption in the EU this summer. To compete internationally, our auto manufacturing industry needs to keep up with the best. Before Brexit, the UK would have adopted that package as a matter of course. What plans do the Government have to mirror those standards in UK law? Everyone using our roads deserves the safest possible vehicle with the lowest possible emissions, and that is what these new EU regulations are about.

Amendments 8 and 9 are a sample of the various regulations that set out consumer law on air travel and holidays, including airlines' liability requirements in the event of accidents, loss or damage to baggage, and disabled passengers' rights to assistance. Amendment 8 deals with compensation for cancelled or delayed flights. The importance of these rights was underscored last summer as aviation struggled to recover from the pandemic. Regulation EC 261/2004 establishes common rules on compensation and assistance for passengers. Clearly, common rules are important in an international industry.

Amendment 9 is on the Package Travel and Linked Travel Arrangements Regulations 2018, which modernise previous protections for customers buying package holidays. They broaden the scope to include so-called linked travel arrangements, reflecting the way that many of us now buy our holidays online. Package holidays transformed the international holiday market, opening it up to a much wider customer base, but its success relies on customer confidence that the company offering the package, to which you pay your money, will take responsibility for the whole set of arrangements, pass on your money to hoteliers, purchase the flights and rescue you from disaster when something goes wrong. The volcanic ash cloud of 2010 illustrated the importance of this type of arrangement. In December, Mark Tanzer of ABTA, the largest travel trade body, said that:

"The protections afforded by these regulations are essential to maintaining consumer confidence"

and that the

"sunset deadline … has the potential to destabilise the travel industry."

I am especially looking forward to examining exactly what the Minister says in response to Amendments 8 and 9, because last year the Department for Transport consulted on plans to reduce customer rights to compensation for internal flights. Can the Minister confirm whether the department is proceeding with this plan? It will, of course, be fully in line with the principles of reducing the regulatory burden that underlie this Bill, but it would damage consumer confidence in domestic airlines.

When I last looked, there were 424 pieces of Department for Transport-related law on the dashboard to be considered by the end of this year. In a world of rapid technological change we should spend our time upgrading our legislation, not retreading the past. The Department for Transport is already puffing along behind the rest of the field, unable to keep up with world leaders.

4.45 pm

For example, the Secondary Legislation Scrutiny Committee identified a 20-year delay in transposing maritime legislation on to our statute book. Since the Brexit vote, the output of our auto manufacturing industry has halved. Time and again, manufacturers have stressed that to remain competitive they have to go to the countries that are most technologically advanced, and integration with the large EU market is a key factor. Following the same rules is an obvious part of that integration.

There are 4,000 pages of aviation legislation buried in the dashboard. They enable our airlines to fly and our aerospace industry to sell its planes. These industries do not want this legislation dismantled. They want it updated in a regular and timely manner. Until recently the UK has been a leader in setting high environmental and safety standards in aviation, which have been the bedrock of so much investment in the UK.

These are just four examples from the 424 pieces of Department for Transport-related EU legislation. I look forward to the Minister's response and to the rest of the debate.

Lord Fox (LD): My Lords, I support Amendments 7 to 9 and 24 in this group, signed by me and my noble friend Lady Randerson, who gave an excellent speech setting out very serious points on these issues.

During the last Committee session, a number of serious points were raised. Aside from the unmitigated chaos that sometimes emerged on the Government Front Bench, there were three major, standout learnings. I make no apology for retreading them slightly because they apply to this and some other groups of amendments that we will debate. The Minister himself described British law as a "mishmash" of UK and EU-derived laws that operate together. That point, made by many of your Lordships, is also our point: how can you change one part of the mishmash without it having an effect on everything else?

Many of us raised the element of case law—the legal interpretation of the Minister's mishmash. Last week highlighted the vital point that even assimilated law, essentially the same as the EU-derived law it replaces, loses the case law that was built around it to date. The Government seem not to have found a way of porting legal interpretations to new, assimilated laws under this Bill. We await further details of the Government's plans from the Minister, as promised.

As my noble friend said, we got a letter from the noble Baroness, Lady Bloomfield, some moments before we arrived here; some of us were already in here when we received it. It sheds some light on some of the other points that I was going to raise. The first is around the dashboard. There was complete confusion as to the status of this dashboard and when a definitive list of the retained EU law covered by this Bill would be published or available. We now have clarity. The dashboard

"presents an authoritative catalogue of retained EU law, not a comprehensive list of retained EU law."

Can the Minister explain what an authoritative catalogue is in relation to a comprehensive list?

If, as the Minister describes it, it is "not a comprehensive list", we are back to square one. When will we get a comprehensive list of all the laws covered by this

[Lord Fox]
Bill—and how long before the end of the period when these laws are automatically revoked? At the moment there seems to be no intention to publish an authoritative list, so we will never know some of the laws that are going to be revoked. We suggest that any such list should be tabled in Parliament, and there are a number of amendments coming up that will seek to achieve that change.

The third point that is also addressed in the letter is the status of Clause 15 and how regulatory burden is to be measured. Is it law by law, or will there be some net figure across a group of laws? As my noble friend pointed out, it was suggested from the Front Bench last week that it was going to be all of them, but now we hear that the laws are going to be divided up by SI, and each SI bundle will be allowed to have ups and downs as long as the net total is no more than the Government's calculation of what a regulatory burden is.

It is still not clear to me how you calculate or rate a regulatory burden. How do you weigh a burden on two people versus a burden on 3,000 or 3 million? How do you rate one burden that saves lives against another that merely enforces a less life-saving regulation? The noble Lord, Lord Callanan, promised a letter about this issue, with worked examples. We look forward to that letter and to those workings. I do not know whether noble Lords remember maths exams where you had to show your workings, but this is definitely a situation where the Government have to show their workings.

There was one further point in the letter regarding the product safety review, which the noble Baroness, Lady Bloomfield, responded to. In a sense, safety is one of the issues in this group. The noble Baroness stated that that review would be published later this spring. That is welcome, although it is about a year later than we were expecting. Can the Minister confirm that that is the case and perhaps give us a clear timetable for how the product safety review might come to your Lordships' House and then be put into effect, given the nature of the Bill, the regulatory burdens that we have just been talking about and the point that my noble friend Lady Randerson made?

Last week the noble Baroness, Lady Neville-Rolfe, said from the Front Bench:

"I would say that the sunset was introduced to incentivise departments to think boldly and constructively about their regulations and to remove unnecessary regulatory burdens".—[*Official Report*, 23/2/23; col. 1821.]

I request to know—I believe there was a request last week as well—what guidance departments are receiving when it comes to regulatory burdens, how they will be calculated and what is expected of them.

As long those these three questions remain open, it is impossible for any Minister to stand at the Dispatch Box and say that the Government will maintain this or that law and this or that regulation. Quite obviously, it is not in the Government's gift. All retained laws, even the assimilated ones, are open to interpretive change. In any case, we may never have a definitive list of all the laws that will be changed or revoked until it suddenly happens, and we do not yet know what constraints Clause 15 actually puts on the changes and amendments that will happen to those laws that are amended. This uncertainty is as true for this group as it was for the previous ones that we have debated so far.

Given the Minister's excellent brief, I am not going to focus on specific areas, but I would like to talk about non-compliance. Speaking today, the Lord Privy Seal said, with regard to the Windsor Framework, that

"we will take further steps to avoid regulatory divergence in future".

Very good—so what further steps to avoid regulatory divergence will there be in this regulation? This specifically points in the exact opposite direction to the direction signalled by the Lord Privy Seal not an hour ago. Could the Minister please explain how those two particular things are squared?

Various UK Ministers have committed to ensure that the operation of the Bill does not jeopardise international and environmental commitments—we will be talking about the environmental ones shortly—but, as a matter of law, these statements provide no real reassurance or protections. One area that I come back to is manufacturing in the automotive sector. I am on the executive of the All-Party Motor Group, so it is something I know something about.

The automotive industry is subject to a large number of sector-specific regulations, as well as many cross-sector business regulations. These are held across several government departments. The critical regulatory framework underpinning the industry and its huge economic contribution must not be put at risk—but that is what could happen, as my noble friend Lady Randerson alluded to. There needs to be a concerted process of detailed work to make sure that we do not accidentally end up in non-compliance, with our industry unable to access external markets because of deliberate or accidental regulatory divergence. That requires of course the Government and the industry to understand the scope, function and potential interdependency of all legislation in scope of the Bill. Can the Minister confirm that those talks will open up with that industry, and indeed other industries where this will become an important factor in whether these businesses can make things in this country and export them to the European Union?

Regulatory reform and development should occur in a managed way, with clearly defined road maps and priorities. Even a potential extension to June 2026 under the Bill is extremely challenging in any timescale to try to do that managed process. It needs proper regulatory reform on a scale that requires industry consultation and real scrutiny. So can the Minister confirm that this is understood and that proper consultation with industry will open up?

Once again, this group of amendments illustrates the complexity that the Bill brings to just one facet of our life and national livelihoods. Once again, it gives the lie to Mr Rees-Mogg's declaration that this is a technical tidy-up. This is not tidy.

Baroness Thornton (Lab): My Lords, I pay tribute to the noble Baroness, Lady Randerson, for her expertise in this area. I intend to speak not as an expert in transport at all but as somebody who goes on holiday and flies to places in Europe. I would like to know whether I am going to be able to claim compensation next year if my plane is delayed or my luggage is lost.

As all noble Lords will know, European Union regulation 261/2004 gives us rights to compensation, care, assistance and information in case of cancellation, involuntary denied boarding or delay. Has that continued as a right that we all have as air travellers? It is retained EU law and it continues—this bit is from Google—"for the foreseeable future", which presumably in this case means October, December or whenever, to give passengers the same rights that they previously had.

Many noble Lords will remember those rights being introduced, because you can get a reasonable amount of money in compensation and it is fairly straightforward to claim it. This

"includes rights created by past EU case law (such as the right to compensation for delay created in the controversial Sturgeon case), which will continue to bind lower UK courts".

I mention that because it raises the question which the two noble Lords who have already spoken asked: what happened to case law in this case?

I suppose one question is: what does the travel industry have to say about this? ABTA and Which? have certainly said that they are very concerned about it. What do we do when we are booking our holidays in 2024? Thousands of flights and millions of people are affected by this regulation and what happens to it. I know that the Minister will not be able to say whether this is in or out, because the Government are not telling us that. But it is worth saying, as ordinary consumers, that this is a matter of some concern to us.

5 pm

Lord Deben (Con): I chose to speak on these amendments because I want to talk about the reality of the Bill, which is best exemplified here, rather than later when we will talk about the environment, when I will talk as chair of the Climate Change Committee.

First, I want to understand how a Conservative Government could produce the Bill. As far as I believe, in the Conservative Party we believe in continuity and evolution rather than revolution. Evolution means that you take what you have and improve it; you do not throw it out hoping that you will have time to put something else in its place. The point that the noble Lord, Lord Fox, made about case law is crucial here. If you do not retain all that you want, you do not retain the case law, so you do not know what it is that you are doing. That is a very un-Conservative thing to find oneself doing.

The second issue, as a Conservative, is that I do not understand the explanation about regulation. As things are defined in this letter many of us have just had, it suggests that all regulation, by its nature, is somehow wrong. We have a regulation which says that you drive on the left-hand side of the road. That is a sensible regulation. It would be a mistake to cast it into doubt. There are many regulations which are essential for civilised life. Indeed, you cannot imagine civilised life without regulation. Conservatives, I thought, believed in civilised life. Therefore, regulation is an essential part of that.

When you come to judge regulation, you do not judge it by its weight or the number of phrases or words; you judge it by how effective and appropriate it is, how much it fits the present, and how it grows out of the past. If you are a Conservative, that is what you do. I believe there are many who think differently, but as a Conservative that is how I think of regulation.

We are now told that the regulation burden must not be increased. I do not mind that—if we define "burden". It does not seem to be a burden to have to drive on the left-hand side of the road. That seems to be a necessity.

Baroness Bloomfield of Hinton Waldrist (Con): Perhaps my noble friend could address the amendment he is talking to specifically.

Lord Deben (Con): I hope the Committee agrees that I am addressing the amendments.

Noble Lords: Hear, hear!

Lord Deben (Con): I am talking about the left-hand side of the road and the first amendment is about motor vehicles. The second one is dealing with the rules of the compensation system for passengers. I say to my noble friend that this is a series of amendments to draw attention to the fact that the Bill does not follow a sensible programme of defining "burdens". We have just had a letter about it, and I intend to talk about that letter. The fact of the matter is that this is not a sensible way of defining "burdens". "Burdens" should be defined by whether they are a burden or not.

I come to the examples here. It is inconceivable that the Government will remove the requirement for a child to wear a seat belt, so why do we have to consider it at all? Why do we not accept that we should keep many of the things that we have? We have now thrown into doubt a whole detailed series of regulations that, if I may say so, will not be changed. But we do not know that, and we do not know which ones will be changed. We are now suggesting that this discussion will be conducted by civil servants and, in the end, Ministers.

Viscount Hailsham (Con): My noble friend is making a serious point—namely, that we do not know the identity of the regulations that will be in doubt. But the point here is that, if you do not know the identity of the regulations, you cannot consult the stakeholders, which is a very serious deficit.

Lord Deben (Con): It is a very serious deficit. I will apply it to this amendment, as my noble friend the Whip insisted. I have chosen this amendment because it is so obviously true that the Government will not change that requirement, so why do we throw this into doubt? Why do we say to civil servants that they have to go through all this in a very short period of time, including requirements that we will not change? As chairman of the Climate Change Committee, I am aware that almost all departments are struggling to do what they have to do anyway. If we add this, they will do it rather than what they ought to do—and what I, as chairman, am desperate for Defra, for example, to do—because this has a sunset clause.

Lord Collins of Highbury (Lab): We talked about the regulations that might fall off after the sunset and those that might be thrown out by a Minister, but the last part of the letter that the noble Lord referred to also says that

[Lord Collins of Highbury]

"the powers in the Bill could be used to preserve, extend and reform retained EU law",

and then that:

"Anything preserved will be subject to clauses 3-6 of the Bill which repeal retained EU interpretive effects".

What does the noble Lord think about that? Even when a Minister says that we will keep a law or regulation, does everything that has built up, in terms of case law, get thrown out?

Lord Deben (Con): I almost dare not go down that line because it has been suggested that what I have been saying is not applicable to these amendments. I think it is applicable, and we have to talk about this principle if we are to discuss the Bill properly. On what the noble Lord rightly put forward, all this throws everything into doubt, and it is very un-Conservative. I have never known a Conservative proposal to throw aside all the interpretation that has grown up over the years, because that is exactly what life is about: learning through the years. Citing the fact that it happens to be interpretation of European Union laws is to ignore the history. We have been a member of the European Union, and we are no longer; I am sorry about that, but I am one of those who wants to draw a line underneath that and behave sensibly from now on. I do not want this appallingly reactionary approach, which says, "Because it's got 'EU' on it, there's something wrong with it". Let us consider it properly and separately.

So if we are not going to get rid of the first point about motor vehicles and seat belts for children, let us therefore have a different way of doing it. Let us decide that we will have a reform of the laws in general and that we will bring before this House proposals for what those changes will be in a timetable which is sensible and which the House can deal with. Therefore, we would not do the last non-Conservative thing, which is so outrageous as to be almost inconceivable: taking the power over law from Parliament and giving it to Ministers. I can think of nothing less Conservative than that.

Let me put it like this: we are not even giving it to these Ministers; we are going to give it to whichever Ministers are there—and they may not be the same lot. All I want to say is that no Conservative in my knowledge of history has ever proposed that the decision on something as important as, for example, children wearing seat belts shall not be our job in this House and in the elected House, but the job of Ministers alone.

Baroness Ludford (LD): My Lords, it is a pleasure to follow the noble Lord, Lord Deben, and I support every word that he said. I too will react to the letter we got minutes before we started this Committee debate—if I am allowed to do so without an intervention from the Government Front Bench. My noble friend Lord Fox referred to how the letter says that the dashboard

"presents an authoritative catalogue of retained EU law, not a comprehensive list of retained EU law".

So I hope that the Minister, in her response, can give us a precise explanation of the difference between "authoritative catalogue" and "comprehensive list", because, for my part, I cannot really understand how it can be authoritative if it is not comprehensive.

Viscount Hailsham (Con): I suggest to the noble Baroness that this is about the Government allowing themselves wriggle room.

Baroness Ludford (LD): I could not possibly comment on any wriggle room that the Government are giving themselves. However, because there is some justice in what the noble Viscount has said, I still want an explanation on the record from the Minister of how it can be authoritative if it is not comprehensive. Indeed, it cannot be authoritative at the moment because we know that it is still in the process of being added to.

Lord Fox (LD): When is a catalogue not a list?

Baroness Ludford (LD): Yes, indeed, when is a catalogue not a list? It would be really helpful if the Government could explain that.

The noble Lord, Lord Deben, referred to how this is not a Conservative Bill because it is revolutionary. Yesterday, I found myself using the adjective "anarchic", because the Bill is revolutionary and anarchic; we have an anarchist revolution from a Conservative Government, which is quite an interesting development. Another way of putting it is that it is a complete mess.

Lord Fox (LD): Chaos.

Baroness Ludford (LD): It is a chaotic mess. They are making it up as they go along. We understand that officials are not only still dabbling around desperately trying to find EU law but thinking about what to do with each instrument once they have found it—whether it should be junked, preserved or altered. That is an odd way of putting the cart before the horse. Why was the Bill ever submitted if there was no idea of what was going to happen to EU law? I will add to my adjectives: the Bill is higgledy-piggledy and all over the place.

Finally, I wanted to raise another point for the Minister to answer. I am grateful to George Peretz KC for raising this point. We will come back to Clause 1 in future groups, but it is entirely relevant here to raise it. The definition of EU-derived subordinate legislation that is to be sunsetted in Clause 1(4) is

"any domestic subordinate legislation so far as … it was made under section 2(2)"

or another provision of the

"European Communities Act 1972, or … it was made"

otherwise, in

"implementation of EU obligations".

But one problem is that sometimes an SI was made partly under Section 2(2) of the ECA and partly on another legal basis. Are those all going to be, whether this list is authoritative or comprehensive, or when it is finally arrived at—

5.15 pm

Viscount Hailsham (Con): There is also the problem of gold plating. I was very familiar with that when I was in the Ministry of Agriculture. Very often, officials did more than was required by the European Union. At that point, one has the interesting question of whether it is EU law or ours.

Baroness Ludford (LD): Absolutely. George Peretz refers to the bits of an SI that were not made to implement an EU obligation. Do they remain as what he calls "bleeding chunks", because of the "so far as" caveat? He calls them Frankenstein SIs, which may or may not make any sense as law. If an SI has been partially made to implement an EU obligation, will it be on the catalogue or list or whatever?

In a meeting yesterday I mentioned one problem, and I shall mention it here now. I had a Liberal Democrat colleague in the European Parliament, Chris Davies, who consistently raised the question of what were called in the jargon "correlation tables". What that meant was traceability—being able to see how EU law was being implemented in all the member states. That had various advantages, and one advantage that it would have now is that we would not have hundreds of civil servants scurrying around Whitehall who should be doing more important work than trying desperately to find out what is retained EU law, because the EU measure being implemented is not cited in the SI or even in primary legislation.

That is one problem that we have now—and I will repeat an example that I have given before, which is something that I know something about. The Extradition Act 2003 implemented the European arrest warrant. You will not find the term "European arrest warrant" in the Act, which just referred to Part 1 and Part 2 countries for extradition. Part 1 was broadly about European arrest warrant countries, but an ordinary person opening up the Extradition Act would not have had a clue that it was implementing the European arrest warrant. So I am afraid that successive Governments have made a rod for the back of the present Government, and all those poor civil servants, and the National Archives and everybody else who is being dragged into this absurd exercise.

There has been a failure for a variety of reasons, one of which is the gold plating. There would be some dusty project in a Whitehall drawer somewhere, and then an EU measure would come along that was a wonderful vehicle for it. They could never justify to Ministers putting it through in a Bill, so they thought, "Aha, nobody will notice. When we implement it through Section 2(2), we'll blame the EU or we'll kind of hide it among all this stuff". So I am afraid that chickens are coming home to roost with regard to the 4,000 or however many thousand measures. We do not know what is in the scope of this Bill. More importantly, all the people out there in the real economy—the businesses, the trade unions, consumer organisations and travel firms—do not know what EU law they are going to be continuing to operate, and that frankly is a disgrace.

Lord Krebs (CB): My Lords, I return to the by now infamous letter, which I too opened a few minutes ago. As the noble Lord, Lord Fox, said, when we talked about regulatory burden we asked for some worked examples, because it is only when you have the worked example with the actual numbers—maths homework—that you can actually see how it is going to operate. When I opened the letter, I thought for a moment it was a spoof, because it says:

"There is no definition of regulatory burden in the Bill, as … such a definition could unnecessarily constrain departments".

It also says—this is helpful—that decisions about the regulatory burden

"will take place on a case by case basis and it will be an 'in the round' consideration that encompasses the vector of considerations in clause 15(10)."

If that is the worked example then, my God, we need a bit of help. I hope that when we get the real letter, rather than a spoof letter, it will actually tell us how this trade-off between a bit more regulation there and a bit less regulation over here is going to work.

Lord Collins of Highbury (Lab): My Lords, I think we could debate this for much longer. I do not believe in conspiracy theories but I definitely believe in the cock-up theory of history, and this is certainly one of those cases. When I was thinking about how to respond to the debate, I decided that the subject matter of these amendments is vital, because it is about confidence—the confidence of business, the confidence of consumers—and people knowing what the law will be. And not tomorrow; they want to know what is going to happen next year. These are businesses that rely on planning one or two years ahead, and possibly more. One thing I realised is that we have constantly used Committee to seek clarity and a better understanding of what is behind this.

Take aviation, for example. My noble friend raised a question about booking holidays. We know what the EU regulations provide for, and people have some confidence in that. When we left the EU and we had the Bill that kept retained law on the statute book, the travel industry did not face a cliff edge then; everyone understood that continuity was important.

By the way, I am not a Conservative, as the noble Lord will know. I call myself old-fashioned new Labour, and that is exactly what this is about. Sadly, we have a situation here where I do not think that the Government know what they are doing. I think this should unite us all, across the Benches, whether you are a Brexiteer or a remainer—those are debates we have had in the past. On this legislation, we should all be united about its impact.

Aviation is an important industry, and it has already suffered huge consequences. It relies on the confidence of the people who book their holidays, and they are certainly not getting that. One of the things I did before we came down was to read *Aviation Consumer Policy Reform*, the consultation that the Department for Transport issued last January. It took it a long time to assess the responses to that consultation, and then we got the summary in July. There has been no idea since July about what the department is going to do about that, although all the indications are that the protection that is being offered through EU regulation will not apply to domestic flights—the sorts of protection that we get. A business or consumer will be thinking, "What does this Bill really mean?" They hear Ministers saying that we will keep the good bits, but when they look at the practice of the Department for Transport they cannot be filled with confidence. It is just crazy.

Let us turn to the letter, because it is really important. I assumed that this Government knew what they were doing when they published this Bill and that each department would have the responsibility for examining the regulations within its responsibility and thinking of the way ahead. That is not the case. What examination

[Lord Collins of Highbury]
is taking place? This letter says that the National Archives is doing a search of what regulations exist. I suspect that it has done a word search and come up with all the regulations with "EU" in their titles. There has been no proper analysis by a department. Can the Minister—he is shaking his head—tell us what departments have properly examined that dashboard? What are its implications? We do not know whether it is an exhaustive list or what it will or will not include, and we are stuck with a timetable that is impossible for departments to meet. We also have that description of how this list and dashboard have come about.

On the regulatory powers, as the noble Lord mentioned, the letter says:

"It will be for the relevant Minister or devolved authority to decide if they are satisfied that the use of the power does not increase the overall regulatory burden in a subject area."

It is absolutely crazy. I do not understand what that will mean. What are the implications for the transport and aviation industries? Tell us what the implications are. It seems as though, if we keep that benefit of retained EU law, we will lose something else in the aviation industry. Do not book your holiday next year because you do not know what will be protecting you. That is what the Government are saying to the people of this country and it is totally unacceptable.

At the end of the letter, which we got as we started this discussion in Committee, we read about the preserved law and what is retained. As the noble Lord, Lord Deben, said, we have a history of legal regulations that have been interpreted by our courts—no one else—and they have agreed case law that has been established. Now the Government are telling us that they will keep that EU regulation but all that history and continuity that has been built up will be thrown out of the window. It is like year zero. What are we talking about? Is this the way to introduce and maintain laws? This is not the way that this country has done it.

It is absolutely appalling that the Government have produced this Bill without any idea of its consequences. They have not thought it through, and it should be thrown out by all sides.

Lord Kirkhope of Harrogate (Con): My Lords, I am sorry to intervene at this point. I think everybody on my side knows that I do not like this Bill and that I have amendments later to discuss the general principles that apply to it. Therefore, I am rather disappointed that those who have put forward amendments in Committee on specific exemptions from the sunset clause, such as on package travel and linked travel arrangements and the issues of assistance to passengers denied boarding and cancellation or long delay of flights, et cetera, do not seem to have made a case at all on the specifics of their amendments. Am I wrong, or is it not right that in Committee we deal with specific amendments and make the justification for them, and then deal with the principles when amendments that contain discussion and arguments on the principles come up?

5.30 pm

Lord Collins of Highbury (Lab): I hear the noble Lord, and I just want to clarify that I did speak to the specific amendments, because I was talking about transport and travel. I am particularly concerned about the impact that the Bill will have on the tourism and aviation industry, which has suffered a lot. I was talking about why we need to ensure continuity and stability in a market that has been affected. The problem is that without being very clear that we are going to keep that EU regulation to protect this industry, people cannot have confidence in booking their holidays for next year; some people book it even further in advance than that. That is why I am talking to the specifics here. However, we cannot ignore the fact that when we are talking about the specifics, we have had a letter literally presented to us that throws even more doubt on what the Government are doing. That is why we need to make that general point.

Lord Fox (LD): Just to add to that, I say to the noble Lord that if he reads back through *Hansard*, he will see that my noble friend Lady Randerson dealt specifically with all four of those amendments in detail. I believe that that was not a very fair assessment of her contribution.

The Minister of State, Cabinet Office (Baroness Neville-Rolfe) (Con): My Lords, I shall start on a slightly different note by sharing in the tributes that have been made to the noble Baroness, Lady Boothroyd. She was a real inspiration for young women like me at the time who were learning to contribute to public life in different ways.

Turning to this group, we have already made it clear during this Committee stage that the Bill is an enabling Bill. The measures in it, including the sunset, will provide for the UK and devolved Governments to review and then preserve, amend or revoke their retained EU law as they see fit. There is no inherent need for policy or legislative exclusions to the sunset in the Bill. To respond to my noble friend Lord Deben, I feel comfortable with what we are doing as a Conservative and as someone, as he knows, who understands regulation. We will be making our legislation more appropriate, updating it where necessary, improving the quality and getting away from gold-plating as appropriate—while maintaining, as I said, necessary protections.

Lord Harris of Haringey (Lab): Can the Minister explain to us what a sunset enables? Surely it restricts rather than enables.

Baroness Neville-Rolfe (Con): A sunset gives us an idea of the timing of the measures. It has precedent elsewhere. We have brought forward the Bill, and I think it has great value, because we are now looking across the board at the 3,700 regulations that are the subject of this debate.

Just to finish my point to my noble friend Lord Deben, he will remember from his own time in Brussels, which was extensive, as was mine—we were sometimes there together—that some of the regulations that were made could be improved, with others preserved and extended. To respond to what has been said, each department is carrying out a review of its own regulations and will do so responsibly. The National Archives has come in, if you like, as a cross-check, as it retains the Government's regulatory records. EU law, as we all

know, goes back to the 1970s, so to bring the National Archives in and make sure that we look at its records to add to the list seems to me to have been a very sensible thing to do.

The noble Lord, Lord Collins, is right to say that it can be useful to look at examples and that we should move on to transport and try to clarify things there. As my noble friend Lord Kirkhope said, we should try to tackle specifics, so let me turn to Amendment 7, which I think is in the name of the noble Lord, Lord Clement-Jones, but was spoken to by the noble Baroness, Lady Randerson—no?

Lord Fox (LD): It is in the name of my noble friend Lady Randerson.

Baroness Neville-Rolfe (Con): Okay—I apologise.

Lord Carlile of Berriew (CB): Before the noble Baroness turns to the specifics, would she deal with the general point that has been made? Does she regret that a letter which can be described only as obfuscatory, tautological gobbledegook was delivered to Members of this House about an hour after this debate started? How can we honourably be expected to digest that letter in particular if this House is treated in that way?

Baroness Neville-Rolfe (Con): I think my noble friend sent the letter to try to be helpful, following the discussions that were had on the first day of Committee. I hope that others will look at the letter at leisure. I am sure there will be further discussions and debates in Committee, so if I may—

Lord Deben (Con): My noble friend was kind enough to mention me and our work together in the European Union. We have now read this letter; evidently, we are to do something which we would never have done in the European Union. In other words, we are going to decide what will remain on the basis of whether there is room, in weight, for the legislation on seat belts for children, as compared against other legislation. That is what this letter means. It is not surprising that we have moved into a rather wider explanation, because what my noble friend and I did in the European Union we are now doing totally differently here.

Baroness Neville-Rolfe (Con): I do not think it was entirely different. As I recall, in those days we were trying to cut red tape and regulatory burdens being imposed by Brussels. We will come to Clause 15, where I think the regulatory reference appears, in due course.

I would like to make progress, because we have lots of amendments to get through today, and return to Amendment 7, which I think the noble Baroness, Lady Randerson, was sponsoring. To make a general point on motor, in reviewing our retained EU law, the Government will make decisions in the best interests of UK citizens, and the Motor Vehicles (Wearing of Seat Belts by Children in Front Seats) Regulations will be no exception. I agree that this is an essential element of our law, and one that we intend to retain and to assimilate into UK statute.

The seat-belt wearing requirements are crucial to the safety of our roads; we are agreed on that. We know that even though seat-belt use is high, it still represents a disproportionately high impact on the number of deaths and serious injuries on our roads. The noble Baroness gave a figure for those who were killed not wearing seat belts which was very arresting. Therefore, this law is clearly still necessary.

Baroness Randerson (LD): Very much to the point the Minister is making, because seat-belt legislation is 40 years old, there is a bit of a lacuna in the law—which is out of step with other similar road safety law—in that not wearing a seat belt is not something for which you get penalty points. There are strong calls to update the legislation to ensure that you get penalty points for failing to wear your seat belt. Would the noble Baroness judge that this would be considered by the Government as increasing the regulatory burden?

Baroness Neville-Rolfe (Con): Of course, we need to keep things up to date. As part of our consideration of a call for evidence on road traffic offences and their policing, we are considering testing proposals to make not using a seat belt an endorsable offence. Not everything in the world of regulation is being done in this Bill. I hope I can reassure the noble Baroness that work is continuing and is important. The UK was instrumental in the development of these regulations, and they are compatible with our policy objectives that recognise road safety as a key objective for this Government. I am trying to go through these areas and give an appropriate answer. For this reason, rest assured that we have no intention of removing—

Baroness O'Grady of Upper Holloway (Lab): The Minister says that it is self-evidently right that we should give that guarantee now that the law on seat belts will be retained, and that she can give a cast-iron guarantee on that today. I genuinely do not understand why she cannot do the same for workers handling asbestos, for example, which seems equally important. On what basis is she making that judgment: that she can give that guarantee, which is very welcome, on seat belts but not on incredibly important health and safety legislation derived from the EU—and, indeed, case law—that workers rely on?

Baroness Meacher (CB): My Lords, I hope your Lordships will forgive me. I have put my name down to the Clause 1 stand part debate and various other things, but I have a family crisis and I have to go. I just want to make a few brief points a little out of sync.

My noble friend Lady O'Neill—a highly intelligent woman—just said to me that this is the most chaotic debate she has ever heard in this House. This House is being expected to have a serious debate on individual amendments that are terribly important: seat belts for kids, aviation and so on. The problem with the Bill—as pointed out by the noble Lord, Lord Deben, whom I support 100% in what he said—is that there is nothing in it. There is no information in it. There is a wholesale sunset clause and wholesale referral for Ministers to decide what to retain, what to reform and, if so, how,

[Baroness Meacher]
and what to do with each and every policy area covered by this enormous Bill. As for the idea that Clause 1 should stand part, it seems fairly obvious to me that you cannot just sunset all this at the end of the year, but that clause makes way for Clause 15, where the wholesale referral of all matters to Ministers is set down.

I have appealed, and I will just say it once more, and I will not say it again, I promise—forgive me, your Lordships—that I hope the Government will have the self-respect to withdraw the Bill, go away and do the work that needs doing, because an enormous amount of work needs to be done, and then bring back a Bill which can be debated by Parliament. I just want to make again the constitutional point: Ministers have consistently said, during the passage of the Bill in 2018, the memorandum to this Bill and so on, that the purpose of this Bill and what became the 2018 Act was to shift policy-making power from the EU to the UK Parliament, to make the UK Parliament central to our policy-making. The Government have not done what they say they want to do; they have transferred all power to Ministers. I therefore appeal to Ministers to do what they apparently want to do. I do not expect the Labour Party to intervene on this: I feel this is a matter for the Government, and I just say, "Please, Government, do what I think you all know you need to do".

Baroness Neville-Rolfe (Con): I think the noble Baronesses for their interventions and understand their depth of feeling. I should explain that this is a framework Bill, and it has been presented as such. The regulatory process will be gone through, and this House will then get a chance to look at the SIs.

Lord Cormack (Con): I follow up the impassioned speech of the noble Baroness, Lady Meacher. We were given a very good example yesterday of what to do with a lousy Bill. Why cannot we follow that example today?

Baroness Neville-Rolfe (Con): The noble Baroness, Lady O'Grady, mentioned asbestos as another example, and of course we dealt with that area yesterday: we have been going carefully through in a reassuring manner. I have been trying, in this transport debate, to respond helpfully where I am able to do so. I feel that this is not being appreciated, so I shall try to make some further progress.

5.45 pm

Lord Harris of Haringey (Lab): I assume the Minister is about to move off Amendment 7 and on to Amendment 8. Before that, could she explain to us, in the context of the letter we have received, a point about a single instrument, as referred to in Amendment 7, increasing the regulatory burden? The letter says that,

"it will be possible for a single instrument made under the power … to increase the regulatory burden, so long as this increases offset by a decrease of regulation in the same subject area."

What is the scale of the subject area in relation to seat belts for children? For example, do all the amendments in this group fall into the same subject area, or are there subdivisions within it? If not, this letter, which was supposed to be helpful, is meaningless.

Baroness Neville-Rolfe (Con): I think exact groupings of the regulatory area will be a judgment for the relevant Minister. The letter was trying helpfully to point out that there was the possibility of some increase in burdens in some areas, provided there were compensating decreases, because what we are trying to do, following our exit, is to implement regulations that work better for the UK, while maintaining our high standards. People seem to have forgotten that there can be problems with regulations.

Baroness Young of Old Scone (Lab): I am two sentences behind the Minister in what she says permeating my consciousness, but on this business of the regulatory burden, how will we know and where will the discussion take place about the Ministers weighing up comparative regulatory burden—the apples and pears—and coming to a conclusion about what can be increased, enhanced and improved and what must go as a result? As she said, we will see statutory instruments for changes but, for things that simply drift away, get amalgamated and disappear, where do we see them and how do we judge whether the Minister has come to a good decision about comparative regulatory burden?

Baroness Neville-Rolfe (Con): To make progress, I should make it clear that Clause 15 is the main clause and that there are a number of amendments on that group, on which we can no doubt have a longer discussion, but I should like to make progress on transport.

Lord Clarke of Nottingham (Con): I understand the noble Baroness's impatience, and she has been very generous and helpful. Did I hear her just a few moments ago, in response to an intervention, say that in each and every case, once a ministerial decision has been taken, the statutory instrument being repealed or amended will come to this House—which I assume means it gets the approval of this House and the House of Commons? How does the Bill provide for that in each and every decision, because it seems at the moment to give an enormous amount of ministerial discretion in its text? How can she guarantee that Parliament will have the last say over repeals and amendments in every case?

Baroness Neville-Rolfe (Con): There is a sifting process. The regulations will come to this House. There will be some that people are entirely happy with, because they will be taking EU law and, perhaps, changing a date that is out of date. There will be others that are to be extended. There will be others where there is substantive change, where it is necessary to have consideration and debate.

Lord Clarke of Nottingham (Con): So it will not be the negative procedure in every case?

Lord Kerr of Kinlochard (CB): And there will presumably be some that the Government are going to abolish altogether, in which case, nothing will come to this House: we will never have the chance to express a view.

Baroness Neville-Rolfe (Con): In fairness, the noble Lord is right: there is the scope for some sunsetting, but the direction of travel has very much been—

Lord Krebs (CB): I seek clarification. Is it the case that Parliament can or cannot amend an SI?

Baroness Neville-Rolfe (Con): The Government cannot amend an SI but they can debate one. We will debate these arrangements in our debate on a future group.

Lord Krebs (CB): The question was whether Parliament can amend an SI, not whether the Government can amend an SI.

Baroness Neville-Rolfe (Con): I think the Minister confirmed that Parliament cannot amend an SI. We can block an SI.

Lord Lisvane (CB): My Lords, I direct the Minister's attention to the Civil Contingencies Act. While she thinks about that, in view of the excoriating criticism levelled by a number of your Lordships' committees at framework Bills, I also ask her to reflect on the irony of defending this beta-gamma piece of legislation on the grounds that it is a framework Bill?

Baroness Neville-Rolfe (Con): I think we have heard a number of general points—I just want to maintain the level of humour. I therefore want to move back to transport and try to complete my response on these amendments.

Baroness Chapman of Darlington (Lab): I agree that we need to get to specifics here and that progress is important, but I think that the Minister actually getting some answers for us is probably more important at this stage. On this issue of case law, specifically around seat belts, the letter from the noble Baroness, Lady Bloomfield, clearly states:

"Anything preserved will be subject to clauses 3-6 of the Bill which repeal retained EU interpretive effects."

I interpret "interpretive effects" to mean case law. Am I right about that?

On this specific issue, the Minister has helpfully indicated that the Government intend to retain the measures on seat belts, as highlighted by the noble Baroness, Lady Randerson. But there is substantial case law on the wearing of seat belts by children when that can be a mitigating factor, for example when the seat belt is faulty or the vehicle is old. Many measures in relation to seat belts are dealt with by case law. What are the Government going to do about that?

Baroness Neville-Rolfe (Con): I apologise to the noble Baroness, but in our debates on future clauses we are going to discuss in an orderly way how these interpretive effects are going to be kept, where appropriate. We can probably come back to this.

Baroness Chapman of Darlington (Lab): I am sorry, but the letter clearly says that the interpretive effects are not going to be kept, hence why we are asking this question now.

Baroness Neville-Rolfe (Con): Is the noble Baroness talking about supremacy and the general principles?

Baroness Chapman of Darlington (Lab): No.

Baroness Neville-Rolfe (Con): I am advised that the interpretive effects are not case law; I thank my noble friend on the Front Bench for that. I do not really want to cause more confusion on this important point. I will reflect on this and perhaps come back on it at the end of this debate or in a debate on a future amendment. I am clear that we have no intention of removing these safety requirements on seat belts. I will reflect on the question asked by the noble Baroness and come back on it as I do not want to cause confusion. There are two issues here: case law and interpretive effects. They are both dealt with in later amendments.

I will move on to Amendment 8. Where Ministers, including Ministers in the devolved Governments, see fit, they will have the power to preserve retained EU law from the sunset. This holds true for the regulations specified in Amendment 8 in the name of the noble Baroness, Lady Randerson. There is no need for a specific exemption for the regulations establishing common rules on compensation and assistance to passengers in the event of denied boarding or the cancellation or long delay of flights. If the Minister decides that preserving these provisions is in citizens' best interests, that can be achieved by using the powers to preserve the legislation and to restate relevant retained law as appropriate, without carving it out from the Bill as a whole.

Similarly, in relation to Amendment 9, I assure the noble Baroness that the Department for Business and Trade has processes in place to review the Package Travel and Linked Travel Arrangements Regulations 2018 and will provide more details on this in due course.

Baroness Randerson (LD): Can I have clarification, then, on why the Department for Transport consulted on removing or reducing the right to compensation of people flying internally if it was not a firm proposal from that department?

Baroness Neville-Rolfe (Con): I thank the noble Baroness for raising that; I will have to take it up with the Department for Transport and get back to her.

On Amendment 24 in the name of the noble Lord, Lord Fox, the Road Vehicles (Approval) Regulations 2020 are part of the recently created GB type approval scheme. These regulations were made under Section 2(2) of the European Communities Act and therefore fall within the scope of the sunset as EU-derived subordinate legislation; they are essential to ensure that the GB type approval scheme can be enforced. The Department for Transport is committed to ensuring that our vehicle type approval scheme creates high standards of safety

[Baroness Neville-Rolfe]
for vehicles and road users, is robust and will remain fit for purpose alongside future developments in road vehicles. We are developing an ambitious plan supported by evidence and engagement with our stakeholders to reform the way in which vehicles are regulated, creating an agile system that keeps pace with technological developments and innovation in a dynamic and rapidly evolving landscape.

I hope this provides some reassurance. We do recognise the importance of many of these regulations.

Lord Fox (LD): I do not think the Minister was coming on to this point; if she was, I apologise. I asked a specific question about regulatory divergence. The Lord Privy Seal was clear that, going forward, the Government will put in place steps to avoid regulatory divergence with respect to the Windsor Framework. What steps are being put in place in this Bill to avoid regulatory divergence?

Baroness Neville-Rolfe (Con): I thank the noble Lord. His was a general question; I was not going to seek to reply to it. Obviously, the extent of divergence that we might or might not have depends on different areas.

Baroness Andrews (Lab): May I suggest an answer to the noble Lord's question? One way of avoiding regulatory divergence would be to remove every common framework from this Bill because, if common frameworks are included and we lose part of the SIs that underpin them, the invitation to diverge in Wales, Scotland and Northern Ireland will be pretty impressive.

Baroness Neville-Rolfe (Con): Again, we come back to individual decisions, although we have an amendment on the devolved Administrations later on; I hope we will reach it today. To respond to the noble Lord, Lord Fox, assimilation will be discussed fully in our debates on later groups.

On the comments from the noble Baroness, Lady Ludford, about whether the dashboard is authoritative, I can confirm that it is. This is because it has gone on an extensive, cross-Whitehall process and has been agreed at ministerial level. It is not comprehensive because, as noble Lords will know, the process is still ongoing. We have made a promise to update the dashboard accordingly as we go along; the next update is planned for spring 2023.

Baroness Ludford (LD): I still do not really understand the difference. How can it be authoritative if it is not comprehensive? That mystery will have to live with me for the rest of the day, I suppose. Can the Minister tell us when the list will be comprehensive? When will the Government say, "The list is now, in our terminology, comprehensive"?

Baroness Neville-Rolfe (Con): We can confirm that it is authoritative. The version that will come out in the spring—the next version—will be authoritative. The comprehensiveness of it will come when the archives have finished their process and so on. A lot has been made of this point, frankly. The key regulations are on the dashboard; for me, the key thing that matters is what departments do with them.

Viscount Hailsham (Con): Can my noble friend confirm that there will be consultation?

Baroness Neville-Rolfe (Con): If we have new regulations then the normal form in departments is to consult on them.

6 pm

Viscount Hailsham (Con): Will they have time within the deadline?

Baroness Neville-Rolfe (Con): The Bill sunsets in 2023.

Baroness Wheatcroft (CB): The Minister says she can confirm that all significant regulations are on the dashboard, because it is authoritative. However, if it is not comprehensive, and work is still going on to see what regulations should be on the dashboard, how can she confirm that all the important regulations are there?

Baroness Neville-Rolfe (Con): Departments have been looking at these regulations for a number of years. Some time ago, when I was previously a Minister, I was looking at the regulations to see how they might be changed post Brexit. I have tried to explain that we have 3,700 regulations. They have been gone through and most of the regulations are there, but we are also looking with the National Archives to see if there are others. If they are known only to the National Archives, the chances of them being really important is—to express a personal view—probably quite small, but of course I could be proved wrong.

Lord Thomas of Cwmgiedd (CB): On a technical, legal point, it would be helpful if the Government could set out the methodology that they have used to ensure that everything—whether it be by directive, by tertiary legislation or by any other way—has been identified. A detailed analysis of the methodology would be extremely helpful because we need to know how it has been done to know what level of assurance we can have in it. I have tried it myself and found it quite difficult. I would like to know what has been done. It obviously cannot be done now, but a detailed methodology would be very helpful.

Baroness Neville-Rolfe (Con): As always, the noble and learned Lord is very helpful. I will think about that and about what we can say about the methodology that has been adopted. It is helpful that he mentioned that it was not the easiest thing for him to find this. That is confirmatory.

Baroness Chapman of Darlington (Lab): Perhaps I can assist the Minister. We had an informative round table yesterday, convened by the noble Lord, Lord Callanan, where we were told that the methodology involved going to the National Archives and doing a

keyword search for "Europe". The noble Lord, Lord Callanan, shakes his head, but that is what we were told at the meeting. The Minister will forgive us if we do not have the utmost confidence in the process that has been undertaken.

Baroness Neville-Rolfe (Con): I am sure that they were trying to make a helpful point. We have got to help one another to get through this. I have undertaken to look at what is being done about methodology and the approach that has been adopted in one area. A plethora of wide-ranging points has been raised, including on consultation, which we will come on to in one or two of the later amendments. We have discussed transport. With this in mind, I ask noble Lords not to press their amendments.

Lord Collins of Highbury (Lab): The Minister raised the question of aviation. It is one of the most serious points here because it is about business confidence, consumer confidence and consumer protection. The problem I have, and which she can take back to the Department for Transport, is this. We had a consultation that started at the beginning of last year on changing levels of compensation. Ideas were thrown up in that about reducing it substantially for domestic aviation. We had a summary of the responses published in July last year, and nothing from the Department for Transport about what its true intentions are. That raises serious issues about what the Government's intentions are around the EU regulations that protect us all when booking holidays abroad next year. I hope that the Minister can go back to the Department of Transport and ask to be told what the true intentions are. People need to know. The simple fact is that this Bill and these clauses create huge uncertainty for a very vital industry of this country.

Lord Fox (LD): The presence here of the noble Lord, Lord Benyon, is a good indicator of what we will get in the next group: the appropriate department covering the appropriate amendments. These amendments were not put down yesterday. This is not a letter that you receive from a Minister—we gave warning of these amendments. A Minister from the relevant department, the Department for Transport, should and could have been here to answer the questions, instead of a Minister saying, "It's not my department. I can't answer". I am pleased to welcome the noble Lord for the next group but perhaps, as a lesson going forward, we could have the right Ministers here.

Baroness Andrews (Lab): We have been searching for some clue as to the criteria for what will be retained and what will be revoked, but we have not had any clarity—hence these hours of debate on safety of seat belts and so on. The Minister used the term "unnecessary" regulations and, in the famous letter, we have the line:

> "For example, through removing unnecessary or unsuitable regulations or consolidating multiple regulations into one, it will be possible",

and so on. Can we have a definition, in writing, of what the Government consider to be an unnecessary or unsuitable regulation? That may give us a clue as to the direction of travel on which regulations will be kept and which will be lost.

Baroness Neville-Rolfe (Con): I thank the noble Baroness for another general question. On transport, the DfT published the *Aviation Consumer Policy Reform* consultation in January 2022. I did not labour the Committee with all the material on that, but I am very happy to talk to the noble Lord, Lord Collins, about it separately. It included proposals relating to enforcement of aviation consumer protections, redress for breaches of consumer rights, and reforms to compensation for delays and for damaged wheelchairs and other mobility equipment—which I get postbags about—allowing us to consider what works best for the UK domestically, for consumers and industry. We are considering our responses and will respond to the consultation shortly. This is a concrete review and reform that we can look at. I am sure that we will move things forward in an appropriate way.

With the agreement of the Committee, I ask the noble Baroness to withdraw her amendment.

Lord Kerr of Kinlochard (CB): I do not think that the Minister gave a substantive answer to the point that I raised. I am happy that there should be no substantive answer now provided that we get one at some stage today. I asked what parliamentary procedure, approval and scrutiny will be available where, having done the sift and the consultation, a Minister decides—perhaps because he is interested in removing obstacles to efficiency, productivity or profitability—that a piece of our law should be abolished? What procedure will enable Parliament to debate that decision? The idea that the gentleman in Whitehall knows best, to coin a phrase, was one that I thoroughly approved of when I worked in Whitehall; I have slightly gone off it now.

Baroness Neville-Rolfe (Con): It is the gentlemen and ladies in Whitehall and in the European Commission. If I may, rather than prolong this discussion, I will reflect on the point that the noble Lord has made.

Viscount Hailsham (Con): The noble Baroness could say that the Government will support Amendment 32, which would enable Parliament to have a word in the matter.

Lord Wilson of Dinton (CB): I have listened to this debate and some important points are still left in the air. I may be slow, but there is an awful lot that I still do not understand, which needs to be resolved. Would it not be better—I have said this before—for the Bill to be withdrawn and for the Government to do the work and then come back and tell us what they want to keep, abolish and amend? If they cannot withdraw the Bill, put it on ice. We have a good precedent for putting Bills on ice. Why do the Government not do the work, rather than trying to grapple with questions that are almost unanswerable?

Baroness Neville-Rolfe (Con): We will try to answer the questions of your Lordships' House. I am conscious that the Bill went through the other House very quickly.

Lord Carlile of Berriew (CB): I do apologise for intervening again, but would it not make sense for us to debate the group starting with Amendment 32

[Lord Carlile of Berriew]
before we debate the granular amendments in the next three groups? That group deals with issues of principle that could resolve the complaints that are being made.

Baroness Neville-Rolfe (Con): We have debated issues of principle, notably at Second Reading, when noble Lords made some very important points. We are going through the Bill and will get to these various points. I have been trying to focus on individual subject areas and would like to move on to the next, because my noble friend Lord Benyon has been sitting here patiently, ready to talk about the environment. We have noted the tenor of the debate and I thank noble Lords for their contributions.

Baroness Randerson (LD): My Lords, I think this is a case of "follow that". I thank all noble Lords who have taken part in this debate, starting with my noble friend Lord Fox, who quoted the gem of ministerial gobbledegook about the status of the dashboard; it is an "authoritative catalogue", not a "comprehensive list". I have had time to look it up in a thesaurus and I do not want to disappoint the Minister but a catalogue is a "complete list of items".

The noble Baroness, Lady Thornton, referred to the importance of consumer confidence, which I was attempting to draw attention to in the precise details I included in my amendments.

The noble Lord, Lord Deben, referred to the importance of case law. I greatly regret that the Government have got themselves so far on the back foot with the Bill that there was an attempted ministerial intervention to shut down the debate and force him to draw his comments to a close. This was of course rather ironic, given that we have not been provided with a specialist Transport Minister on the Front Bench to answer on the specific transport issues that I was trying to raise. I have some sympathy with the noble Lord, Lord Deben, in his crisis over his Conservative identity—but that is not my business.

My noble friend Lady Ludford made some important points about identifying what is actually EU law. We will come on to this later, but there are some real doubts about what law is EU law, because it has been incorporated into other aspects of our law.

I sympathise with noble Lords who suggest that the Government should give themselves a break, park the Bill for a few weeks and work out how it will work before they bring it back. I would like it to go altogether, but I am trying to take a reasonable line, from the Government's point of view.

The noble Lord, Lord Krebs, suggested that the letter we had was a spoof. One reason why the debate has been as it has is that that letter was designed to raise far more questions than provide answers.

The noble Lord, Lord Collins, also referred to the issue of confidence. I assure him, from evidence that came to the Common Frameworks Scrutiny Committee, that it was pretty evident that National Archives did a word search to find the list. It is no good noble Lords shaking their heads; that is how National Archives got to the list.

6.15 pm

I turn very briefly to the Minister's valiant efforts and thank her for the reassurances that she was able to give. I will read *Hansard* very carefully and hope that there will be a follow-up letter, if not from her then from the Department for Transport, clarifying its plans. But this is not reassurance for us; it is reassurance for consumers, passengers, drivers, the automobile manufacturing industry and the aviation industry generally.

My understanding is that legislation passed by the devolved Administrations is not included in the dashboard. The Minister said that what was not on the dashboard was not important, but I say that legislation passed by those Administrations is just as important as legislation passed for England.

Finally, whether it is a child sitting in a car, a worker planning their well-deserved summer holiday or a manufacturer looking internationally for a site for their next factory, they all deserve a UK Government with their eyes firmly fixed on the highest standards for the future. With this Bill, the Government are condemning Parliament, the devolved Administrations, the Civil Service, the business community, citizens and civil society to months and years of wrangling over the decisions of the past, when we should be looking to the future and modernising. This is an ideologically driven wrecking Bill that will undermine key sections of our economy and our expectation of a safe and modern society.

The Government think they have a cunning plan to ensure that these fundamental changes to legislation, across almost every sector of our economy and society, will ensure that no future Government are able to rejoin the EU; the task would be simply too great. But, like all Baldrick's cunning plans, it has backfired, because the Bill has alerted ordinary citizens, civil society and the business community to the importance and value of EU legislation. It simply confirms to many people who probably had not thought about it much before, the growing view that Brexit was a disastrous mistake. I will of course withdraw my Amendment 7, but I am sure that we will come back to these issues on Report.

Amendment 7 withdrawn.

Amendments 8 and 9 not moved.

Amendment 10

Moved by ***Baroness Bakewell of Hardington Mandeville***

10: Clause 1, page 1, line 4, at beginning insert "Except for the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012),"

Member's explanatory statement

This amendment excludes the Conservation of Habitats and Species Regulations 2017 from the sunset in Clause 1. The Regulations provide protection for nature and special habitats.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I rise with some trepidation, because I am at a disadvantage from not having been here for day 1 of Committee. I feel that there is an element of Monty Python about this—and now for something completely different.

I will speak to Amendments 10, 11 and 12 in my name and briefly to Amendment 37, in the name of the noble Baroness, Lady Hayman of Ullock, to which I have added my name.

There are an estimated 1,700 pieces of legislation that Defra will have to review by the end of December this year. Some will go into the retained, unamended pile; some will go into the likely to be amended pile; and some will be scrapped or abandoned altogether. This is a mammoth task for Defra.

Environmentalists in the country are extremely unhappy about the lack of detail in the Bill. Members of this Chamber are concerned that, given the short timeframe, some essential pieces of legislation will be lost. There is currently little clarity on which pieces the Government are planning to retain, scrap or amend. On all sides of the Chamber, Peers are seeking to exclude legislation that is vital to the environment of our country from this sunset deadline. The Conservation of Habitats and Species Regulations, the Bathing Waters Regulations and the Water Environment (Water Framework Directive) (England and Wales) Regulations—from Amendments, 10, 11 and 12 respectively—are three such pieces of legislation that must be preserved at all costs.

The habits and species directive is a crucial tool for environmentalists and local authorities attempting to preserve wildlife for future generations. Having sat in planning meetings on major housing developments, I know that it is vital that measures are taken to ensure the protection of habitats of local and nationally scarce species during and after development. The great crested newt, the English dormouse and the various species of bats in England will not survive if their habitat is not considered at an early stage of planning and through implementing developments.

There are developers who will seek to gloss over the presence of rare wildlife, but the wise community-based developer adheres to the planning conditions. If the habitat directive is jettisoned or watered down, biodiversity and wildlife will suffer. Once a species has become extinct or a rare orchid is lost, that is it: there is rarely any coming back. The current law protects them and hundreds of other species, and it is vital that this protection exists into next year and beyond.

There is a danger that we could enter open season for developers. Our biodiversity has already been drastically reduced; it is years since I saw a bullfinch in the wild. We cannot afford any more biodiversity loss. It has to be halted and reversed; otherwise, what were our natural species will suffer the fate of the sabre-toothed tiger and be confined to glass cabinets in museums.

The noble Duke, the Duke of Wellington, recently spoke in the Chamber about the bathing water directive, the inadequate quality of bathing water and the ill health that surfers around our shores suffer due to sewage pollution. We have seen professional surfers leaving our shores to resume their sport in Spain. The loss of the income from those who enjoy surfing or wild swimming is significant for our coastal communities, which are often reliant on the summer tourist trade to get them through the winter.

Closely related to Amendment 11 and the bathing water directive is Amendment 12 on the water framework directive. The quality of water flowing through our waters is essential for biodiversity protection. The River Parrett in Somerset flows through several areas of ecological interest and supports various rare and endangered species. It is a favoured leisure venue for recreation and has a long walking trail from source to sea. Eels and other wildlife can be found along its banks. Chemical pollution is a threat not just to the Parrett but to all rivers. The water framework directive currently provides some protection for this area and the iconic Somerset Levels. It is important to have an integrated approach to the protection of our rivers, waterways and canals. A siloed approach may help to protect specific areas, but other areas could suffer.

It is important that these directives appear in the Bill. In her Amendment 37, the noble Baroness, Lady Hayman of Ullock, has listed those amendments that she believes could be lost in the general Brexit clear-out of legislation, which would have a devastating effect on our way of life and environment. These range from the REACH Enforcement Regulations to the Welfare of Animals (Transport) (England) Order. I look forward to the debate on this important amendment and fully support the noble Baroness, Lady Hayman.

There is currently little information about the costs and impacts of implementing the Bill. The task of filtering 1,700 pieces of legislation is colossal, and many laws could be lost by default. The Minister has indicated that there are some laws that we no longer need and are no longer applicable. It is important that this House knows what these are. Can the Minister say whether Defra is able to provide a list of those laws to be retained unamended, those to be amended and then retained, and those it believes are no longer functional in the UK, as well as the methodology involved? Other noble Lords have raised this issue.

Yesterday, along with the noble Lord, Lord Callanan, the Minister helpfully provided a briefing in which he emphasised his and the Government's support for the 25-year environment plan and all the strategies and plans that fall under it and support its implementation. No one can doubt the Minister's desire and enthusiasm for implementing fully the 25-year environment plan, but unfortunately the noble Lord is unlikely still to be a Minister by 2030—perhaps he would have preferred it if I had said 2050. It is not unknown for Governments to give commitments from the Dispatch Box and for later occupants of posts to reverse those commitments. Sadly, one such case was the promise to provide compensation to the Windrush community, which had long campaigned for and very much welcomed the compensation, only to have this promise reversed under the current Home Secretary.

It is not that we do not have confidence in the Minister. Experience has shown the House that, in order to have full confidence that the Government will do what they say, there have to be clauses in the Bill to ensure legal protection. Will the Minister agree to Amendments 10 to 12 and the request for these directives to be in the Bill?

If the sunset deadline of 23 December is not extended for the Conservation of Habitats and Species Regulations, the Bathing Waters Regulations and the Water Environment (Water Framework Directive) (England and Wales) Regulations, I very much fear that the guillotine will fall, quite literally, on the great crested

[Baroness Bakewell of Hardington Mandeville] newt, the English dormouse, the blue fritillary butterfly, the water vole and other species. These will then disappear from our landscapes altogether, along with those who used to enjoy surfing and wild swimming. The Bill appears not to be fit for purpose. I beg to move.

Baroness Hayman of Ullock (Lab): My Lords, I rise to introduce my Amendment 37. I thank the noble Baroness, Lady Bakewell, for her excellent introduction to her amendments and for leading our debate on this important subject.

Amendment 37 sets out a list of the most significant environmental and animal welfare laws that the Bill currently covers. The regulations listed in the 21 proposed new paragraphs (a) to (u) demonstrate the wide range of environmental and animal welfare protection legislation that comes within the scope of the Bill. The noble Baroness, Lady Bakewell, mentioned the habitats directive, the Bathing Waters Regulations and the water framework directive in particular. We support her amendment.

6.30 pm

Some of the regulations included in my long list are concerned with topics that may not automatically be perceived as environmental—perhaps the regulation of pesticides would come into this—but they are nevertheless critical for the environment, as well as for the health of workers and the wider public. There are more than 1,000 items, I think—hundreds, anyway—of retained environmental and animal welfare law, in a complex web, some of which have significant case law attached to them. This amendment should therefore be seen as a non-exhaustive list of key examples of laws which are vital to maintain high standards. Many important but less well-known protections also remain at risk. A definitive list of environmentally important measures does not actually exist, as the noble Baroness said, and that is another reason why this Bill is so harmful, given the risk of important environmental protections being revoked by mistake.

My Amendment 37 would ensure that the important laws it lists do not accidentally fall at the end of this year. Let us look at some examples. First, let us look at pesticides. If existing regulations fall away at the end of the year, that could mean the reversal of all existing bans on specific pesticides. The Minister may well say that this is just not going to happen, but since we have left the EU the UK has failed to establish a transparent or robust regulatory body that can deal with pesticide approvals, as was previously done at EU level. I can see no clear plans for what will replace the EU system. If this leads to decisions being placed solely in the hands of a government Minister, we will have even weaker protections from pesticide-related harms.

Let us look now at the REACH regulations. These provide a comprehensive legal framework to regulate the use of chemicals, enabling assessment of the risks posed by different products and the implementation of control measures. This includes chemicals linked to cancer or other adverse health effects found in products from sofas to paint, cosmetics and toys.

Look at the Marine Strategy Regulations, which place obligations on the UK Government to take steps towards achieving good environmental status and to monitor and report on this urgently needed progress. The Marine Conservation Society is deeply concerned and has said that:

> "The Retained EU Law Bill poses a huge threat to marine life and environmental protections. At a time of climate, nature and ocean crises, we need to invest in our ocean and the important role it fulfils for our very survival, not remove protections and undermine its functions."

The environmental impact assessment regulations require that those progressing development projects need to provide evidence of environmental impact to inform decision-making and to mitigate harmful effects, including harm to wildlife and people. The National Farmers' Union has raised its concerns about the huge potential impact on farming and believes that the Government should either extend the sunset deadline or just remove the legislative cliff edge altogether. The NFU also has significant concerns about the Bill's transfer of powers to Ministers to modify or revoke regulations, potentially reducing the amount of scrutiny that any new legislation would receive and leading to policy changes being pushed through without proper parliamentary scrutiny.

I now turn to animal welfare. Around 80% of all major animal welfare laws in the UK were agreed when the UK was a member of the EU. That gives us 44 animal welfare laws that have come across under the EU withdrawal Act. These all need to be filtered and assessed or else they will no longer apply. These regulations set standards for the accommodation and care of animals used for research, stipulate basic welfare conditions for the live transportation of animals, outlaw the importation of wild-caught birds for the pet trade, and include the battery hen ban, cosmetic testing on animals and the banning of growth promoters in farm animals. The Conservative Animal Welfare Foundation got in touch with me because it was so concerned. I hope the Minister is listening to it. It said:

> "There is a real risk that significant farmed animal protection laws will be revoked on the enactment of the REUL Bill as drafted, unless they are specifically preserved by statutory instrument."

We have heard the concerns about things being put through on SIs. It also said:

> "There is serious concern that even the additional protections which go further than the EU directives would fall away, as there is no saving provision for non-EU-derived provisions in the sunset clause."

The sunset clause, with its deadline at the end of this year, will put considerable resource pressures on Defra, as there is such a huge number of pieces of legislation to consider. Defra has, as we are aware at the moment, more than 1,781 different laws caught up in this process. There are only around seven parliamentary sitting weeks in the autumn, assuming that the Bill has Royal Assent by them. This would require Parliament to consider more than 15 pieces of legislation a day to meet that deadline. That is clearly not feasible and could result in relevant legislation being lost due to time constraints and a lack of proper scrutiny.

The noble Baroness, Lady Bakewell, referred to this as "a mammoth task". Senior civil servants in departments that have large amounts of retained EU law, such as Defra and BEIS, say that reviewing or revoking so many laws is a Herculean labour. BEIS recently admitted that, in just two months last year, it spent £600,000 reviewing EU retained law. Is that a good use of department money?

On a number of occasions, I have raised with the Minister the fact that we keep having to redo SIs because they are incorrect. My understanding from the Minister is that one of the reasons for this—the reason that Defra has made mistakes in drafting SIs—is the sheer volume of them following Brexit. How can that give us any confidence in Defra's resources to manage this even greater workload, given the timescales it has to work within? How on earth does the Minister expect the Government to be able to meet the deadline at the end of this year without making some dreadful mistakes or omissions?

There are also constitutional concerns about the impact of this Bill. ClientEarth, the RSPB and WWF instructed Sir Jeffrey Jowell KC from Blackstone Chambers and Jack Williams from Monckton Chambers to give an opinion on the likely constitutional, legal and practical effects of the Bill. Their findings are damning. They conclude that the Bill threatens vast swathes of environmental, workers' and citizens' protections, and risks undermining fundamental principles of the UK's constitution, the rule of law and the supremacy of Parliament, with the overriding conclusion being that this Bill would, if passed in its current form, violate those significant principles.

The Government must categorically state to Parliament that the critical regulations listed in my Amendment 37 will be preserved in full and will not be sunsetted at the end of this year, and that any future reform will not be pursued through the powers of the REUL Bill because of its deregulatory intent. I look forward to the debate.

Baroness Parminter (LD): My Lords, I added my name to a number of amendments in this group. I am sure we do not want to repeat the arguments from previous groups, but the reason why we have put these amendments down is that these regulations are the fundamental building blocks upon which our environmental protection is based, and has been based for the past 50 years. If this Government are serious, as I am sure we all hope they are, about meeting the stringent environmental targets they have set and which we need to restore our nature, then we need these protections in order to take that forward. We will not meet our environmental targets if we do not have these building blocks, which have been correctly identified by my noble friend Lady Bakewell and the noble Baroness, Lady Hayman.

I do not want to repeat arguments already made and I am sure that others will want to flesh out why these particular environmental laws are so important. I just wish to make two points. First, I am sure that the Minister in his summing up will say that we do not need to worry—we do not need to have anything excluded and taken out of the sunset clause—because the intention, the default position, is to retain. We have heard him say that, and we have heard the Secretary of State on this. We have a number of members of the Environment and Climate Change Committee here. The Secretary of State for Defra came to our committee in November and made that very point: that the default position of the department is to retain. However, in her very next sentence she said that there was an opportunity to "do things differently." She was talking about the water framework directive.

People in this Chamber, and environmentalists, are not against amending regulations. If the scientific evidence changes or the evidence from business shows they are not working or that consumers are not getting what they need, we are not against amending regulations. The trouble is that what was meant by "doing things differently" is what it is in this Bill: it is not a proper process of scientific evidence with the chance for Parliament to be consulted; it is just given to Ministers to do things on a whim.

What I particularly find offensive about that—this is my second point—is that we in this House spent weeks debating the then Environment Bill in 2021. We all agreed that three directives mentioned today—the habitats, REACH and water framework directives—might need amending. The evidence might change, and we all know there are some problems; developers are saying that there are some issues. Nothing is perfect and we are not against change. We signed up to clear processes in that Bill, which is now the Act, for those three pieces of legislation. It set out that there would be a consultative process—an open process with all stakeholders—which would look at how the legislation could be amended. That is completely ignored in this Bill's process, which is a closed-door process in Defra.

More importantly, Section 112 of the Act says two things about what should happen were the Government to wish to amend the habitats regulations, which, as we all agree, were one of the foundation blocks for our environmental protection. Subsection (8) says:

> "Before making regulations under this section the Secretary of State must lay before Parliament, and publish, a statement explaining why the Secretary of State is satisfied as mentioned in subsection (7)."

In other words, Parliament gets a chance to see why those regulations are needed and can have a say on them before they become regulations. I beg the forgiveness of the House; we are going back to a point we discussed in the previous group: that Parliament has absolutely no say before the regulations are laid.

The second, more important, thing in my mind, is with regard to amending the habitats directive, which, again, I think any of us would say is great but not perfect. Subsection (7) says:

> "The Secretary of State may make regulations under this section only if satisfied that the regulations do not reduce the level of environmental protection provided by the Habitats Regulations."

There is a non-regression clause in the Environment Act about the habitats directive.

This Bill is nothing like that; there is nothing about deregulation. My noble friend Lord Fox made the point so well previously in relation to the comment by the noble Lord, Lord True, on the very welcome Statement yesterday about Northern Ireland. If we get deregulation, we will diverge from Europe. With respect to all those people saying that their paints rely on the REACH regulations, and those using all the other directives and laws now being transposed—as the noble Baroness, Lady Hayman, mentioned—if there is deregulation, there will be divergence. They will not be able to sell their products and that will be to their detriment.

This is not just about the environment. Unlike those of us who are passionate about the environment and want to save the red kite, the bittern and the otter—as the habitats directive has directly done for the last 50 years—if some noble Lords are not fussed

[Baroness Parminter]
about the environment, that is fine. But by not exempting these from the sunset clause, if there is divergence, we will stop British businesses being able to do what they need to do and export. This Bill does not have a clause that guarantees that there will not be a lower level of protection for the environment. That is why I oppose it so much and why it is absolutely right for the noble Baroness, Lady Hayman, and my noble friend Lady Bakewell, to say that it should be exempted from the sunset clause.

6.45 pm

Lord Krebs (CB): My Lords, I added my name to Amendment 37 in the name of the noble Baroness, Lady Hayman of Ullock. I wish to say a few words about it and about the other amendments in this group, which I also support. First, I agree with the noble Baroness, Lady Bakewell of Hardington Mandeville, that none of us in this Chamber doubts the commitment of the noble Lord, Lord Benyon, to environmental protection and supporting the cause that we all passionately believe in, and I congratulate him on his commitment to the environment.

However, we are nevertheless worried, for at least three reasons. First, not everybody in the Minister's party necessarily shares his commitment to the environment. We all think back to a previous Tory Prime Minister, who referred to certain environmental protections as "green crap". I am sorry if that offends noble Lords' ears but those were the words that he was reported to have used. We are not sure that everybody will share that commitment.

We are also worried about the number of pieces of legislation that fall under Defra's umbrella; the figure that I have been given is 1,781. That seems a bit of spurious precision given the earlier debate about the uncertainty in the number; although it was described as a catalogue, it is not actually a catalogue on the dashboard because it is incomplete. As the noble Baroness, Lady Hayman, has said, there is a lot of legislation that Defra has to deal with. Amendment 37 is just about a small sub-sample.

The third point that keeps our worry levels up is the continuing gap between rhetoric and reality. While a lot of warm words are said about environmental protection, the "greenest Government ever" and how we want to leave the environment in a better state than we found it, the reality is in many cases very different. Whether it is the quality of our rivers, sewage in other coastal zones, loss of biodiversity or air equality, in all those areas we are not doing as well on the ground as the rhetoric would lead us to believe. That was clearly brought home in the recent report of the Office for Environmental Protection, the watchdog that is meant to snap at the heels of government.

That is why we need some reassurance that environmental protections will not be lost down the back of the sofa. I will give a couple of examples. One—I thank Greener UK for it—concerns a current application for the Ashdown Business Park in Maresfield, at postcode TN22 2HN. It is on the edge of the Ashdown Forest special protection area and special area of conservation, so is an ecologically important area. The ecological impact assessment says that you would need an appropriate assessment under the habitats directive and the habitats regulations. That is the kind of warning light for the development. However, under the heading of "Current Uncertainty Regarding Planning Applications", the report goes on to refer to the Levelling-up and Regeneration Bill, saying that, at the same time, the UK government is pressing ahead to remove and replace European Union law on the British statute under its planned retained EU law Bill, currently at the amendment stage within Parliament.

What we are seeing there is concrete evidence that the uncertainty created by the Bill is already having an effect on, potentially, the protection of key habitats in this country that are currently protected under the habitats directive and regulations. That is why it is really important that the Government say, "No, we are not going to change those; no, we are not going to get rid of them. You still have to follow them."

My second example refers to the fact that environmental protections are not just about tree hugging, red kites and dormice; they are about human health, because our health is intimately connected with that of the environment. The air that we breathe, the water in our rivers and the pesticides that are used on our farms can all impact on our health. We are talking here not about just about the environment but about human health. I am sure that most if not all members of the public would be horrified to think that there was any risk of diluting protections to their health as a result of the Bill.

I want to mention one concrete example that I heard about this morning. I put it in the form of a question to the Minister. He may not be able to answer it today because it is a bit of a curveball, but he may be able to write to us. It concerns environmental noise. The World Health Organization estimates that in Europe 100 million people suffer ill health as a result of environmental noise, and 1 million healthy life years are lost as a result of exposure to environmental noise. I was told this morning that there are EU regulations that require member states to map environmental noise in their country, which we are doing. However, since we left the EU, there is now an additional requirement to map the health impacts of environmental noise, but because we have left we are apparently not doing that. I would like the Minister to confirm or deny that assertion which I heard this morning. That would be a small example of how, as we slide away from EU standards, there is a danger that we will lower our protections for the environment and, importantly, for human health at the same time.

Lord Hope of Craighead (CB): My Lords, I am very glad that the noble Lord, Lord Benyon, has found time to join us for the debate on this group of amendments. If he will permit me, I would like to take advantage of his presence here to ask him two questions.

The first relates to the dashboard, and I think he was present for at least some of the debate about that. One of the points made by the noble Baroness, Lady Randerson, in concluding was that there is no mention in the Defra section of the dashboard of any legislation relating to Scotland or Wales. She was not entirely right about that; I was looking at the dashboard today and I detected 30 entries that refer to Scotland and

15 to Wales, but they are all in the section of the Defra list that deals with agricultural policy. There are many other areas that Defra covers, but, so far as I can detect, none of the legislation from the devolved Administrations has yet been listed on the dashboard. Is Defra still making efforts to discover from the devolved Administrations whether they have legislation relating to the other areas for which it is responsible? It is very important that we have a complete list, at some point, of the legislation in the different policy areas.

My noble friend Lord Krebs suggested that the figure that he gave, which I think was 1,781, was slightly doubtful. The figure can be arrived at by simple arithmetic because each item in the list is given a number, and you can work down the list. The total list at the moment contains 3,746 items. I made the number of Defra items 1,780—although perhaps my arithmetic was a bit defective—so that is a major part of the list so far, which is why the Minister's presence here is so important. Completing the list at some point is important, so is the Minister aware of other areas where the devolved Administrations are working to complete the list to include their legislation as well?

The noble Baroness, Lady Hayman of Ullock, suggested the great pressures that Defra officials were under to achieve what they are being asked to achieve, but what she said applies equally to the devolved Administrations. I understand that for Scotland to try to grapple with the Defra area so far as it refers to it, its manpower—or its workforce, I should say, to avoid gender problems—is at most 10% of that which Defra enjoys, and they have pressures of their own. They have work already going on which is under extreme pressure. Now, on top of that, we find that they have to detect where the retained EU law measures are that have to be looked at, so there is an immense problem for them. My supplementary to the dashboard point is: is the noble Lord satisfied that the devolved Administrations can achieve what they need to in order to identify the legislation in the other policy areas, and in a reasonable time to achieve the sunset? My impression at the moment is that they are under such pressure that it is highly unlikely they will be unable to do that.

The second question is rather different and relates to common frameworks. The Minister may be aware that of the 32 common frameworks that the Common Frameworks Scrutiny Committee has been dealing with, under the chairmanship of the noble Baroness, Lady Andrews, 14 are Defra-related. At least some of them seem to deal with areas that are within the list that the noble Baroness, Lady Hayman has concocted—"concocted" is the wrong word; I should say "put together"—including chemicals and pesticides; animal health and welfare; fertilisation regulation, which of course affects water quality; and the whole area of organic farming, agricultural support and so on. Can the Minister identify for us which of the items on the noble Baroness's list fall within a common framework?

We have amendments later dealing with the need for special treatment of common frameworks because of the way in which they are organised and the system that exists for amendments to frameworks that are achieved by consensus. It is important that we know what we are dealing with. At some point we will have to know which of the various regulations on the Defra list are within common frameworks and which are not. Is it possible for the noble Lord to conduct an exercise to look at his list to identify which are common frameworks-related and which are not? I do not expect him to be able to achieve that today, but it would be extremely helpful to us on the committee chaired by the noble Baroness, Lady Andrews, to know what we are dealing with, particularly with regard to the amendments that we will discuss later on.

Baroness Young of Old Scone (Lab): My Lords, I declare my interests as chairman, president or vice-president of a broad range of environmental NGOs. I too welcome the presence of the noble Lord, Lord Benyon, and look forward to his responses.

I support Amendment 10, in the name of the noble Baroness, Lady Bakewell of Hardington Mandeville, on excluding the habitats and species regulations from the sunset clause. As the noble Baroness, Lady Parminter, said, the habitats and species regulations are fundamental to protecting sites and biodiversity in this country and environmental protection generally, and cannot be put at risk at any price.

Protected sites under the habitats regulations are the special areas of conservation and special protection areas. They are really the jewels in the crown of nature conservation in this country. They cover a tiny proportion of the land surface, less than 5%. I would be of the view that the jewels in the crown deserve a high level of protection. The regulations have been very effective in reducing loss and damage to protected sites over the last 20 years. It used to be that on average 17% of our protected sites were damaged every year. We are now down to 0.17%, which is admirable.

Those regulations were developed by Brits in the EU. The RSPB, BirdLife International, the WWF and Stanley Johnson, the former Prime Minister's father, all worked with the Dutch and other member states. This is not unwelcome EU regulation that was forced on us but proper, welcome protections that were crafted by Brits, and rightly so, for those important sites.

Proper protection for that small number of ultimate sites and species is vital, because they make what we care about in the countryside, and what is special in the countryside, safe. If all noble Lords think of the natural and wild places that they cherish, many of them will be special areas for conservation or special protection areas under the habitats regulations.

7 pm

Over the last 20 years, these regulations have been interpreted through case law to a point where they are now pretty well understood as a tool to enable planning authorities, developers, conservation bodies and the public to safeguard these important sites. So it is doubly distressing to get the famous letter from the noble Baroness, Lady Bloomfield, today, telling us that even regulations that are preserved will lose their case law underpinning and their "interpretive effects". Can the Minister explain the implications of this for the operability of the habitats regulations, if they are preserved?

The habitats and species regulations are pretty vital for the Government to meet their 25-year environment plan targets, their environmental improvement programme

[Baroness Young of Old Scone]
and, most recently, the 30 by 30 commitment made at COP 15, where the UK played a leadership role in persuading other nations to agree to protect 30% of land and sea for biodiversity and the environment by 2030. Is the Minister concerned about achieving 30 by 30 without the bulwark that the habitats and species regulations represent?

I will touch briefly on two points raised by the noble Baroness, Lady Parminter. First, the noble Lord, Lord Benyon, is on record as saying that the default position is to retain regulation. That is commendable, but it is not actually what the Bill says, where the default position is to sunset. Perhaps he could confirm for the record which is actually the default position. Secondly, the noble Baroness raised certainty for business and British exporters. For eight happy years, I was the chief executive of the Environment Agency and, for four years, chairman of English Nature—the two environmental regulators. All through that time, businesses were clear about what they wanted from regulation. They wanted clear regulation and, if there was going to be change, they wanted long lead times to enable them to adjust their business model and find a cost-effective way of achieving the objectives of regulation. Most of all, they wanted stability and to be able to plan for the future. The Bill, alas, provides none of these things.

The noble Lord, Lord Callanan, has previously said that some alternative arrangements to the habitats regulations are already in place, as a result of the Environment Act, or are about to be put in place by the levelling-up Bill. That is still a Bill and is uncertain, but what is not clear is how comprehensive the changes are, these combined provisions, in new legislation and what elements of the habitats regulations have not yet been covered and would be let go. Do the Government intend to come forward with more legislation to take all the habitats regulations provisions safely through to the UK statute book? At the very least, will the Minister undertake to map the individual provisions of the habitats regulations against these new and emerging provisions in other legislation, so that we can see what is safely transferred over and what is still in abeyance and may never be transferred over?

I also support Amendment 37, in the name of my noble friend Lady Hayman of Ullock, which excludes environmental protection legislation from the sunset clause. It is a very admirable list. However, exempting this list of environmental provisions from the sunset is kind of a last-ditch attempt to salvage something from a pretty appalling Bill. The regulations listed in this amendment represent some of the most prominent environmental protections, but many important but less well-known protections would remain at risk. There are other risks to sensible environmental regulation in the Bill that would remain, from Clauses 3, 15 and 16, in the lack of consultation on any changes and in the whole issue of taking powers from Parliament, which the noble Lord, Lord Deben, so eloquently outlined.

I feel that the sunset clause has got to go. It very much plays to the right wing of the Conservative Party and it is not going to do what I hope not only conservationists but the public, from every poll that I have seen of public commitment to the environment, want from a Bill of this sort.

The Duke of Wellington (CB): My Lords, I apologise to the House that I was not able to speak at Second Reading as I could not be sure of arriving in time on that day, and that last week I was in Madrid on a parliamentary delegation and therefore missed the first day in Committee. I now wish to speak to Amendments 11 and 12, which I would happily have signed. I repeat the gratitude we all feel to the Minister, the noble Lord, Lord Benyon, for being present today. The previous debate would, I am sure, have been helped enormously by the presence of a Minister from the Department for Transport. However, we do have the noble Lord, Lord Benyon, and we all recognise his commitment to the environment and strong credentials in this area.

I suspect that the debate on this group could have been avoided if, at the very beginning, the noble Lord, Lord Benyon, had simply announced that all these directives would be retained. I was one of those who attended the briefing session yesterday afternoon, where he began by saying that his default position was indeed to retain. If that is true of all the different directives referred to in these amendments—Amendments 10, 11, 12 and 37—there is no need for us to be discussing them this afternoon. However, I fear that may not be the case. If it is the case, it should be in the Bill and then we need not be concerned. If it is not the case, we really must argue very strongly for some adaptation of these directives—and indeed improvements, because the Government have repeatedly said that they wish to improve and not reduce environmental protection.

Specifically on the bathing water regulations, for example, I seem to remember that Britain was rather embarrassed, many years ago, to be told by the EU that the state of our beaches made them some of the worst in Europe. That came from the EU and then public opinion became more interested in the subject, and indeed was very supportive of any attempts to improve the state of our beaches. Yet we find repeatedly —it is still going on—that sewage is discharged into coastal waters on and around our beaches. It is a complete disgrace and I would be worried that repealing the bathing water regulations would, in some way, weaken the determination of the Government to clean up our beaches. I genuinely believe that the Minister does wish to clean them up; therefore, why would we possibly repeal the bathing water regulations?

Similarly, on Amendment 12 about the water framework directive, we have had many debates in this House on our aquatic environment. There was a very strong feeling across the whole House that we had to tighten up all the regulations about sewage discharges. That was supported by the public in an extraordinary way. Again, I would be worried—maybe the Minister can reassure me—that repealing the water framework directive could, in an unintended way, weaken the determination of the Government and regulators to put a stop to discharges of sewage on to beaches and into our rivers.

Finally, on Amendment 37 I commend the noble Baroness, Lady Hayman, on drawing up this list; I am sure she did it with expertise and knowledge far greater than my own. Looking at the list, I am very much of the view that there are some important regulations on it. I cannot possibly imagine why we would, for example, repeal the urban wastewater treatment directive. However,

I look forward to the Minister telling me that my concerns are unfounded. I therefore hope that, in winding up this section of the debate, the Minister will be able to confirm that all the various directives referred to in this group will be retained or improved.

Baroness Lawlor (Con): My Lords, I am grateful to noble Lords for raising some of these important subjects, which we must think about very carefully. I do not share the assumption that divergence necessarily is for the worse; it can be for the better. I am not entirely sure that the EU regulations now in place are necessarily the best for the jobs they intend to do.

I will take one example from the many that noble Lords have raised. I share concerns on the protection of wild birds, habitats, wild mammals and clean bathing water, but I ask your Lordships' Committee whether it is really the case that these regulations work as we all wish they would. In the country with which I am most familiar, our nearest neighbour, I am constantly very disappointed to see the sale of wild birds in cages—and, even worse, some wild mammals—to the pet market.

Where I differ from many in your Lordships' Committee is that I believe the laws protecting these matters are shaped by the people of this country and the culture. I have no evidence because I have never seen caged wild birds on open sale in pet shops here, but I do not believe that the people of this country would tolerate such a thing. They will be responsible for making the laws of this country. I have every confidence that, where the laws do not work in other countries, such as our neighbours—countries I have a great respect for in many other areas—the people of this country will do well by the wildlife that they believe they are custodians of.

Lord Trees (CB): My Lords, I am particularly interested in and concerned about several regulations on animal welfare cited in Amendment 37. I seek clarity from His Majesty's Government on their intentions regarding these. I welcome and thank the Minister, the noble Lord, Lord Benyon, for his presence. I welcome his clarification in the briefing—sadly, I was not able to attend—that retention would be the default position. I am sure he will forgive me for probing and asking for a bit more detail on some of the key regulations.

The first thing I will highlight is REACH, mentioned by the noble Baronesses, Lady Parminter and Lady Hayman, which protects us all from potential toxicity in chemicals to which we might be exposed, and which involves animal testing. I can accept that in some circumstances it may be necessary to use animals, but it must always be justified and we must minimise animal use as much as possible. Will His Majesty's Government keep the REACH regulations or their equivalent? If so, will they ensure that there is mutual recognition between the UK and the EU of animal testing protocols and data sharing to avoid the duplication of animal testing, which would be seriously detrimental to animal welfare and a serious impediment and financial burden to industry trading in chemicals?

7.15 pm

Another important law that is threatened is the Animals (Scientific Procedures) Act 1986, an exemplary piece of legislation on which Britain led. There is a threat that the Act may fall or be reduced as it may be interpreted as EU-derived subordinate legislation because of the amendments made through regulations in 2012. Similar concerns apply to a huge raft of regulations currently governing, for example, the welfare of farmed animals. These lay down all manner of statutes regarding stocking densities, care of animals and their welfare and so on. While, if they fell, we would resort to the Animal Welfare Act, that Act has only non-mandatory codes of practice. Incidentally, there is a risk that we might lose, for example, our ban on veal crates and sow stalls. I seek assurance on this.

The transport of farmed animals is another area where there is a risk that regulations may either fall or be watered down. The laws regarding welfare at slaughter, the Welfare of Animals at the Time of Killing (England) Regulations—WATOK—were derived initially from European legislation, PATOK. Again, that might be classed as EU-derived subordinate legislation and thus be under threat. What about the associated regulations safeguarding the welfare of animals in abattoirs—for example, the requirement for CCTV and, critically, the requirement for the mandatory movement standstill of animals killed by the throat cut without stunning, which ensures that at least there is a minimal exposure to pain? These are important animal welfare issues.

I hope that my concerns can be assuaged; I very much want to be reassured. I sought answers at Second Reading for some of these specifics. I am sure that this Committee, as we have heard throughout this debate, seeks specific answers to many similar questions. At present it seems that we are being asked to sign a blank cheque without knowing the true cost of the Bill—the pun is intended. When will we know which of these laws are to be retained, which are to be revoked and which we are likely to have some debate on? With no possibility of materially changing decisions through SIs, it is inevitable that the Bill will be faced with a whole raft of amendments to exempt this, that and other current laws.

Lord Inglewood (Non-Afl): My Lords, forgive me declaring my interests in the register—I am personally an environmental sympathiser. I will briefly talk about land. It is obvious, but sometimes overlooked, that every square inch of this country belongs to somebody. Therefore, every square inch of this land has to be managed by somebody. The legislation seriously affects land of all types everywhere, regardless of whether it is owned by the National Trust, the Church of England, a great duke, a pension fund, a small farmer or a speculative builder.

If you are managing land, you need certainty and you need to know the framework within which you are operating. What is proposed in the Bill, as it was described this afternoon, is precisely the opposite: we are looking into a void of not necessarily even uncertainty but a lack of knowledge. If we were talking about the commercial activities in the City of London, it is inconceivable that anyone would seriously suggest that this approach to dealing with this kind of problem was sensible and in the national interest. If you are going to effect change of the kind we are discussing, you need lead times for people to adapt what they are proposing to do—land management is a long-term

[Lord Inglewood]
business—and to therefore get themselves in a position to respond and operate in the world that is coming into effect.

Of course, as the noble Baroness, Lady Lawlor, said, it is not necessarily that we cannot introduce legislation in this country to improve environmental controls and protections—we are and will continue to do so. Indeed, the same will happen on the other side of the channel in the European Union. As an aside, it is worth remembering that a lot of this legislation is part of the single market. If we are to continue to export into the single market—albeit that there may be certain greater formalities through which we have to proceed—and if we manage to tweak our environmental legislation in certain minor respects, we may find that we are excluding a considerable amount of exports for no material advantage to our nation's economy.

Finally, against this background, the way the mechanism of the sunset clause has been introduced in the Bill has rightly been excoriated by almost every speaker. It is far too short, quite apart from anything else, and it does not provide for any form of parliamentary control or consultation. One of the interesting characteristics of environmental legislation over the last few years and decades has been the value of consultation: you end up with better legislation, which benefits everyone affected.

In simple terms, people in this country who are in control of and managing land need to know the rules of engagement in order to operate the best that they can. The Bill proposes something that does not enable them to do that.

Viscount Stansgate (Lab): My Lords, this is a very unsatisfactory and frustrating Bill in which to take part. I am sorry that I missed most of the first day of Committee—I was on a committee visit—but I have listened to a great deal of the debate, and I was present in the Chamber on Thursday to hear the remarkably idiosyncratic triage description of my noble friend Lady Young of Old Scone. Like other Members, I listened to some of the exchanges on the previous group, which show that the Bill is being done in the wrong way and should be withdrawn. At the very least, the deadline should be put back several years so that we do not inflict upon ourselves the harm that we are about to.

I point out that the Environment Minister, who is with us today and for whom I believe there is an enormous amount of good will around the Committee, will nevertheless have a very difficult job to persuade the Committee that his department has the sheer capacity to process the large number of regulations that are covered by the Bill.

I will speak strongly in favour of Amendment 37, ably spoken to by my noble friend from the Front Bench. Of course, that list is very good—she said it was not exhaustive, and that is certainly the case. I add my voice to that of the noble Lord, Lord Krebs, who is not in his place but lurking, on the importance of the REACH regulations, for example. For Members who do not know, this is an enormous and substantial body of work that was in fact the largest piece of legislation ever considered by the European Parliament, for a very good reason: it is really important and covers such a wide range of areas. To adapt the phrase used by the noble Lord, Lord Krebs, it is about human health as much as anything else.

I would be happy to vote for Amendment 37 but, to be quite honest, even if I did and it passed, would it be the complete list of all of the environmental protections that we want to see retained? Would it fulfil the Minister's own commitment, which I am sure that he will make from the Dispatch Box, that the Government remain committed to supporting environmental legislation? The best thing that the Minister can do, apart from withdrawing the Bill, is get up at the Dispatch Box and say, "Amendment 37 is very good and I support it, but it leaves out all of these other measures that I have unearthed by Google-searching the National Archives. If we want to be a Government and Parliament that fully support the environmental legislation that we are so proud of, I would like to add the following range of other matters to the amendment". We could then perhaps make a better attempt at improving what is, I am afraid, a very bad Bill.

Lord Cormack (Con): My Lords, I apologise for not being present for very much of the Second Reading—I had other parliamentary duties.

We have had some very wise, brief speeches just now, from the noble Viscount, Lord Stansgate, and my noble friend sitting behind me, who made a very good brief speech. Various things stand out. It is never good to legislate by deadline. When you are dealing with such a vast amount of regulations—some complex, some simple—to say that all of them have to be effectively expunged by the end of the year, apart from some that may be retained, is not a sensible way to behave. It places an enormous burden upon Parliament and places enormous power into the hands of Ministers.

I share the respect and affection that people feel for my noble friend Lord Benyon, whose father and I entered the House of Commons on the same day, way back in 1970, along with my noble friend, Lord Clarke of Nottingham, who is with us this evening. He was an environmentalist par excellence, and I know that his son has inherited his love for the countryside and his determination that it should be properly preserved and used.

Many of the directives listed in Amendment 37 are of great importance. We have to remember—I do not want to cross swords with my noble friend Lady Lawlor, who made one very good point about the selling of caged birds—that we do not have the best record in this country. On loss of species, you have to look only at what were very common birds when I entered the House of Commons, such as the starling and the sparrow and many others. Some of them are hanging on by a thread. The wonderful counterexample of the red kite is not unique, but not many fall into that category. It seems very silly to decide that the Bill has to go through in this form.

We had a very good example yesterday of the Prime Minister realising, after painstaking negotiation, that the protocol Bill, which many of us in this House opposed and were determined not to let through, should be dropped. He achieved more than that Bill would ever have achieved, and not only that but he

achieved a wonderful improvement in our relations with our European friends and neighbours, which is a very good example to take.

7.30 pm

We have amendments on the environment here which have been presented very well, and, as I said, that of the noble Baroness, Lady Hayman of Ullock, lists a number of regulations. That list is not exhaustive; she made that plain herself. It may well be that my noble friend says that his default position is to keep on the statute book things he is not very confident should be taken off. But the fact is that my noble friend is not immortal and is well worthy of promotion, so he may not be in charge very much longer. The sensible thing to do here is to take the example of the Prime Minister yesterday and, at the very least, pause the Bill and, at the very best, get on with some more sensible legislation and drop it entirely. I really believe that Parliament would be doing the nation a great service if it did not let the Bill go through.

Lord Kerr of Kinlochard (CB): I very much agree with the noble Lord. I will simply make two small points at this stage of the debate. The first is about the public resonance of our discussion. In the House of Commons, the Bill went through under the radar; the public did not really notice what was going on. When the public get to hear of the considerations we are discussing, they will pay a huge amount of attention.

The noble Baroness, Lady Young of Old Scone, was quite right to point out that the environmental laws in the European Union were largely there as a result of British initiative. The animal welfare declaration attached to the Maastricht treaty, the Garel-Jones declaration, was there not actually to annoy the Spaniards, as some said; it was there because the postbag that the Major Government got on animal welfare was enormous. I was Permanent Representative when a lot of the environmental laws were going through, and my postbag was packed with demands for more from Britain. When I was working on the constitutional treaty in 2002-03, the biggest single lobbying on Giscard's convention was done by the Royal Society for the Protection of Birds, which brought about an immense postbag, largely from Britain.

The issues we are discussing are not arcane matters for lawyers and parliamentarians; they are of real concern to real people out there. The Government ought to think hard about that aspect of the Bill. The public resonance has not started yet but, when it does, I do not think it will be about an obstructive House of Lords resisting the will of the House of Commons; it will be about the protection of birds, animal welfare, the habitats directive, and sewage in the rivers and on the beaches.

I turn to my second point. I hope that the noble Lord, Lord Benyon, whom I welcome here, will be able to tell us that the Government have absolutely no intention of taking some of these laws off the statute book or watering them down. If he is able to do that, he would be very wise to encourage his colleagues in the Government to accept these amendments. If the Government have no intention of watering down or eliminating particular categories of law, that should be stated in the Bill. It seems to me that the logic of a reassuring response to the debate from the Minister, whom I hope will give a reassuring response, is that he should end by saying that the amendments will be accepted.

Baroness Altmann (Con): I join the tributes to my noble friend the Minister—an excellent Minister who is passionate and knowledgeable about his brief. I also thank him for the briefing yesterday. I have no doubt that he was sincere in his reassuring words that the default position will be to retain, and I have no doubt that that is his intention, but this is not the reality of the Bill. As my noble friend said yesterday on REACH, the water framework directive and habitats, the Environment Act set up a clear process for change, and yet now we find that the Bill overrides all that, as the noble Baroness, Lady Parminter, stated.

If a carve-out is possible for financial services, surely this is one of the other areas that must be excluded from the Bill. I am sure that there has been an extensive effort to find all the various regulations involved in protecting the environment and involved in REACH and so on, but the only reassurance we had yesterday was that the department is confident that it has found the vast majority. This is about protecting the public.

We are also told that, if Ministers see fit, or decide that it is in citizens' best interests, they will make the relevant and necessary changes as they decide. But what if Parliament disagrees? It will have no power. Indeed, as the noble Lord, Lord Kerr, indicated, were the public to be asked themselves, they would disagree. They are not consulted and they have no say; this will be happening by default.

In my view, it is not possible to improve environmental protections without tightening regulations in some way, yet the Bill works against all that. If you want cleaner water in our rivers, as the noble Duke, the Duke of Wellington, so rightly focused on, will you have to have more dirty water in the sea? How will you offset that? Who will decide where regulations must be relaxed to be able to tighten in other areas as we move forward with the intention we clearly have—and rightly so—to improve environmental protections and protections for the public? If it is discovered that a whole family of chemicals or pesticides are more harmful than previously recognised and need to be banned, will other harmful substances have to be allowed into public circulation because we must not tighten regulation?

The Bill seems to be driven by ideology and politics. I have concerns that the sunset is clearly politically driven, and that it cannot be in the national interest. Surely the ideology that regulations can only be weakened cannot apply to something as precious as the environment and all the issues covered by Amendments 10, 11, 12 and 37.

Baroness Bennett of Manor Castle (GP): My Lords, it is a pleasure to follow the noble Baroness, Lady Altmann, and to join in this debate, which is obviously about an absolutely core area for the Green group.

I offer a reassurance to the noble Baroness, Lady Lawlor, who, in this very wide and broad debate round the Committee, was the only one who offered some

[Baroness Bennett of Manor Castle]

kind of support for the Government's position. On protecting wild animals, she said that she wanted to see divergence for the better. Of course, if we threw out the Bill and it disappeared—everyone from the noble Viscount, Lord Stansgate, to many noble Lords opposite, including the noble Lord, Lord Cormack, and the 12 Cross-Bench colleagues I counted who have spoken, indicated either implicitly or explicitly that that was their desire—Defra would have vastly more time to work on improving and strengthening existing regulations. That is what the noble Baroness is wishing for, and the best way to do that would be to get rid of the Bill.

Many noble Lords have talked about this, but I shall just pick up on what the noble Duke, the Duke of Wellington, said about the reassurances that we heard yesterday and the ones that we are expecting today from the noble Lord, Lord Benyon, from the Front Bench. Reassurances are fine, but they must be in the Bill. That in effect in this area is what is done by Amendment 37, in the name of the noble Baroness, Lady Hayman, the noble Lord, Lord Krebs, and the noble Baroness, Lady Bakewell, and to which I have added my name to make it cross-party and non-party. This is an authoritative—if not comprehensive—list of the main areas of Green and animal welfare concern. I associate the Green group with almost everything said by the noble Baronesses, Lady Hayman, Lady Bakewell and Lady Parminter, and the noble Lord, Lord Krebs, but I shall disagree on one point. The noble Baroness, Lady Hayman, said that we have high standards in the UK, and the noble Baroness, Lady Parminter, said that we have stringent targets. I would say that we have a basic inadequate minimum of standards.

To pick up on the point made by the noble Baroness, Lady Altmann, and to expand on it a little, there was much discussion in the last debate that we had to wait until we got to debate Clause 15. But let us look at that letter—I am afraid that I am going back to the famous letter. I have hand-transcribed a paragraph from it, because it is so important. The letter says that the Minister would like to

"clarify that it is possible for additional regulations and higher standards to be introduced through the powers to revoke or replace, so long as the package of reforms contained within each statutory instrument does not increase the overall regulatory burden for that particular subject area".

The noble Baroness, Lady Altmann, said, "What about new scientific discoveries—say about water?" To be concrete about that, let us think about new scientific discoveries that we have experienced just in the last year or two, such as PFASs, or "forever chemicals", as they known in shorthand. We are coming to understand just how utterly pervasive and dangerous they are. Does that mean that we are going to give up and let a bit more sewage in, so long as we can do something to block some PFASs? That is what that paragraph in the letter means.

Antimicrobial resistance is something else that I am doing a great deal of work on. I must have a discussion about it with the Minister at some stage. We now increasingly understand that pesticides are having impacts in causing antimicrobial resistance. That is something that the Minister may not yet quite grasp, but it is a really important technical area. We are also starting to understand what the impact of microplastics in our water and soils might be on human health, to pick up on the point that the noble Lord, Lord Krebs, made: we are not just talking about looking after the environment. We are talking about looking after what we actually live in.

I am not sure that even the Benches around me really grasp that our economy and our lives are entirely dependent on the environment. In the UK, we are using our share of the resources of three planets every year—and we have only one planet. So, as the noble Baroness, Lady Parminter, pointed out, we squeezed into the Environment Act—and my recollection is that we had to fight very hard to do this—some non-regression clauses. We absolutely have to strengthen so many things to head us in that one-planet-living direction.

To continue with that focus on biology and thinking of us as human animals in a world on which we are entirely dependent, we have an ecosystem that has developed over decades. We have talked about the importance of case law and how EU and UK approaches have been blended together in regulations. I am still trying to understand what the interpretive effects are, and whether they are or are not reflecting case law. But the model of an ecosystem is perfect for this.

It might surprise the Committee, but I am going to cite a recent article from *Current Biology*, a peer-reviewed journal, about the Permian-Triassic boundary, a period known as the "Great Dying". One thing that was found in this period was that one apparently quite insignificant little species had a key role in the ecosystem, and when that died a whole ecosystem fell apart. That works as a metaphor for the risk that we are running with this Bill—however good the list is from the noble Baroness, Lady Hayman. What is missing, what is the keystone, what is the vital bit that makes everything else fall apart? The Government cannot tell us; they can tell us only that they do not know. That is where we are.

7.45 pm

The noble Baroness, Lady Hayman, referred to the many reports that we have received from NGOs and campaign groups. I am going to refer briefly to just two. If the Government do not want to believe me that the economy is a complete subset of the environment, they can just look at the economic costs. There is a report from a coalition of NGOs led by the Wildlife and Countryside Link on the economic costs of the retained EU law Bill. It puts together the costs of £83 billion. If you do not want to count anything else, look at the cost of losing all these regulations, as so many noble Lords have said—the cost to human health, the cost to exports and the cost for landowners of uncertainty. I point to the noble Lord, in reflecting on landowners, that of course financial services—gosh, what a surprise—have been excluded from this, protected by their own system in the Financial Services and Markets Bill.

I refer, too, to the analysis from the Marine Conservation Society, which sums it up beautifully when it says:

"Our nature and conservation laws will not work".

It also says:

"The Environment Act 2021 sets many goals … but none of them are intended to create binding obligations. They'll become meaningless in the absence of strong underlying conservation laws that require effective assessments of potential impacts to be carried out before activities can be permitted".

I am aware that it has been a long debate, but I have a final, concluding thought. We are talking about a sunset clause. If the Bill goes through, we will be allowing the sun to set on a healthy environment, or the prospects of making a healthy environment; the sun to set on the prospects of improving the parlous state of physical and mental health for this nation; and the sun to set on the opportunity of many businesses, particularly farming and food businesses, to sell their premium products to the world. If we allow this Bill through, the next day the sun will rise on a much darker country.

The Earl of Caithness (Con): My Lords, I will speak very briefly. This has been an interesting hour and a half, but the Government have brought it on themselves by not telling us what regulations will be in what bucket. Can my noble friend tell me what Defra regulations are going to be kept, what are going to be amended and what are going to be disposed of? If we had known that, we would have saved an hour and a half.

I want to pick up on something that relates to Amendment 10 on the habitats directive. The noble Baroness, Lady Parminter, said that it was one of the fundamental building blocks and that we would not meet environmental targets without it. But we will not meet environmental targets with the habitats directive. We have had it for 30-odd years and it has been a disaster. Biodiversity and habitats have gone down continually in this country.

That takes me to the point made by my noble friend Lord Inglewood, who is absolutely right. It is not rocket science—it is land management. To get high-quality food to feed an ever-growing population and increase biodiversity, you need habitat and food for the species at the right time, particularly now in these lean winter months.

Lord Krebs (CB): Because this has cropped up a couple of times, I think it is important that we distinguish between a regulation or a rule and its implementation or enforcement. So, we might say, when housebreaking levels go up, that the laws against housebreaking are completely ineffective. That is not the case: it is the implementation or enforcement of those laws that is ineffective. It is not a critique of the habitats directive; it is a critique of the way we in this country have enforced it, or failed to enforce it.

The Earl of Caithness (Con): My Lords, that is exactly the point I have been trying to make: it is how we manage the land that is important. We can improve biodiversity in this country and we can produce the food on the same land, working together, because that will give us the right answer—but it is not relying on directives. Where I probably disagree with the noble Lord, Lord Krebs, is that the result of the various directives has been that we have pockets of land that have special protection and we do not join up those pockets: we have barren deserts in between. That is something that I know my noble friend Lord Benyon is working on with the ELM scheme, but that has to complement the directives and we have to get back to a whole-land approach, rather than just a spot approach.

Will my noble friend confirm that future amendments and changes to directives will be done with best science and not emotion? Defra made too many decisions on emotion and not enough on science in the past. Will he confirm, on a point raised by the noble Lord, Lord, Kerr of Kinlochard, on the last group, whether Parliament will have any say on which regulations Defra is going to drop? If Defra mistakenly decides to drop something and we have not had a chance to look at it, we cannot be culpable, but Defra will be, and it is much better that we all look at it.

Lord Jackson of Peterborough (Con): My Lords, I was not intending to speak, but I was prompted by the challenge from the noble Baroness who represents the Greens, who spoke with great erudition, expertise and passion and is a credit to the House for that. It is important that we look at the general principles. Of course, we are talking about environmental regulations amendments, but I sometimes feel that I am the only sane person in the asylum, frankly. We are a sovereign Parliament, yet we are pushing back on the idea of governing and holding the Executive to account, as if we are not able to do that.

If noble Lords look at the preamble to the Bill, it is not about casting aside these regulations; it is not about traducing those regulations and the Great British tradition of environmental protection and health and safety; it is about modifying, restating, replacing and updating. The fact is that even the EU, when developing regulations, was always developing them on an iterative basis; it did not have the regulations ossified 30 or 40 years ago; it was always developing them—even the REACH regulations that the noble Viscount, Lord Stansgate, mentioned earlier. Therefore, it is exactly the same process that this Government are going to pursue.

The idea that Ministers are not accountable at the Dispatch Box for bringing forward or updating regulations is clearly nonsense: they will always be. I have to disabuse the noble Lord, Lord Kerr, of the idea that this has not been properly debated in the other place. First, it passed Third Reading by 53 votes, and he may not know that there was an enormous campaign from NGOs and charities aimed at wavering Members of Parliament. So the idea that it was sneaked through and disregarded by the greater electorate is absolutely not the case.

There is an idea, too, that we are writing a blank cheque. Having considered the Bill in the other place and here, and having considered other committee reports, including from the Delegated Powers and Regulatory Reform Committee and the Select Committee on the Constitution, there have been hours and hours of debate. To then, when it gets to this House, say "We don't like the Bill, so let's just ignore it", would plunge this House into a very bad place in terms of democratic accountability.

The criticism from the people in this country is that our politicians are not up to the job of governing, and, at the end of the day, that is what we have to do. We have to govern. We have to make a decision. The challenge, as was shown only yesterday in what the Prime Minister brought back in the Windsor agreement, is that we can make Brexit work. It is not ignoble for many Members to take a view that Brexit was a mistake—many Members in this Committee take that view—but, nevertheless, this is a Bill about accountability

[Lord Jackson of Peterborough]
and keeping that bond of democratic accountability and trust with the electorate. I think some Members of your Lordships' House need to understand and concede my final point, which is that this Government would be crazy to go into a process of reducing—

Lord Clarke of Nottingham (Con): I do admire my noble friend's defence of the impeccable parliamentary democracy which lies behind the Bill, but I think the author of it was Jacob Rees-Mogg, and I think his principal aims were to make sure that all law was British law and none of it was foreign law, for ideological reasons. I think he thought of it as deregulatory, producing lower and, in his opinion, less costly standards, which is why a rule was put into the Bill that it could not actually raise any of our standards. My noble friend's present passion in defending it does not actually reflect the motives behind the Bill, and yesterday's triumph was an abandonment of an otherwise similarly absurd approach, epitomised by the Northern Ireland Protocol Bill.

Lord Jackson of Peterborough (Con): I thank my noble friend for making that point, but mea culpas go both ways. Some of us were saying four years ago that some of those technical solutions could have been tried then, and we were accused of magical thinking. In fact, we were actually right. So just to wind up—because I know the Minister, for whom I have an enormous amount of respect, is staring at me—I think the Bill should go through. It would be offensive to democracy for it not to go through, and I look forward to a position where it gets Royal Assent eventually.

Baroness Jones of Moulsecoomb (GP): My Lords, this is offensive for democracy if it does go through.

Lord Fox (LD): Very briefly, the reason we are welcoming the noble Lord, Lord Benyon, is not because we have grown fed up with the noble Lord, Lord Callanan; it is because he is the major shareholder in this Bill as regards the number of amendments. I hope that, as well as dealing with the 24 particular laws that are in this group, he will use his response to explain the process that his department is going to undergo in order to deal with the other 1,757 laws that are not included in this group. I think it will be very important if he is able to do that.

The Minister of State, Department for Environment, Food and Rural Affairs (Lord Benyon) (Con): I am very grateful to noble Lords for what has been a very thorough debate. Before getting into the meat of this, I thought I would just set the scene on why this legislation is important. I entirely agree with the point made by my noble friend Lord Inglewood, and also by somebody from the Benches opposite, about the need for good regulation. Business and the public respect proper, good regulation. They like it because it pushes out the bad actors; it focuses what the Government's role is; and it gives that crucial word that my noble friend used, clarity, which is what we want to see.

The noble Baroness, Lady Bennett, talked about the economics of these issues. She is absolutely right. The Dasgupta review, the first piece of work into biodiversity, commissioned by a finance department, the Treasury, is something I find quoted at me when I go all around the world, to COPs and other environmental events. It is an extraordinary piece of work, because it shows how nature and biodiversity underpin our economy. We cannot have social stability or economic growth if we do not have a sound environmental and biodiverse nature: that is my starting point.

I was a Minister when we were in the EU. I may have voted differently from my noble friend in the referendum, but I remember regulations coming from Brussels over which we had no say. They were rubber-stamped. Occasionally the European Scrutiny Committee would suggest that they might be debated, and we might have a debate, but by and large most of the regulations—

8 pm

Baroness Ludford (LD): I am sorry to interrupt the Minister—I know that everyone wants to get to the dinner break—but what kind of regulations is he talking about? For instance, the general data protection regulation took two years of negotiation. I can think only of tertiary legislation by the Commission, such as on the price of sheepmeat or something that changes daily. On what regulations did we have no say? I was an MEP, and we had co-decision on practically everything of any importance.

Lord Benyon (Con): I am very happy for the noble Baroness. As a parliamentarian in the UK Parliament, I had no say. However, many of the regulations were very good and we want to retain them.

I am grateful for the words of so many noble Lords. My noble friend Lord Cormack embarrassed and moved me with his nice words, but when such words are said in this House, I know that there is an enormous "but". I will try to address it.

I count myself an environmentalist. I have been on the boards of different NGOs, I am a member of many and I have campaigned and worked on the environment all my life. I see my role as a Minister as just a small part of that. I would absolutely not be standing here if I thought that we were indulging in some means of trashing the kind of protections that we want to continue and improve in this country. There are opportunities; as my noble friend Lord Caithness said, we have had these regulations but biodiversity continues to decline, as it has done for decades. We now have a commitment to reverse that decline, stop it by 2030 and see it increase as against 2020 data by 2042. No Government will be able to escape that, so the idea that we could get rid of regulations that would make that happen is wrong.

I find at the moment that all roads in Defra lead towards our land use framework. I applaud those Members of this House who wrote a really good report on it, as my noble friend Lord Caithness mentioned. I agree with him that if we are going to get this right and achieve anything on environmental regulation, incentives to farmers through ELMS, our water policy, anything to do with air quality, the health of people and the benefits of nature, mentioned by the noble Lord, Lord Krebs, then we need really to understand how, in a finite piece of territory, we will manage all those requirements and our international commitments, some of which I have already mentioned.

As my noble friend said, the powers in the Bill will empower departments to unleash innovation and propel growth across every area of our economy. The Bill is simply an enabling Act. It is up to departments and the devolved Administrations what they will do on specific pieces of policy.

In Amendment 10, the noble Baroness, Lady Bakewell, has raised the Conservation of Habitats and Species Regulations. I reassure her that the Government remain committed to the ambitious plans set out in the Environment Act, which sets out legally binding targets to halt nature's decline by 2030. The noble Baroness, Lady Young, said that the habitats directive was the jewel in the crown; she is absolutely right that it has been a huge driver in environmental policy, although not an exclusive one. She raised a point about interpretive effects. Interpretive effects are the general principle of EU supremacy as set out in Section 4 rights and do not relate to case law. However, I absolutely assure her of our commitment to 30 by 30. Our commitment to protect 30% of our land and oceans remains fundamental. We will continue to do that—we would not be able to if we damaged our environment in the ways that some noble Lords have suggested.

Baroness Hayman of Ullock (Lab): To clarify the point about interpretive effects, I point out that the letter says:

"Anything preserved will be subject to clauses 3-6 of the Bill which repeal retained EU interpretive effects."

Can the Minister clarify what this actually means in practice? How does it affect case law?

Lord Benyon (Con): Interpretive effects are not case law; they are the principle of EU supremacy—general principles and Section 4 rights. The general principles of EU law directly affecting rights, which end in—

Baroness Hayman of Ullock (Lab): Perhaps the noble Lord could write to us with a detailed explanation.

Lord Benyon (Con): I will certainly do so; I will then be able to read my own writing. As the Secretary of State reiterated in her speech at the launch of the environmental improvement plan on 31 January, Defra's default approach will be to retain EU law unless there is a good reason either to repeal it or to reform it. This allows us to keep protections in place, provide certainty to businesses and stakeholders and make reforms tailored to our needs—

Baroness Crawley (Lab): Is the noble Lord confident that he can ensure that he will be able to retain all the laws that he wants to by 31 December this year?

Lord Benyon (Con): Absolutely, because if we cannot do so for any reason then we have that power of extension, which we will apply if necessary. I hope that is a real reassurance to noble Lords, because it gives that comfort.

Baroness Crawley (Lab): Will the noble Lord therefore lobby within his department for using the 2026 date rather than 31 December 2023?

Lord Benyon (Con): That would be the extension point. We will assess them on a case-by-case basis and apply the extension where we need to, because we want to get this right.

Lord Fox (LD): That assessment process is part of what I was hoping the Minister could shed some light on. It is an awful lot of assessment, so could he let us know what proportion of his department's resources are now focused on that process of assessment? Is it 10%, 1%, 30%, 40% or something else? How can he be sure that this assessment gets scrutiny at the right level, both politically and operationally, to make sure that the right decisions are being made?

Lord Benyon (Con): There is a core team of Defra civil servants co-ordinating this but every policy area is involved, so it is impossible to say precisely how many full-time equivalents are being apportioned to this on a weekly or monthly basis or how many will be over the next six months. However, I assure the noble Lord that this is an absolute priority for my department. We have separated the different areas of REUL to suit Ministers' areas of responsibility; we are working through them and making sure that we rigorously examine whether we have them in the right frameworks for retaining, removing or any other aspect of this process.

Baroness Hayman of Ullock (Lab): The Minister says that the sunset can be extended to 2026, but surely we need to know which regulations the department is looking to extend. How do we know that? How is Defra going to go about attending to that? The Treasury managed to take its regulations out; they are exempt. Why does Defra not just do the same and save all the bother?

Lord Benyon (Con): If we have to extend, that would be the subject of a secondary legislation measure, so this House would be able to review it.

Lord Hope of Craighead (CB): I am sorry to disturb the noble Lord again. Following on from the noble Baroness's point, Clause 2(1), to which the noble Lord refers, uses "specified" three times: you have to be able to specify the instrument or the class of instrument and then identify a specified time. It is not designed as a general extension to cope with the possibility that things may be overlooked. It does not deal with that; that is one of the problems. It is fine if you can specify everything and you know exactly what you are dealing with, but it is not a let-out clause of the kind that the noble Lord was perhaps suggesting.

Lord Benyon (Con): I entirely agree with the noble and learned Lord: it has to be specified. That is the work we are doing, and that is how we will decide whether we need that extension.

Baroness McIntosh of Pickering (Con): Will my noble friend—

Lord Benyon (Con): I want to make some progress.

Baroness McIntosh of Pickering (Con): I understand that, but I have not spoken yet. Can I just ask: where is this going to be specified for our greater understanding? My noble friend said that it would be specified; where will it be specified?

Lord Benyon (Con): In the work we are doing to assess each area of retained EU law, we will make an assessment of whether we are going to need some more time to do it. Your Lordships will be informed of that, and there will be the possibility of accountability being applied to it.

The noble Baroness, Lady Bakewell, also raised bathing waters in Amendment 11. We are committed to protecting and enhancing water quality. It is worth stating that in most places our bathing waters are better than they have ever been. Indeed, in 2022, 72% of our bathing waters met the "excellent" standard, the highest number since new, more stringent standards were introduced in 2015. In total, 93% of bathing waters in England were classified as "good" or "excellent" last year. We recognise that there are always ways that we can improve how we manage and regulate our bathing waters, and we will continue to explore how to take those forward, including through this Bill.

The noble Baroness also referred to the water environment regulations in Amendment 12. We are committed to protecting and enhancing water quality, and the Environment Act has only strengthened regulations since we left the EU. We have set legally binding targets for the water environment which cover pollution from wastewater, agriculture and abandoned metal mines and reducing water demand. In the *Environmental Improvement Plan*, we committed to restoring 400 miles of river through the first round of landscape recovery projects and establishing 3,000 hectares of new woodlands along England's rivers. We are also aiming to achieve "good" ecological status in 75% of water bodies, as per the water framework directive regulations. I assure your Lordships that this Government respect the significance of the water framework directive, and retained EU law reforms will not come at the expense of our already high environmental standards.

To address the point that the noble Duke, the Duke of Wellington, raised—I mentioned this yesterday in a meeting, but I will repeat it for the record—hitting the water framework directive standards is an incredibly high bar. The average river in this country is divided into a number of reaches for the purpose of the water framework directive. Each one of those reaches has a range of different measures—which could relate to fish population, chemical pollution, or anything else—that would trigger a failure of that particular reach to achieve the "good" standard that is required under the regulation. It is a policy called "one out, all out". That is the reason that only 16% of our rivers are achieving "good" ecological status. That is a standard I do not want to see changed by this Government or any future Government. It is one of the most difficult to achieve, as other countries in Europe are also finding. If we were still in the European Union, we could face infraction fines if we failed to hit those targets. The point is that we are retaining those very high standards. We want to see them retained, and we want this Government and future Governments to be held, justifiably, to them.

8.15 pm

Lord Clarke of Nottingham (Con): My Lords, as I expected, the Minister is giving a very satisfactory list of assurances that he has not the slightest intention of lowering any standards. I am quite sure that he is sincere and that the Government actually believe that they are not going to lower any of those standards. I cannot understand what the argument is against ending this whole ridiculous debate by just putting a statement in the Bill which lists key directives—such as the habitats directive and the bathing water directive—and emphasises that they are going to remain totally unchanged, so that if any future Government decided to start deregulating in this area, it would need a proper parliamentary process before they had any chance of doing so. What is the positive argument against putting these undertakings, which are wholly reassuring, in the Bill? The last hour and a half would have been quite unnecessary if that had been done.

Baroness Ludford (LD): Before the Minister stands up, he will know that one of the continuing problems in this country is not lack of law but the lack of enforcement. That is very obvious in the sewage discharges, and, at the moment, the only reason that the urban wastewater directive is being enforced in London is that the European Commission took infringement proceedings, subsequent to a petition that I took to the European Parliament. That is why we are getting the Thames super sewer. I am sorry for rivers everywhere else, including the Thames in its higher reaches, but we are getting the very expensive Thames super sewer because the European Commission took enforcement proceedings which ended in a judgment in the European Court of Justice. Elsewhere, UK enforcement has been dire.

Lord Benyon (Con): I thank the noble Baroness and my noble friend for those remarks. We will be providing a clear list of regulations in due course, but we are working through them, and I make no apology: we want to get it right and we have a lot of work to do on that front.

Lord Clarke of Nottingham (Con): Will it be in on the face of the Bill and put into law, so that we have protection against future Governments setting some rather less high standards?

Lord Benyon (Con): I just say to my noble friend that the direction of travel of this and future Parliaments that will be elected over the coming years will not be for a reduction of these things. There is a yearning in this country for higher environmental standards. People will not put up with politicians of any party who seek to remove them. We should take comfort that the direction of travel that this Government have taken through the Environment Act, the environmental improvement plan, the 25-year environment plan we are promoting and what we are doing on water is just the starter course. For a main course, we will continue to see environmental standards improve in future.

Lord Clarke of Nottingham (Con): The argument is that it may not be necessary, because the Minister is confident that we are going in that direction. Why is

that an argument against being absolutely reassuring by putting it on the face of the Bill, so that if an extraordinary, strange Government of protest emerged—some President Trump-type Government—they would have to go through the proper parliamentary and legal procedure before disappointing me and my noble friend?

Lord Benyon (Con): Because if it is in the Bill, you cannot improve it, as has been said in very eloquent terms—

Noble Lords: Oh!

Lord Benyon (Con): Well, not without going through an exhaustive amendment process. I want to see higher environmental standards in this country. I want us to be able to prove that we have higher environmental standards than the rest of Europe. I am ambitious that regulations should be in the right form, effective and pertaining to this country. Most of these regulations were designed for an environment that goes from the Arctic to the Mediterranean. As I shall come on to talk about, there are measures in it, including on animal welfare, for example—the point the noble Lord, Lord Trees, made. One of them relates to not putting ear tags in bulls that are used for "traditional purposes"—which turns out to be a regulation to exempt Spanish bullfighting bulls from the regulations that apply to other cattle. We do not have bullfighting in this country, so it is not a problem for that to sunset. I am sure my noble friend agrees with me.

Baroness Parminter (LD): We accept that the Minister is ambitious, but the question I raised was specifically about the Environment Act, where we are clearly being ambitious about the future. We talked about looking to amend regulations in future, including, potentially, the habitats regulation. A specific clause was included in the Bill that there will be a non-regression for environmental standards. Why will he not put that on the face of this Bill?

Lord Benyon (Con): I will of course reflect on the points made today, and we will consider them all in due course. I do want to make some progress, if possible.

The Duke of Wellington (CB): I thank the Minister giving way. Forgive me. I think I heard him say a few moments ago that the existing water framework directive was, in one sense, too demanding, because it divided rivers into sections, and any one section not passing ruled out the whole of the river. However, I then thought I heard him say that, nevertheless, we want to have very high targets. Which is it? Are we repealing the water framework directive or are we not?

Lord Benyon (Con): We are transposing it. I am sorry if I was not clear. I was setting out a very high standard that we have applied to ourselves, retained since we left the European Union and will be committed to in the future. I say that because I want this and future Governments to be held to the highest possible standard. I very much regret if the noble Duke got the impression that I was somehow indicating that those standards were too high. I was applauding the fact that they are high and want to keep them so. If the noble Lord will allow me, I really want to make some progress, because we have spent two hours on this—

Lord Kerr of Kinlochard (CB): I am most grateful to the Minister, and I admire his excelsior position that we are aiming at higher and higher standards. If he was to follow the advice of the noble Lord, Lord Clarke of Nottingham, and put these exemptions in the Bill, he would have set a floor; he would not have prevented himself from moving up to higher standards over time. However, I am sceptical whether he carries the whole government with "excelsior"—ever upward—because we have Clause 15(5), where there is an absolute ban on amending or replacing any of these Acts in a way that might increase the regulatory burden, and that burden is defined as including putting up the financial cost or creating

"an obstacle to efficiency, productivity or profitability".

That does not seem to me to fit terribly well with a drive for ever-higher standards.

Lord Benyon (Con): We can get bogged down in a philosophical debate about what regulation is for. Some people come at it from the direction that it should always stop people doing things that others might define as growth. Other people look on it as assisting legitimate businesses in functioning in a way that disadvantages bad people doing bad things. There needs to be flexibility in legislation to allow the right sort of regulation to encourage good behaviour. You will find that your greatest supporters in doing that are businesses and interests that not only are keen to be seen to be doing the right thing but want to benefit from the fact that we have the right kind of regulation in this country.

I will just finish the point about water. This Government are the first to tackle sewage overflows in the way we have. In the summer we published the most ambitious plan to tackle sewage discharges from storm overflows in water company history. The point made by the noble Baroness, Lady Bakewell, about the River Parrett is entirely understood; the base of that river covers a huge catchment area and agricultural activities over years have seen soils washed away into the river. The problems that have occurred as a result of that are being tackled in a combination of ways: first, through regulation; and, secondly, through incentives in our environmental land management schemes.

The noble Baroness also talked about siloed protections. We now have probably the most united approach to this through the 25-year environment plan, the Environment Act, the environmental improvement plan, what we are doing to encourage tree planting along rivers and many other things. I hope noble Lords agree that our plan will require a huge change in attitude now among the range of people involved in the management of our waterways. With this in mind, I hope that the noble Baroness might not press her amendments.

The noble Lord, Lord Krebs, made a very good intervention. He spoke about the "green crap" point. I was in that Government and in that room; it was not the Prime Minister who said that. I am glad to correct him on that. The Environment Act is not just warm words. I hope that, like me, the noble Lord feels that the hard yards in this Chamber to improve that Bill really made a fundamental piece of legislation, the like of which other countries will look at to see how to make proper environmental legislation.

[Lord Benyon]

The noble Lord is right to raise human health, as I said earlier. There is a lot of mapping going on around noise; he will be pleased to know that we include noise levels typically not required by statutory obligations. This will allow for the consideration of health impacts regardless of legal obligations.

I will address noble Lords' other points. I really want to nail the point about this Bill's impact on the habitats regulations. We have been clear about the importance of environmental protection across the United Kingdom —not least through the Environment Act, which includes a legally binding target to halt the decline of nature by 2030. We are committed to meeting this target and will not undermine our obligations to the environment in pursuit of growth. Defra published a Green Paper consultation on nature recovery in March last year; the reforms explored in that Green Paper have fed into the Government's environmental improvement plan, and nothing in this Bill will allow that to be put at risk.

On pesticides, I want to assure noble Lords about REACH; this addresses the point made by the noble Viscount, Lord Stansgate. There are no specific provisions in the Bill relating to UK REACH, so it will have no direct impact on current UK REACH policy. Defra has two key activities under way that aim to improve UK REACH: an alternative transitional registration model to reduce the cost to industry of transitional registrations while keeping high levels of protection. We will extend the transitional REACH deadlines in the meantime to allow time to continue the development of the alternative transitional registration model. Defra and the devolved Administrations are considering ways to improve and better tailor UK REACH to a GB-only setting while keeping the overarching framework of UK REACH in place.

The noble Baroness, Lady Bennett, raised pesticides. The United Kingdom upholds strict food safety, health and environmental standards, and our first priority regarding pesticides is to ensure that they do not harm people or pose an unacceptable risk to the environment. We will not allow the Bill to put that at risk. We will continue to ensure that decisions on the use of pesticides are based on careful scientific assessments of the risks in order to achieve a high level of protection for people and the environment while improving agricultural production.

The UK has an independent national regulator, the Health and Safety Executive, that assesses the risks of pesticides and undertakes the necessary scientific evaluations. If the noble Baroness has specific points on that, I am happy to talk to her at another time. It is necessary to ensure that UK legislation can be updated to reflect future advances in science and technology. Sometimes this debate is very much in net present value terms. Science is fast moving. We want to make sure that science is at the heart of policy-making.

8.30 pm

To address the point that my noble friend Lord Caithness made, Defra is full of scientists. We have a very able chief scientific officer, and every single area of policy that relates to the environment is based on sound scientific advice. I will take away his point and we will consider it, but I want to reassure noble Lords that science is absolutely at the heart of the process of good regulations.

Amendment 37 seeks to exclude whole swathes of environmental retained law from the sunset. I stress again that these amendments are not necessary, as the Government have been clear that we will uphold our environmental protections. The UK is a world leader in environmental protection. In reviewing our retained EU law, we want to ensure that environmental law is fit for purpose and able to drive improved environmental outcomes. I referred earlier to the extension mechanism. That exists when the sunset date approaches and there is more work to do.

Viscount Stansgate (Lab): The Minister raises this point about the extension mechanism. Does that mean in effect that the Government's approach is now to retain, reform, remove or delay a decision? If so, we may be talking about four buckets.

Lord Benyon (Con): A delay is reform, because it gives more time to get it right. There may be specific technical issues relating to a regulation that require more work to be done than can be allowed in the timeframe of the sunset.

On the marine issues, which the noble Viscount raised, we are committed to 30% of seas being protected. We have very clear policies on restoring fisheries and fish biomass in the sea, and we have provisions through the marine strategy framework and others to see that achieved.

A number of Peers have raised the issue of resources. We are putting huge resources into this. The noble Lord, Lord Fox, is right to raise this, and I understand the concerns. We want to make sure that we understand each and every one of the more than 1,700 areas of retained EU law. Our default position is to retain. Resources for retained EU law legislation will be needed from a range of policy officials, such as analysts and lawyers, to deliver a significant legislative programme. My officials are working closely with BEIS and the Cabinet Office to ensure that Defra has sufficient resources. Our aim will be to ensure that important work unrelated to retained EU law will continue.

Baroness Hayman of Ullock (Lab): The default position is actually that it falls unless you have this extension. The extension mechanism, as the noble and learned Lord, Lord Hope of Craighead, said, relies on something specific being identified.

It is no criticism whatever of Defra staff, but if they have to identify extra pieces that need to be carried over, this is a huge amount of work. We do not even have a comprehensive list at the moment so it could increase, plus they have to get all the SIs sorted. All that has to be done by the end of this year before the Government can bring in an extension. As I asked the noble Lord earlier, does he really have confidence that Defra has enough staffing resources to achieve all this? I am really concerned about it. I reiterate that this is no criticism of the staff. This is about figures, numbers and cash.

Lord Benyon (Con): We have got the resources that we need to carry out this work.

Lord Davies of Brixton (Lab): My Lords—

Lord Benyon (Con): Can I just finish this point? Where there are more complicated issues that may require us to spend longer dealing with them, the extension mechanism is there to achieve that. That should be a reassurance that we will not risk, with this challenging timetable, making the wrong decision. If necessary, we can apply the extension mechanism.

Lord Davies of Brixton (Lab): My Lords, while I am impressed by the resources being put into this effectively useless power, what more productive use could those resources be put to?

Lord Benyon (Con): Having laboured through many of the details of this, I can assure the noble Lord that it is a good thing for a Government to be doing. We are tackling some areas of law that have no relation to this whatever. They are about fishing arrangements between Denmark and Norway in Svalbard or export policy in olives. There are many areas that we can get rid of, but there are other areas of regulation—this point was made very well earlier—that we would be updating even if we were in the EU. So it is a good thing for the Government to make sure that we have proper regulation that is up to date and tied into our ambitions in the 25-year environment plan, the Environment Act and the environment improvement plan.

Baroness Andrews (Lab): The noble Lord, Lord Benyon, is a good Minister who is genuinely doing his best, but we have a fundamental contradiction here. He has said that his department's default position is to retain; the Bill says it is to revoke. What is the Government's position on this?

Lord Benyon (Con): As the Secretary of State said at the launch of the environment improvement plan, we will retain by default. Then we will examine every single item and decide which to put back in. Noble Lords will see, when we publish the list, that we have done a good job on this. We remain committed to our ambitious plan set out in the net zero strategy and the *Environmental Improvement Plan 2023*. They set out the comprehensive action the Government will take to reverse the decline in species abundance, achieve our net-zero goals and deliver cleaner air and water.

Baroness Andrews (Lab): I am terribly sorry to noble Lords, I really am. We have not heard the expression "retain by default". Does the Minister sitting beside the noble Lord, Lord Benyon, agree with "retain by default"? We did not hear anything like that in the first day of Committee. This is news to us and it seems to turn the Bill on its head.

Lord Benyon (Con): I am quoting what Ministers have been saying for some weeks now, so it should not be a great surprise to noble Lords. With that, I hope that noble Lords are prepared to withdraw or not move their amendments.

Lord Hendy (Lab): Before the noble Lord sits down, could I raise one point on delay? I am trying to visualise a situation in which officials are considering a particular set of regulations—let us not identify them—that are complicated. Therefore, the possibility of delaying a decision on those regulations is under way. We get to 30 December 2023: no statutory instrument has been laid, because they are still considering whether to delay consideration. How is this to be considered "scrutinised by the House"? There will be nothing there to scrutinise—there will be no statutory instrument—and the House will be thinking that this set of regulations will disappear on 31 December.

Lord Lucas (Con): My Lords, I will give my noble friend the Minister a couple of thoughts to take away.

Lord Hacking (Lab): Leave the Minister alone.

Lord Lucas (Con): We are in Committee, and anyone who wants to leave may leave, but I wish to speak. I will say two things. I recommend my Amendment 134A for the Minister's attention, as a way to get out of some of these difficulties. Secondly, the letter sent to us today misrepresents the effects of Clause 15(5), in that it does not take into account the words "including changes made previously". I hope that the Minister may be able to rectify that in what he sends to us later.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I thank all noble Lords who have taken part in this debate. There are far too many and the hour is too late for me to comment on them individually. I am very grateful for the support for the amendments in this group.

The Government want to leave the environment in a better state than they found it. This is no mean task and needs continuous and immediate attention. Removing these regulations from the Bill will not ensure that this happens.

I thank the Minister for his response and his passion for the subject matter. I will study his response in *Hansard*. I would welcome a dialogue with the Minister on a way forward, and I feel certain that we will return to this issue on Report. In the meantime, I beg leave to withdraw Amendment 10.

Amendment 10 withdrawn.

Amendments 11 to 25 not moved.

8.42 pm

Sitting suspended. Committee to begin again at 9.12 pm.

9.12 pm

Amendment 26

Moved by ***Baroness Ludford***

26: Clause 1, page 1, line 4, at beginning insert "Subject to section (Consultation and reporting),"

Member's explanatory statement

This amendment is connected to Lord Fox's amendment after Clause 1 "Consultation and reporting".

Baroness Ludford (LD): My Lords, Amendment 26 is a paving amendment, so I will speak mainly to the substantive Amendment 48. Much reference was made in the previous two groups to the need for consultation and consideration of various factors and elements before there can be sunsetting. This theme will be taken up; it links to later groups, particularly the fifth group.

Many of us think that this Bill is pretty hopeless. It has been described as revolutionary and, in my case, anarchic, but we are trying to bring some rationalisation and order to the Bill, which is at the moment completely disordered. I referred earlier to it as putting the cart before the horse, in that we have had this Bill in Parliament for several months but no one can say when we are going to get the famous comprehensive list. We understand that officials are still trying to trawl through the regulations so far and decide, with Ministers presumably, into what bucket they should go. You would have thought that all that work on bucket filling would have gone on before the Bill was ever introduced, because surely that is the right way round: you have the policy before you seek the legislative powers to do anything about it. Unfortunately—we all know it is a piece of ideological gesture politics—we have not had that sensible approach. Some of us hope that we will get a sensible approach once the Northern Ireland deal is successfully approved.

9.15 pm

What we have at the moment in Clause 1 is an arbitrary and impractical sunset date with the consequent and avoidable, but not avoided, risk of the disappearance of rules of critical importance to business, consumers, employers and the environment—as we were just discussing—without any adequate consideration or consultation; then conferring an entirely unfettered and unscrutinised discretion to Ministers to disapply or delay the sunset provision, or not. Then there are the wide-ranging powers for Ministers to legislate at will to replace or update retained EU law without any requirement to consult on all these matters.

As was said in the previous group, these matters are of enormous importance to real people out there; people having to work to do what the Government and all of us want them to do—to produce, to try to grow the economy and so on. They do not have a clue what kind of legislative context they will be facing at the end of this year. That creates legal uncertainty and instability, which is the antithesis of what good governance represents, and it will deter foreign investment, as well as domestic economic efforts to grow the economy. What is difficult, even impossible, to find is any policy rationale for all these changes. No assessment has been done of the legal effect of the proposed changes on the regulations concerned.

One problem I alluded to in the first group is that we are not even sure of the scope of Clause 1, and therefore the effect of the sunsetting. The choice of whether EU law was implemented through regulations under Section 2(2) of the European Communities Act, or by amending existing primary legislation, or by creating stand-alone legislation, seems—I will not call it whimsical—not to have been governed by any particular considerations.

We had a little bit of an exchange earlier around that fact that, sometimes, one suspected that there was a Whitehall effort either to promote some domestic project and hide it in the midst of an EU measure or to hide an EU measure that might have been considered unpopular—the Government might have voted for it in Brussels and not wanted to admit as much or whatever. We have a mish-mash of retained EU law, which may or may not have been done under Section 2(2) of the European Communities Act or could have been put in through primary legislation. We do not know whether there was any reasoned consideration as to how this was done. What we have now is a picture that is quite unclear regarding the scope of the sunset in Clause 1.

I think a lot of the amendments that we will be looking at from now on are about trying to bring some order, reasonableness and good governance into a Bill that lacks all those things. Clause 48—sorry, Amendment 48, I am getting ahead of myself; I wish it were Clause 48—says:

> "A relevant national authority must consult … organisations … and … persons, as appear to it to be representative of interests substantially affected by the revocation of"

the instrument concerned, which of course requires the identification of the instrument concerned. There must be at least 12 weeks for consultation. After the responses are considered, the Government—or national authority, because it could be the Scottish Parliament, the Senedd or the Northern Ireland Assembly—should lay a report before Parliament. Then the Government would have to lay out the reasons, what benefits they were claiming from the proposal to revoke the instrument, what representations they had received to the consultation, how the revocation would affect the trade and co-operation agreement and UK exports to the EEA, the effect on the Ireland/Northern Ireland protocol and so on. Also, relevant to the previous two groups, they would have to say whether the instrument afforded any protection for consumers, workers, business, the environment and animal welfare and, if so, how that protection was proposed to be continued if the EU measure was revoked. So there is a list of important factors that the Government would have to lay out to Parliament as to why they were taking the course of action they were proposing.

The last factor that I will highlight is

> "a summary of the objectives and effect in law of the instrument and the legal consequences of its revocation".

Perhaps that would also bring in something that we are going to discuss in a future group: the question of keeping an instrument but without the underpinning of the general principles of EU law, case law and directly effective EU treaty articles such as Article 157 on the Treaty on the Functioning of the European Union. That article is crucial for equal pay claims because it is the one that requires claims to be on work of equal value. The famous Tesco case transformed the ability of women to win equal pay claims. The Minister—the noble Baroness, Lady Neville-Rolfe—in a sedentary position is smiling at me choosing that example, as she used to work for Tesco. Shop staff were often told, "You've got no equal pay claim because there isn't a comparator who is also working in a shop", but of course the men were working in the

warehouse. It has transformed equal pay claims, and it is crucial to keep Article 157 of the treaty with direct effect. I have digressed slightly.

The legal impact will of course depend on various cross-cutting issues such as whether we are going to keep all this underpinning of EU case law and legal premises, including the supremacy of EU law. I heard a lawyer point out last week that the "supremacy of EU law" is a much-misunderstood term that those who do not like EU law are put off by; it just means a hierarchy of law.

Anyway, I hope I have sufficiently explained why this is an excellent amendment. It is trying to bring some sense into what is, at the moment, quite a chaotic Bill. I hope that it can be supported across the House and by the Government. I look forward to the Minister telling me what a wonderful amendment it is and how he is going to adopt it wholesale. I beg to move.

Baroness McIntosh of Pickering (Con): My Lords, I am delighted to follow the noble Baroness. My amendments are a little more directly addressed to probing the clarity as regards the date on which the sunset provisions come into effect, while allowing a five-year additional timeline, which is needed for the reasons we have heard over the first two days in Committee.

I speak in support of Amendments 27 and 28. Amendment 28 was drafted by me and I prefer the amendment drafted by the Law Society of Scotland. I am delighted to have the support of the noble and learned Lord, Lord Hope of Craighead, as well in that regard. The amendments probe the Government on providing clarity about and extending the date on which the sunset provisions come into effect. As we now know, Clause 1(1) provides for the revocation of all "EU-derived subordinate legislation" and "retained direct EU legislation" by the end of 2023, although that date is very vague. The Law Society of Scotland expresses its serious concern that the proposed statutory deadline of "the end of 2023" does not appear to allow sufficient time to enable the review of retained European Union law to be completed properly, after due consultation with the devolved Administrations and relevant stakeholders, including UK parliamentary and devolved legislature committees.

The additional time could also be used for a more thoughtful approach to amending or repealing retained European Union law. The choice of date should be made on the application of good legislative practice, including consideration and analysis of the legislation involved, and consultation with those who will be affected by the variation or revocation proposed by the regulations in question. The later date that I set out in Amendment 27 will allow for that process to be completed.

Furthermore, the reference to "the end of 2023" in Clause 1(1), as referred to above, is vague. I therefore suggest that this reference should be defined with greater precision in as

"11:59 pm on 31 December 2028"

following the precedent of the definition of IP completion day found in Section 39(1) of the European Union (Withdrawal Agreement) Act 2020. I hope that, in summing up, my noble friend will approve both the specific reference to the time and date, and the extension of five years.

We heard for the first time officially today—unofficially yesterday in the briefing—that the default position of Defra is to retain all EU law. But, as we discovered, that is not stated in the Bill so, emerging from Amendment 27, I put two options to my noble friend the Minister this evening. The Government should either, in the spirit of openness, publish in an easily accessible format all the retained EU law that is to be retained and, alternatively, that to be revoked; or, as proposed in Amendment 27, they should insert a later, clearer deadline of 2028 to ensure that no instrument lapses by default.

9.30 pm

I think it was my noble friend Lady Neville-Rolfe who referred to this as an enabling Bill. I would say that more appropriately it is a disabling Bill, because we are disabling retained EU law. In the case of Defra, over 1,700 instruments have been transposed into UK law as part of retained EU law over a two-year period.

I refer briefly to the letter from my noble friend Lady Bloomfield to the Committee, sent during proceedings this afternoon. In a moment I will talk briefly about the government amendments in this group, but there appears to be one omission which will not necessarily be covered by what my noble friend is proposing to do in his amendments. It was referred to by the noble Baroness, Lady Andrews, in the informal briefing yesterday. She had a reply, from which we have all benefited, in the letter from my noble friend Lady Bloomfield. To quote from the letter,

"departments could use the extension power in Clause 2 of the Bill to extend specific pieces of retained EU law, without interpretive effects, until 23 June 2026. Departments could then use the other powers in the Bill to reform assimilated REUL. If departments wish to reform retained EU law in 2023 they can use the powers to revoke or replace and then that reformed piece of law will no longer be subject to the sunset."

The question I put to my noble friend this evening is this: what is the status of that law? To which category or bucket—whichever my noble friend wants to describe it as—does it then fall? If we do not understand that as parliamentarians, how on earth are the businesses and industries affected by all the retained EU law going to know in their specific circumstances what the status of the reformed category of legislation will be?

Why has my noble friend chosen this moment to come forward with government Amendments 31, 41 and 45? We put it to him on a number of occasions, most recently at the informal briefing—for which I am very grateful—we received yesterday, primarily on the environmental aspects. The question has to be asked, particularly on Amendment 45 in my noble friend's name, why exceptions to the sunset—we have now set a precedent in the Bill that there will be exceptions to the sunset—are being limited to one category of provisions of retained EU law, those relating to financial services law?

In the previous group and the first group of amendments, a very strong argument was made for specific categories. The one that I most closely identify with is the environmental category, as I have been an MP, an MEP and now sit in this House. I would like to know about the timing of the amendments my noble friend is seeking to bring forward and why they were

[Baroness McIntosh of Pickering]
not brought before the House of Commons at an earlier stage in proceedings. Having set the precedent that exceptions can be made, why is my noble friend seeking to limit them to only one narrow category?

Before I sit down, I speak warmly in favour of Amendment 63 in the name of the noble Baroness, Lady Jolly, to which I have added my name. I will leave her to set out the excellent reasons why the Committee would wish to adopt it, but I would like to lend my strongest possible support.

Lord Hope of Craighead (CB): My Lords, I added my name to Amendment 27, in the name of the noble Baroness, Lady McIntosh of Pickering, and I am grateful to her for putting it down and for what she said.

I am sure the Minister will remember that, when we mentioned time limits and sunsets on Thursday, I agreed with the noble Lord, Lord Hamilton of Epsom, that it was sensible to have a sunset in view of the task set before us. The question is whether the sunset is in the right place. This amendment addresses that issue. The point is that the Government are trying to move too fast without having done the homework in the first place to establish that the sunset is one that they could meet.

Last Thursday, the noble Lord, Lord Wilson of Dinton, said that the Government should "do the work first". As he put it:

"The right thing to do is for the Government to withdraw the Bill, go away and do the work, and decide what they want to keep, what they want to amend and what they want to abolish, and then tell Parliament so that it can debate and scrutinise what the Government want to do—and it can be a proper process with consultation. That will take longer, but the Government are taking on a very big job with huge complexity and scale."—[*Official Report*, 23/2/23; col. 1774.]

I do not suppose the Government will withdraw the Bill, but the fact is—it has been staring us in the face ever since we started these debates—that the job that they are taking on is immensely complex. However hard they try to pretend otherwise, they seem to be making it up as they go along—the figures keep enlarging, indicating that the necessary work was not done at the outset, before the timetable was decided upon.

The Bill had its First Reading in the House of Commons on 22 September 2022. All the signs are that even a reduced or very preliminary version of the information that is now on the dashboard was not yet available. The Government seem to have been playing catch-up ever since they became aware of the questions being asked of them. To introduce a Bill with a sunset clause without having arrived at a clear understanding at the outset of the scale of the task that all four Governments are being asked to undertake is, to say the least, bad planning. The noble Lord, Lord Wilson, said that it was "lazy government", and one might also say that it is bad government.

Mention was made of Clause 2 and the extension of the sunset clause providing an escape clause, but it is a carefully framed and narrowly drawn provision that requires an understanding of the legislation, or the descriptions of the legislation, that is to be put into the provisions allowed by Clause 2. It has to be specified; it does not allow for a general let-out just because the work has not been done on time and unknown instruments are yet to be discovered—if you have not discovered them, you cannot specify them. So this is not a complete answer to the problem that the very strict and early sunset, set from the outset of the Bill, is trying to solve.

The solution that the noble Baroness has offered, which I agree with, is to extend the sunset to a later date. It is worth mentioning that there is reason to be concerned about the same time limit in Clause 12, which gives power to restate retained EU law, but it is subject to the provision in subsection (7) that

"No regulations may be made under this section after the end of 2023",

which is exactly the same date that the noble Baroness, Lady McIntosh, directed her amendment at. These two clauses march hand in hand, and if a government amendment is made to Clause 1, as I suggest it should be, one should also be made to Clause 12.

I hope that the Minister will reflect carefully on the sunset clause. An extension of it, even by a year, would provide a much better timetable to which to work, given the enormity of the task being faced. I very much support this amendment, and I hope it will be supported across the Committee.

Lord Hannay of Chiswick (CB): My Lords, I will speak in support of Amendments 26 and 27. Amendment 26 moved by the noble Baroness, Lady Ludford, is about consultation. You can have your views on the value of consultation, the amount of time taken up by it and so on, but it is a normal practice in legislating in our time. To move away from it, which is what the Government will do with the replacement provisions they may move forward, seems aberrant and contrary to all normal practice.

The trouble is that the two amendments are a bit linked, because if you accept Amendment 26 it is even clearer than it is now—it is clear beyond peradventure—that you are not going to get through all that by the end of this year. I can see why the Government are driven to refusing to commit themselves to consultation, because it simply cannot be done in the time available. In my view, that is an argument in favour of Amendment 27 in the name of the noble Baroness, Lady McIntosh of Pickering. I hope the Government can give some ground on the consultation issue; otherwise, we will probably get some legislative proposals that not only are very hasty but have not been tested by the people to whom they will be applied. That seems entirely contrary to our practice these days in bringing forward legislation.

On Amendment 27, I find it very odd that the Government are clinging to the sunset of the end of 2023. It seems unrealisable—some would say suicidal—and it will bring nothing but discredit on the Government when the chaos that is caused actually supervenes. In any case, whether you think that or not, just reflect on something that the noble Lord, Lord Benyon, said to us in the debate on the last group of amendments. He told us that four teams of officials are working on deciding which of the instruments to be caught by the cut-off should be postponed until 2026 and which should go ahead. If you removed the 2023 sunset, you would save those four teams all their work; all they

would need to do is work out what to do by 2026—or, as the noble Baroness suggests, by 2028. I am less sure of that; to my mind, it would be quite sufficient simply to remove 2023 and to leave 2026, as it is in the legislation. That offers a reasonable amount of time to carry out an exercise.

It also demonstrates that those of us tabling or supporting these amendments are not refusing to replace European Union law. Quite the contrary—we understand the basic logic behind what is being done, but we find that the timing is absurd and damaging to our economy. I hope that the Minister will respond positively, both on consultation and on removing the 2023 sunset, even if he does not find 2028 very beguiling.

Baroness Young of Old Scone (Lab): My Lords, I will speak to my Amendments 46 and 47 to the Minister's Amendment 45, which no doubt he will speak to soon. My amendments add environmental measures to the Minister's amendment, which exempts financial services measures. Tabling the amendment was rather a flight of mischief, because I thought that, as imitation is the sincerest form of flattery and since the Minister had tabled a fine amendment to get financial services out of the Bill, perhaps I could just follow his good example. I thank him very much for giving me that good idea.

I am sure that the Minister will say he tabled his amendment because the Financial Services and Markets Bill provided a considered and more sensible approach, which it did—but we perhaps need a considered and more sensible approach for all the important issues covered by EU legislation and caught by this Bill. I am talking not just about environmental issues but about consumer and trading standards and workers' rights. Do they not justify a more considered and sensible approach, rather than this wholesale gallop towards a self-imposed deadline for a constantly shifting number of pieces of law, as listed on the dashboard, which continues to change and presumably will do so right up to the arbitrary deadline? It is a gallop that is diverting huge amounts of civil servants' time, and all because a few Conservative MPs are allergic to anything that has "EU" in it.

9.45 pm

Perhaps we can ask the Minister to stop the arbitrary gallop and tell us how a more considered and sensible approach will be introduced. I suggest that it needs to prioritise review of legislation when that legislation actually requires review, rather than in a wholesale fashion. It needs to involve a process that introduces wide and effective consultation with businesses, civil society and the public—those who will be impacted by this legislation. It needs to have proper parliamentary involvement and give proper protection to case law and interpretive effects. After all, if I remember correctly, that was the normal and sensible way in which we used to do things.

Baroness Andrews (Lab): I support the amendment in the name of the noble and learned Lord, Lord Hope, and Amendment 26. The point about consultation is extremely important, especially as it seems obvious that a lot more SIs will not fit easily into the dispose or retain buckets, and arrangements have to be made for that. One thing that has struck me forcefully as we have gone through this process so far is the whole scope of this Bill—the enormous numbers of interrelationships between EU retained law, domestic law and international law, and with the devolved Administrations as well. It is growing more and more complex by the amendment.

Throughout the debate we have heard a lot of different arguments as to why this arbitrary deadline is simply not going to work. Possibly it was understood that it would never work when it was proposed, but it may have been a sort of discipline to focus the mind. Either way, it is disingenuous, and I would have thought that by now the Minister would have had so much weight of evidence that he would find it an honourable position to say that he would be prepared to consider accepting an amendment to extend the sunset clause. I sincerely hope so, as it is very hard to envisage what those 14 civil servants would have been doing otherwise. They might have been tackling, for example, the cleaning of our rivers and many other things.

We now come on to the issue raised by Clause 2. In the famous letter from the noble Baroness, Lady Bloomfield, which I am sure was sent with positive intent, I am named because I asked a question about powers in the Bill. I literally cannot understand the reply in that paragraph, and I would be very grateful if we could have some sort of case study that exemplifies the way in which those powers will actually be used. I know that there are some excellent officials in the department working on this part of the Bill. Can we have a simple exemplar of how that would actually work?

That brings me to Clause 2. Again, all I am seeking at this stage is clarification and simplification of what we can get. When the Minister winds up, can he explain to the Committee the exact circumstances under which Clause 2 would come into effect? The noble and learned Lord, Lord Hope, has raised this issue, and I want to reinforce it. Can he tell the Committee what a specified instrument is likely to be? Does this mean a statutory instrument that has to be amended rather than kept intact or removed? Are there any other categories that might fall into the scope of this clause and, if so, what? We cannot take comfort from the idea that this exists and therefore we will be able to resolve many different problems that will suddenly find themselves being able to be passported into next year and beyond, and therefore we can stop worrying about it.

Finally, I put this question to the Minister at Second Reading: it is a really important question, but I did not get a satisfactory answer. Why is the power to modify the sunset clause not extended to Ministers in Wales and Scotland, particularly when a disproportionate burden of effort is falling on the ministries in those countries? They do not have the capacity and they need some help and some flexibility. I ask the Minister to think again, particularly about Wales, where the effective deadline will be the end of October: it will not even be December. They will be three months short of the deadline with the flexibility that we have. Can I have an answer to that specific question tonight?

Lord Hodgson of Astley Abbotts (Con): My Lords, I have not participated in Committee before. The Committee will be aware from my speech at Second Reading that I have my concerns about the Bill, but, having sat through substantially all today's proceedings, I have some sympathy with my noble friends on the Front Bench. They face two irreconcilable requests. We began this afternoon with an urgent need to clarify as soon as possible. I am not picking out the noble Lord, Lord Collins, particularly, but he talked about aviation, holidays and so on, and, of course, if you want to get clarity quickly, you need to resolve quickly, so you have a short deadline.

Then, later, we are now saying, through my noble friend Lady McIntosh, the noble and learned Lord, Lord Hope, and the noble Lords, Lord Hannay and Lord Fox, I think, that actually we want to spin it out, we want to push it out for time for consultation—maybe 26, maybe 28. But we all know Parkinson's Law, which says that the job expands to fill the time available for its completion. Therefore, those who wish to push it out will have to accept that most of it will come towards the end of that period, life being what it is, and the period of uncertainty, therefore, will be extended. That is the dichotomy that the Committee is not clear about, and I am not surprised that my noble friends on the Front Bench find it quite hard to reconcile those two points of view: I have some sympathy with the position they find themselves in at present.

Baroness Jolly (LD): My Lords, I start by apologising to the Committee for not speaking at Second Reading. I support Amendment 63, tabled in my name along with those of the noble Baronesses, Lady Finlay of Llandaff and Lady McIntosh of Pickering, and the noble Lord, Lord Hendy, and declare an interest as President of the Royal Society for the Prevention of Accidents, RoSPA.

We tend to think of the United Kingdom as a global beacon for safety. Over the last 50 years, legally enshrined protections have saved more than 125,000 lives and prevented more than 1 million hospitalisations. This has not happened by luck; it has happened because of our role as pioneers in evidence-based research, alongside our international partners. Many of these vital measures are in retained EU law and are on track to be repealed at the end of this year. They include, quite alarmingly, rules on child and adult seat belts—my noble friend Lady Randerson touched on this—hazardous substances and chemical safety standards, and essential product safety.

I want to put flesh on the bones, as did the noble Baroness, Lady Young of Old Scone, and take the example of toys. On average, every year, 100 dangerous toy products are prevented from being supplied in the UK by trading standards. According to data from RoSPA, should the toy safety regulations be revoked, statistics tell us that the UK will go from zero recorded deaths caused by toys to two deaths and 5,000 children being seriously injured and needing to be admitted to hospital every year, the same as we experienced before regulations were put in place in 2002. This is just one example out of hundreds of laws that protect our citizens, including children, on a daily basis, 24 hours a day, 7 days a week, 365 days a year.

I understand the need for this Government to uncouple themselves from the EU as part of Brexit, but this is a very important, very delicate exercise, which must be treated with the utmost care. It is no use "taking back control" if the way this Government choose to use their control is by bypassing proper parliamentary scrutiny and repealing thousands of laws, of which hundreds are life-saving safety laws, without any due process.

That is why I propose this amendment, which will require a health and safety impact assessment for each piece of EU-derived legislation set for revocation not less than 90 days prior to the intended date of revocation. Parliament deserves to see the truth about every law set to be repealed, so that we can make an informed decision about how to proceed. I am sure that plenty of revocations will pose no health and safety risk and that this House will be comfortable repealing many of these laws. However, just as there are things in this list that we do not need, there are also many that we do, and this House must be given the necessary information to be able to distinguish between the two.

The NHS is facing an unprecedented crisis. Hospital emergency departments are more stretched than ever and ambulances are queuing to offload their patients and go to their next emergency. Actively creating the conditions for thousands of people to suffer more accidents and emergencies at a time like this would be absurd. I hope that reason prevails and the Government back this essential amendment.

Lord Whitty (Lab): My Lords, I came in this afternoon to join the environmental debate, because I knew of the anxieties among those concerned with the environment. They feel that there is a strong possibility that their area of concern will fall without proper consultation, involvement or debate 10 months from today.

Having sat through the environmental debate, I began to feel a strange emotion: I felt very sorry for the Government—for Ministers on the Front Bench and other Ministers here. The inadequate letter we received from the noble Baroness, Lady Bloomfield, shows that they are really not on top of this, and they will not get on top of this in the timescale they have set themselves. We can make all sorts of detailed amendments, but the Government's main way out of this is to accept the two amendments from the noble Baroness, Lady McIntosh, and extend the period of consideration for retained law so that stakeholders, business, consumers, et cetera, can consider the real implications of the laws and the alternatives, and so that the Government will have the ability to introduce a proper parliamentary process for reviewing the totality of this exercise.

I really think that Ministers will have to think again if they are going to attempt to meet the deadline that they have unnecessarily set themselves. If they give themselves more time, maybe something like this Bill will survive and the process that they started will succeed. If not, I am afraid that I can see nothing but the defeat of this Bill as a whole, and a lot of people continuing to feel great anxiety until that happens. So I appeal to Ministers to recognise reality, accept the amendments from the noble Baroness, Lady McIntosh, and let us move on.

Baroness Finlay of Llandaff (CB): My Lords, I am most grateful to the noble Baroness, Lady Jolly, for the way that she introduced her amendment in this group, to which I have added my name. The beginning of the letter circulated earlier says:

"The Government remains committed to protecting consumers from unsafe products. From toys to cosmetics, these products are essential to our daily lives and ensuring they are safe underpins both consumer confidence and competitive markets".

Yet we are faced with a large amount of health and safety legislation simply falling, with no real understanding of why. That is why I added my name to the amendment. A lot of aspects of health and safety are complained about by some of the people who have to implement the regulations—they say they are excessive—yet, as has already been said, they save thousands of lives every year. It comes down to the fundamental question of how much value we put on the lives of our citizens.

We started off today discussing child seat belts. The noble Lord, Lord Deben, and the noble Baroness, Lady Randerson, certainly dealt with that topic comprehensively, but I want to touch on seat belts in general. Before the 1980s legislation, when only 40% of people wore seat belts, there were about 500 deaths a year and about 10 times as many hospital admissions to treat serious injuries—so, about 5,000. In 2021, a quarter of the people who died on the roads were not wearing seat belts, despite our existing legislation. It seems that there are approximately 75 deaths every year in the UK from people not wearing seat belts. That is a dramatic decrease, and it is also a dramatic decrease in cost to the nation of managing serious injury.

10 pm

Many people who run building sites might not like some of the regulations they have to adhere to, yet falling from height is still the biggest killer in our workplace. Currently, the Work at Height Regulations save about 30 people a year. If they were removed, that would have a disproportionate impact on some of the poorest families in our communities, who tend to have jobs where height is involved. I feel that some of those regulations may fall into being viewed as impeding efficiency, productivity and profitability and imposing a financial cost from the safety equipment.

We talk about the struggling NHS, and I should declare that I am a member of the BMA and a registered medical practitioner. There is serious concern that the NHS already cannot cope with what is being presented to it at the moment. The whole medical workforce is worried about the European working time directive, the Transfer of Undertakings (Protection of Employment) Regulations, and the right to equal pay between men and women and other EU laws around equality being abandoned. One of the problems when the European working time directive came in was that, suddenly, people found that they all had to work differently. I caution against anyone thinking there is any merit at all in going back to the bad old days when I was a junior doctor and we worked 108 hours a week. There were times when we were so tired that we certainly made a lot of mistakes, and we know that our clinical workforce is already on its knees.

Those are just some examples of pieces of legislation which, at the moment, people are worried about possibly being lost in the transfer and not being preserved. It becomes difficult to understand why—if it applies to the Defra legislation—it is not the default to retain EU legislation and then slowly work through it afterwards to decide what will go, because the health and social care costs are probably vastly greater than anyone has yet estimated.

Lord Hamilton of Epsom (Con): My Lords, I speak to Amendment 27 in the name of my noble friend Lady McIntosh of Pickering and the noble and learned Lord, Lord Hope. I have always had great reservations about extending the sunset clause by any time at all, and I am quite surprised that nobody has mentioned this. The Bill gives the Government astronomical powers to use secondary legislation not only to amend EU law but to create completely new laws. I have great worries about doing this for any longer than is absolutely necessary. We have to think very carefully about whether we want to extend this period at all.

The noble Lord, Lord Benyon, has said—at least, it has been attributed to him— that, by default, if we cannot think what else we are going to do with these laws, we will keep them. If the Government keep just to the sunset clause of the end of this year, they will have to keep virtually everything—I do not know why anybody has an argument with that—and they can then revise it under primary legislation later if we do not have this extension at all. We have to very seriously think about this.

The real solution to all this is, of course, Amendment 44 in the name of the noble Lord, Lord Carlile, which says that we must have a sifting system to decide what we do with all this legislation. An awful lot of it can go through under secondary legislation, particularly if we are keeping it, but, at the same time, some bits of legislation will make major changes to EU law, and that should be done under primary legislation. If we have that as a sifting system—I am not sure I agree with the mechanism that he suggests, but I agree in principle with his amendment—all this falls by the side, because we then have a system where all this can be dealt with. We can extend the period beyond the end of this year and it can all be dealt with sensibly like that. As long as we are viewing this amendment on its own, I certainly could not support it and would advocate for saying that we should have sudden death at the end of this year, concentrate the minds of everybody and either keep this law or get rid of it, but do not muck about with it for endless years to come.

Lord Hendy (Lab): I shall speak to Amendment 63, to which I added my name to those of the three noble Baronesses, Lady Jolly, Lady McIntosh and Lady Finlay. Amendment 63 would protect health and safety by requiring a health and safety assessment of each piece of legislation which will, or may be, repealed or revoked by the Bill. I shall confine my comments this evening to a subset of legislation which might have an impact on health and safety, and that is the law relating to health and safety at work. Obviously, I support the arguments so eloquently advanced by the noble Baronesses, but I should like to advance a different argument. It is a matter that has been raised in debates on the Bill

[Lord Hendy]

a number of times, but in general terms: the EU-UK Trade and Cooperation Agreement. I should like to deal with that specifically in relation to health and safety at work.

I shall read to the Committee the relevant words of the trade and co-operation agreement, beginning with Article 386. It is only a few sentences; no one need fear that I shall keep them here for hours. Article 386.1 states:

"For the purposes of this Chapter, 'labour and social levels of protection' means the levels of protection provided overall in a Party's law and standards in each of the following areas".

It sets out a number of areas, of which paragraph (b) is "occupational health and safety standards".

Article 387.2 states:

"A Party shall not weaken or reduce, in a manner affecting trade or investment between the Parties, its labour and social levels of protection below the levels in place at the end of the transition period, including by failing to effectively enforce its law and standards."

So the United Kingdom has signed up in a treaty to not weakening or reducing its occupational health and safety standards in a manner which might affect trade or investment. Bearing in mind what the noble Lord, Lord Clarke of Nottingham, said earlier this evening about the objective of the Bill being to reduce costs—one would add, in order to make British industry more competitive—it is clear that this article is engaged.

There is just one more article to which I draw attention, Article 399.5, which says:

"Each Party commits to implementing all the ILO Conventions that the United Kingdom and the Member States have respectively ratified and the different provisions of the European Social Charter that, as members of the Council of Europe, the Member States and the United Kingdom have respectively accepted".

There, the commitment of the United Kingdom is the implementation of ILO conventions and European Social Charter provisions ratified by the UK. I can assist on what those are in relation to occupational health and safety; there are only three passages that I need to share with your Lordships. First, there is ILO Convention No. 187, the Promotional Framework for Occupational Safety and Health Convention 2006, which was ratified by the United Kingdom. Article 2 of it states:

"Each Member—

each member state, that is—

"which ratifies this Convention shall promote continuous improvement of occupational safety and health to prevent occupational injuries, diseases and deaths, by the development, in consultation with the most representative organizations of employers and workers, of a national policy, national system and national programme."

Article 3 says:

"Each Member shall promote a safe and healthy working environment by formulating a national policy … Each Member shall promote and advance, at all relevant levels, the right of workers to a safe and healthy working environment … In formulating its national policy, each Member, in light of national conditions and practice and in consultation with the most representative organizations of employers and workers, shall promote basic principles such as assessing occupational risks or hazards; combating occupational risks or hazards at source; and developing a national preventative safety and health culture that includes information, consultation and training."

Article 4 says:

"The national system for occupational safety and health shall include among others … laws and regulations, collective agreements where appropriate, and any other relevant instruments on occupational safety and health".

The European Social Charter is even clearer. Article 3, which was specifically ratified by the United Kingdom, on

"The right to safe and healthy working conditions",

states:

"With a view to ensuring the effective exercise of the right to safe and healthy working conditions, the Contracting Parties undertake … to issue safety and health regulations … to provide for the enforcement of such regulations by measures of supervision … to consult, as appropriate, employers' and workers' organisations on measures intended to improve industrial safety and health."

It is quite clear that, if the current raft of provisions on health and safety at work, some of which I listed at Second Reading, is revoked or diminished, we will be in breach of the EU-UK Trade and Cooperation Agreement. The only way we can avoid that is by the Government exempting health and safety at work in the same way as they propose to exempt the financial sector through Amendment 45. Will the Minister give that assurance?

The Parliamentary Under-Secretary of State, Department for Energy Security and Net Zero (Lord Callanan) (Con): My Lords, we have had almost an hour on this topic.

Lord Davies of Brixton (Lab): My Lords—

Baroness Bloomfield of Hinton Waldrist (Con): The Minister must be allowed to speak.

Lord Callanan (Con): I will start by speaking to government Amendments 31, 41, 45, 52, 138 and 144. Amendments 31, 41 and 144 remove relevant subsections from the Bill as they are now included in the new clause. These are purely for drafting clarity and therefore do not change the policy intent or effect of this Bill in any way.

Lord Davies of Brixton (Lab): My Lords, I am being denied my right to speak.

Lord Callanan (Con): The proposed new clause tabled in Amendment 45 sets out clearly and in one place all the exceptions to the sunset in Clause 1. It includes exceptions that were previously located elsewhere in this Bill.

Lord Davies of Brixton (Lab): This is outrageous.

10.15 pm

Baroness Chapman of Darlington (Lab): I was quite happy not to speak in this debate. I did not table an amendment. I would like to have spoken to amendments tabled by the noble Baroness, Lady McIntosh of Pickering, and other noble Lords, but I have denied myself that. Much as I would like to go home, the same as everyone else, I find it quite extraordinary that the Minister is not willing to allow a noble Lord who has sat here since the beginning of this debate and during earlier groups too to make even a couple of short remarks.

Lord Callanan (Con): They are not short remarks. They are nothing to do with the amendments in question. The noble Lord, Lord Hendy, has just spoken for about 10 minutes on issues that are totally unrelated to

the subject in question. On group 1, we discussed all the labour law provisions at great length. They are raising irrelevant points.

Lord Davies of Brixton (Lab): On the previous day in Committee, I raised the issue and the Minister said explicitly that we could debate it at a later stage on this clause. He is now breaking his word. He explicitly said that we could discuss the issue that I wished to raise.

Lord Callanan (Con): Okay, let the noble Lord raise his point.

Lord Davies of Brixton (Lab): I wish to address subsection (1)(a) of the new clause. It is about process rather than the issues. I support the issues that have been raised by my noble friends, but the issue of process is important and comes up under this section.

I was unable to be present at Second Reading because I was taking part in Committee of the Financial Services and Markets Bill, which is directly relevant to this clause, as the Minister well knows, because the clause excludes the European regulations covered by that other Bill. I asked in Committee on that Bill why there was a difference in treatment. Why do we have one Bill for these regulations and another for the other regulations? In that debate, the Minister, the noble Baroness, Lady Penn, said that unlike the approach taken with this Bill, that Bill repeals retained EU law in financial services. She continued:

"The Government will continue to repeal and replace the contents of Schedule 1 until we have an established a comprehensive FSMA model of regulation."—[*Official Report*, 25/1/23; col. GC 71.]

The important point is that the Financial Services and Markets Bill had an extensive two-year period of consultation, on the principal legislation and on the regulations. There were two formal consultations; the Bill had 346 pages; there was a Public Bill Committee session of nine meetings, eight oral witnesses, 54 items of written evidence, an Explanatory Memorandum, and extensive debate and discussion.

At Second Reading of this Bill, the Minister said:

"Without the sunset as a default for retained EU law, we risk unsuitable or obsolete EU laws still being on our statute book in 10, 15 or even 20 years' time."—[*Official Report*, 6/2/23; col. 1080.]

What is the difference between the rules under the two Bills? It is not a simple technical issue; it goes to the heart. It is the process being adopted. I want a satisfactory answer from the Minister on what the difference is between the two Bills. The crucial difference is that in the financial services Bill, there is no sunset clause. I could go on at length. In view of the time, I simply ask that question.

Lord Callanan (Con): I will address the noble Lord's point at the end of my remarks, after I have moved the government amendments.

I think I had got to the new clause tabled as Amendment 45. The new clause sets out clearly and in one place all the exceptions to the sunset in Clause 1. I will explain the financial services issue at the end.

It includes exceptions that were previously located elsewhere in the Bill but have now been consolidated into the proposed new clause, such as exceptions for instruments specified in regulations—the preservation power—and for relevant financial services law. It also contains a number of amendments that will help departments deliver our ambitious EU law reform programme. The first of these is to ensure that, when a decision is taken to preserve retained EU law, any legislation that is made or has effect under it will also be preserved alongside the parent legislation, without it having to be individually specified in regulations. The parent legislation establishing a regime, for example, would still be reviewed under the programme but, once a decision to keep such a regime is made, it will not be necessary to reassess every single licence, for instance, or decision issued under that regime.

The second of these amendments allows for the preservation of a description of minor instruments, without the requirement to individually identify and specify them. This includes where these instruments are made directly under primary legislation that is not in scope of the sunset. This and the previous amendment remove the need to individually list large numbers of what might not be traditionally considered legislative instruments in order to preserve them.

A third minor amendment would remove any existing "transitional, transitory or saving" provisions from the scope of the sunset. In a number of areas we have already reformed retained EU law and, in some cases, we have made "transitional, transitory or saving" provisions, whereby some aspects of the previous legislation were saved to support implementation of or transition to the new regime. The aim of the Bill is not to undo or revoke retained EU law reform that has already been made. Thus, this amendment will ensure the continued legal operation of retained EU law that has been identified as necessary to serve a particular purpose, often for a time-limited period.

Finally, this proposed new clause introduces new wording to ensure that references to instruments or provisions in preservation SIs apply only so far as the provisions would otherwise sunset. Consequently, this puts beyond doubt that, where an SI references instruments that contain provisions that are not in scope of the sunset, the instrument is still lawfully made within the power.

Ultimately, this new clause provides drafting clarity. It will make the exemptions to the sunset much clearer, gathering them all in one place. It also introduces four minor and technical amendments that I have just explained in detail but that do not change the overall policy. They facilitate departments to preserve legislation more easily, where they deem it appropriate to do so, and respond to many of the points made in the debates on previous groups.

Amendment 138 is also minor and technical, and serves merely to change the reference to Clause 1 in Part 3 of Schedule 4 to a reference to the new clause created by Amendment 45.

Amendment 52 will update the drafting of the new clause, but in Clause 2. It will insert the wording "so far" after "section 1". In effect, this will ensure that references to specified instruments or provisions in

[Lord Callanan]
extension SIs apply only to those provisions so far as they are in scope of the sunset, and do not relate to any provisions not in scope of the sunset.

These amendments are all minor drafting clarifications or changes and do not change the scope of the sunset or the policy of the Bill. I hope noble Lords will look at *Hansard* if they want the details of them.

There are a large number of other amendments that seek to limit the ambitions of the sunset or to insert additional complex processes into the operation of the sunset clause. It is our belief that none of these is appropriate for this Bill and that they are likely only to hamper efforts to realise the opportunities that the Bill presents.

To start with, Amendments 46 and 47 tabled by the noble Baroness, Lady Young, aim to amend government Amendment 45, which I have already discussed. To reiterate, the exceptions within Amendment 45 are only sector-specific in the case of financial services, where the retained EU law in question will be reviewed via the separate legislation to which the noble Lord, Lord Davies, already referred, which is already being planned and implemented. The legislation put forward by the noble Baroness would not be appropriate to remove from the scope of the sunset. We just had a very long debate on the issues with exempting specific environmental legislation from the scope of the sunset, and I hope noble Lords accept that we do not need to repeat that on this group.

I turn to Amendments 26 and 48, tabled by the noble Lord, Lord Fox. The consulting and reporting requirements introduced by these amendments would limit the sunset as a key driver of reform and would therefore narrow the ambition.

A significant minority of retained EU law is also legally inoperable. Removing it from the statute book swiftly is good democratic governance. Requiring the Government to undergo complex and unnecessary parliamentary processes to remove legally inoperable retained EU law that is unnecessary and no longer fit for purpose is not good governance.

Where reforms are being made to retained EU law, the normal processes of consultation will of course be followed where appropriate and the relevant reforming legislation scrutinised as usual. It is not necessary to add additional complexity to the existing legislative process.

Baroness Bennett of Manor Castle (GP): The Minister referred to Amendment 26 and 48 as additional complex processes. Does he not acknowledge that these would protect the Government from themselves, in that the implementation would ensure that regulations—which might not be on the dashboard, or might be unspecified or, as others have called them, "unknown unknowns"—would not lapse? They would ensure that everything that was going to lapse was identified, because if it had not been identified and had this report, it would not lapse.

Furthermore, the Government are relying entirely on the knowledge of the department. If they have a consultation before anything is removed, that would draw on the knowledge of all of civil society and the expert community to ensure that there is full knowledge before any changes are made.

Lord Callanan (Con): No, I do not accept that, because the vast majority of the rule that would be allowed to sunset is now legally inoperable and not working. My noble friend Lord Benyon gave some examples earlier of the kinds of measures that we are thinking about. All of the major legislation that everybody is concerned about, and which has been raised at great length, will be subject to the existing provisions. It can be saved if it is appropriate, or it can be allowed to be reformed, in which case there will be the normal processes of consultation and approval of both Houses that everybody has been concerned about.

I turn to Amendment 63 from the noble Baroness, Lady Jolly. Again, it is not necessary to add a lengthy and complex process to every revocation of retained EU law. The Bill already contains appropriate scrutiny mechanisms to ensure good democratic governance.

Amendments 27 and 28 are proposals to push back the sunset date to 2028. Again, we do not think that these amendments are appropriate. I suppose I am grateful to my noble friend Lady McIntosh of Pickering for acknowledging that we actually need a sunset. The principle of it is agreed, but we disagree on whether 2023 will work. I submit that it will. I understand that many noble Lords are concerned about the timelines in the Bill, and that this amendment seeks to push back what is wrongly perceived as a "cliff edge" date. Firstly, the 2023 sunset date was chosen because it is the quickest and most efficient way to enact retained EU law reform. It will allow us to swiftly remove retained EU laws that are no longer appropriate and are not in the best interests of UK businesses and consumers.

Secondly, I reassure the House that this is not a new programme. Work is well under way in each department and has been for over a year. Departments are continuing to draw up plans for every piece of retained EU law in scope of the sunset. Noble Lords heard earlier about Defra's plans, and departments will provide further detail on their own particular plans in due course. Of course, the Department for Business and Trade will continue working closely with other government departments and the devolved Governments to ensure that all appropriate actions are taken well ahead of the sunset date.

As further reassurance, let me remind the Committee that the extension mechanism in Clause 2 ensures that, should more time be required to review and amend retained EU law, the sunset can be extended for specified pieces of legislation until 23 June 2026. This will give departments plenty of time if there is more complex reform that they want to undertake.

10.30 pm

Let me specifically address financial services and exemptions from the sunset. When the Bill was drawn up, the financial services Bill was already drafted at the point that this Bill was introduced. Both Bills share the aim to reform and repeal retained EU law. The financial services Bill has taken a different approach as it will repeal retained EU law on financial services so that it can be replaced with an approach to regulation that is designed for the UK, with firm-facing rules generally set by the independent financial services regulators. I hope that provides some reassurance to noble Lords who raised these points, and I hope the noble Baroness will be able to withdraw her amendment.

Baroness Ludford (LD): My Lords, I and everybody else wants me to be brief. I was astonished to hear the Minister describe a considered process of consultation and reporting as complex and unnecessary. I would be interested to hear the response of the CBI to such a characterisation of what is surely a part of good governance: consulting people who are going to be affected and then reporting to Parliament, which should be in the driving seat of this process. Indeed, it was promised that Parliament would be in the driving seat of this process; that is why we were taking back control, we were told. I welcome and agree with the intervention of the noble Baroness, Lady Bennett.

The Minister also said that such consultation would "hamper attainment of our ambitions". I am afraid the Minister's slip is showing because that displays the intention of slash and burn. He does not want a considered process of consultation; he just wants to chuck it all out. That is precisely what businesses and other stakeholders fear: that this is window-dressing—a gesture politics Bill which has an ideological motive, rather than one to get good, proper, appropriate regulation.

The Minister mentioned the financial services Bill, and we keep mentioning it because, if we want to change EU law, there are issues around that to do with divergence and so on—but it is "if". The Prime Minister lauds Northern Ireland being in the single market. Perhaps he would like to give the single market back to us in Great Britain. The advantage for Northern Ireland is being close to EU regulation. Whether or not one wants to diverge, the way to do it is through primary legislation, where you list all the measures you are going to keep and not keep. Businesses, trade unions, charities, campaign groups and so on fear very much that the Government are being cavalier about what they are doing in the Bill and about the substance of regulation which they have grown used to.

I find Amendment 45 quite impossible to understand. The Minister says that it consolidates things elsewhere in the Bill. I suppose it has the advantage of bringing to our attention how peculiar these provisions are:

"any specified instrument or provision of an instrument or anything having effect under the specified instrument or provision … any specified description of minor instruments".

I really find this quite difficult to understand and I would be grateful if the Minister could write to me, and put a copy of the letter in the Library, to give us some examples of what is being covered here.

I am afraid that the Minister has not really convinced me of why the Government are not prepared to properly consult, properly explain and properly reason what they want to do. That said, I beg leave to withdraw the amendment.

Amendment 26 withdrawn.

Amendments 27 and 28 not moved.

House resumed.

House adjourned at 10.35 pm.