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Monday
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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS

OFFICIAL REPORT

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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.

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15 May 2023

THE
PARLIAMENTARY DEBATES
(HANSARD)

IN THE THIRD SESSION OF THE FIFTY-EIGHTH PARLIAMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
COMMENCING ON THE SEVENTEENTH DAY OF DECEMBER IN THE
SIXTY-EIGHTH YEAR OF THE REIGN OF

HER LATE MAJESTY QUEEN ELIZABETH II

FIFTH SERIES **VOLUME DCCCXXX**

NINTH VOLUME OF SESSION 2022-23

House of Lords

Monday 15 May 2023

2.30 pm

Prayers—read by the Lord Bishop of Gloucester.

Ukraine: Ceasefire
Question

2.36 pm

Asked by ***Lord Balfe***

To ask His Majesty's Government what steps they are taking to assist the realisation of a ceasefire followed by negotiations in the conflict between the Russian Federation and Ukraine.

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, on today's visit of His Excellency President Zelensky, the UK remains steadfast in its support for Ukraine's brave defence against Russia's brutal and unprovoked invasion. Ukraine and its partners seek a just and lasting peace for Ukraine, which affirms its territorial integrity and sovereignty and provides stability for the global community. However, if Russia is serious about advancing the prospects for peace, it must immediately cease attacks against Ukraine, withdraw its forces from the entirety of the country, and commit to meaningful negotiations.

Lord Balfe (Con): My Lords, this war has now been going on for a year, and it is getting worse. We have started to see incidents within the Russian Federation's borders. Unless someone makes some effort soon to get peace talks going, we are going to head into a tragedy. Is it not the job of His Majesty's Government, as a member of the P5, to start taking the initiative for peace, instead of constantly fanning war?

Lord Ahmad of Wimbledon (Con): My Lords, I refute my noble friend's assertion. We do not fan war. The aggressor is Russia. As my noble friend knows, Russia is also a P5 member. It is about time Russia stood up to its responsibility as a P5 member. We want peace; the Ukrainians want peace. Does Russia want peace? We want the answer.

Lord Anderson of Swansea (Lab): My Lords, do the Government agree that Russia should be forced to pay for the damage, both human and material, that it has caused? What options are being considered?

Lord Ahmad of Wimbledon (Con): My Lords, the noble Lord raises a very important question about the devastation that has taken over Ukraine: cities damaged, lives destroyed, lives taken. Of course, it is important that we look at the full context, and that is why I am delighted that the United Kingdom will be hosting this year's Ukraine Recovery Conference. As part of that, we will engage the private sector to see how we rebuild. Of course, Russia's accountability is at the forefront of our minds, including that those who have perpetrated this war will be held accountable.

Lord Campbell of Pittenweem (LD): My Lords, if one is looking for a tragedy, one can find it in the daily life of the citizens of Ukraine. It is a rather curious way in which to describe it. This is not a day to discuss a ceasefire; we know that the President is in town—at Chequers, rather—and that his issue is precisely how much more aid we can give to support the counteroffensive. That should be the focus, certainly of the Government—I am sure that it will be—but also of those of us in this House who support the Government and their policy. I will ask the Minister to clear up one ambiguity. There is, from time to time, speculation about the fact that the United Kingdom might give RAF Typhoons. The fact of the matter is that the Typhoon is not a suitable aircraft for what is required. We have obligations on the Quick Reaction Alert, in the Falklands and to

[Lord Campbell of Pittenweem]
NATO. We do not have an aircraft of the type that is required; nor do we have sufficient of the aircraft that we have already.

Lord Ahmad of Wimbledon (Con): My Lords, I agree with the entirety of the noble Lord's opening statement. It is a mark of the unity we have seen in your Lordships' House and in the other place on this important element. That must stay firm, particularly in the light of continuing Russian aggression. On the noble Lord's second point, my right honourable friend the Prime Minister committed in February that we would train Ukrainian pilots. The aircraft of choice remains the F16, but the noble Lord may have followed, as part of the announcement we put out today, that we will commence an elementary flying phase for cohorts of Ukrainian pilots. Of course, we work hand in hand with our allies to ensure that the Ukrainians are fully equipped with the defence they need to stand up to this war of aggression.

Lord Howell of Guildford (Con): My Lords, has my noble friend noticed that the Chinese are seeking to play an increasingly active part in possible peacemaking in Ukraine? What is the Government's view on that?

Lord Ahmad of Wimbledon (Con): My Lords, as my right honourable friend the Foreign Secretary has said, we welcome all initiatives to bring about lasting peace, but we are equally clear that the sovereignty and integrity of Ukraine must be maintained and sustained in any peace agreement that is reached.

Lord Collins of Highbury (Lab): My Lords, I reiterate the Opposition's full support for the Government in providing military, economic and diplomatic support to Ukraine, but one thing is absolutely clear: the negotiating table will be open to the Russians only if they are responding to the sort of pressure—particularly the economic pressure—that we put on them. I know we will debate sanctions tomorrow, but what are we doing to ensure that the sanctions we are imposing act as a real deterrent to others so that people can see there is no profit in this war for them? Can we not promote our actions a bit more ably?

Lord Ahmad of Wimbledon (Con): My Lords, I totally concur with the noble Lord. I thank him once again for both his support from the Front Bench and that of Her Majesty's Official Opposition for the Government's position. That is important: whether we talk of the Liberal Democrat Benches, the Labour Benches, the Government Benches or indeed the Cross Benches, the unity of purpose and action in standing up with and for Ukraine is very clear.

The noble Lord raises the important issue of sanctions. I agree with him. We need to articulate more clearly. Let us be absolutely clear: every sanction has within it—[*Interruption.*] I welcome those sound effects, which, I believe, amplify the voice of this Chamber. Every sanction the United Kingdom applies in this respect has a carve-out for humanitarian support. We have articulated that. On Saturday, I was pleased to receive an invitation and attend as part of His Majesty's Government a meeting with our European partners and those in the Indo-Pacific. I was delighted that, as part of one of these sessions, we were addressed by Foreign Minister Kuleba from Ukraine, who underlined the importance of unity not just within Europe but elsewhere in the world.

Lord Stirrup (CB): My Lords, I welcome the support being offered to Ukraine, including the training of pilots, but the truth is that we have had a hard enough time over the past few years training our own pilots with the capacity we have. Have the Government finally learned the lesson that we need to retain sufficient military capacity and resilience in our own country if we are to be secure in the years ahead? This is something they have signally failed to do in recent years.

Lord Ahmad of Wimbledon (Con): My Lords, I recognise the valuable insights of the noble and gallant Lord, and I assure him that we are doing just that by ensuring that we replenish any support we are giving to Ukraine in terms of ammunition, missiles and other equipment, because the first responsibility of the Government is the security of our own nation.

Lord Trefgarne (Con): How many Challenger tanks have we supplied to the Ukrainians and what are we doing about the special ammunition they will require?

Lord Ahmad of Wimbledon (Con): Without going into the details of the full deployment, we are working very closely with not just the Ukrainians but our other key partners to ensure that not only do they receive the equipment, including tanks, that they need, but they receive full training and, importantly, the munitions they need to fulfil their obligation to defend their nation.

Lord Browne of Ladyton (Lab): My Lords, last weekend, speaking publicly, the former head of MI6 said that President Putin's strategy in Ukraine is one of attrition—"to wait it out". With the possibility of a more isolationist United States post the presidential election, my suspicion is that Putin is measuring as much by western electoral cycles as by more conventional military metrics. So what discussions are we having with our allies about a diplomatic framework that could bring this conflict to an end; in particular, about the nature of the security guarantees that will be offered to Ukraine to ensure a lasting, equitable peace?

Lord Ahmad of Wimbledon (Con): I have in part already answered the noble Lord's second question. We welcome all peace initiatives and anything leading towards that. The grain deal was a good example of working with international partners, including the UN, but we are seeing that there is a reluctance on the part of Russia even to sign off a valuable lifeline in terms of grain. In terms of electoral cycles, the real strength of democracy is illustrated here, in the US and elsewhere across Europe. The unity of purpose and action is shared by parties of different political spectrums. The message going out to Mr Putin is that he may think the electoral cycle may deter the United Kingdom or the United States, but it will not.

Baroness Meyer (Con): My Lords, is it not up to the Ukrainians to decide whether there should be a ceasefire and whether negotiations should start? Given the current situation, where Germany, the UK, France and Italy are helping with additional military aid, maybe this time is not now because maybe now we could finally defeat Russia.

Lord Ahmad of Wimbledon (Con): Of course, I agree with my noble friend. It has been the long-standing position of His Majesty's Government that ultimately it is for Ukraine to determine and to be at the negotiation table, and as a friend and partner of Ukraine, we will stand with the decision that the Ukrainian Government take.

Ukraine Recovery Conference

Question

2.47 pm

Asked by ***Baroness Sugg***

To ask His Majesty's Government what their priorities are for the Ukraine Recovery Conference taking place in London in June to support Ukraine's economic and social stabilisation and recovery from the effects of war, and how they intend to ensure that it is a success.

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, the United Kingdom is proud to co-host the Ukraine Recovery Conference with the Government of Ukraine. Preparations for the conference are in collaboration with our Ukrainian colleagues, and the event will focus on the role of the private sector in supporting recovery and reconstruction. It will provide a platform for the Government of Ukraine to set out their reform efforts, particularly in relation to the business environment, and for international partners to signal their ongoing support and commitment to Ukraine.

Baroness Sugg (Con): I am grateful to my noble friend the Minister for that update, and commend the Government on co-hosting this conference and on all they are doing to support Ukraine. A significant amount of further support can come from the proceeds of the sale of Chelsea Football Club, some £2.3 billion, due to be given to a charitable foundation to help the victims of this conflict in Ukraine and elsewhere. I appreciate that this is a very complex process, but it has been around a year since the sale. Can my noble friend the Minister tell me whether the funds will be released in time for the recovery conference and confirm which Minister is responsible for making progress on getting this money to those who need it?

Lord Ahmad of Wimbledon (Con): On my noble friend's second question—and I thank her for her strong support of the Government's position—ultimately His Majesty's Treasury will lead on this issue. The proceeds from the sale of Chelsea FC are frozen in a UK bank account, as she said. Humanitarian experts outside government are responsible for the highly complex process of establishing a foundation to manage and distribute the proceeds. I take on board her suggestion about the importance of perhaps moving forward on this at the time of the conference. I cannot give a specific assurance at this time, but I will share her concerns and suggestions with my colleagues at the Treasury.

Lord Peach (CB): My Lords, does the Minister accept that we must not repeat the mistakes we made in the recovery and reconstruction phase in Iraq and that we must now, with the Ukrainians, focus on recovery and reconstruction as part of their war effort? As we heard in answer to an earlier question, it appears that Mr Putin, the President of Russia, is preparing for a long war; we must do the same. Does the Minister accept that the Ukrainian people's sacrifice means that they deserve full attention to be given to recovery and reconstruction?

Lord Ahmad of Wimbledon (Con): The insights provided by the noble and gallant Lord are most welcome. We need to capture and leverage the insights and experience of your Lordships' House to ensure that our Ukrainian friends get a clear and unequivocal message: we stand with you in all sectors. The Ukraine Recovery Conference, which we are hosting in London, is an opportunity for not just government or parliamentarians but the private sector to ensure that the required money can help now to start rebuilding the lives of Ukrainians around the whole of Ukraine. There are things happening in parallel with this, but I assure the noble and gallant Lord that we are fully focused on this important priority as well.

Lord Collins of Highbury (Lab): My Lords, I very much welcome the efforts of the Government and the conference but, as my noble friend Lord Anderson said during the earlier Question, there is an opportunity here to ensure that the Russian state pays as well. We know that substantial Russian state assets have been seized. Will the Minister and the Government work in co-operation with our allies to ensure that this money can be used for the reconstruction of Ukraine?

Lord Ahmad of Wimbledon (Con): My Lords, I have already alluded to the importance of accountability. The noble Lord will have seen the co-operation that we have had on the issue of justice for those who are ultimately accountable, and the strong relationship that we have with the International Criminal Court. All this underlines our primary view—in common with our partners—that Russia is ultimately accountable. On the specific issue raised by the noble Lord, and the noble Lord, Lord Anderson, we are of course in discussion with our partners to ensure that those to be held accountable are fully versed with the fact that they will be held accountable for the recovery. Notwithstanding that, I am sure the noble Lord will agree with me that it is important that we also undertake initiatives such as the recovery conference to ensure that the private sector is ready now to meet our obligations in addressing the needs of the whole of Ukraine.

Baroness Northover (LD): My Lords—

Lord Soames of Fletching (Con): My Lords—

Baroness Williams of Trafford (Con): My Lords, it is the turn of the Liberal Democrat Benches and then we will hear from my noble friend.

Baroness Northover (LD): I thank the noble Baroness. Reconstruction in Ukraine, which counts as ODA, will clearly be vital, but is the Minister aware of current estimates that, in 2022, almost 30% of the UK's aid budget was used to support Ukrainian refugees? Given the pressures of conflict, climate change, food crises and migration, will our aid budget increase, or will the Government—as the Australians do—count support for Ukraine as outside the aid budget?

Lord Ahmad of Wimbledon (Con): My Lords, we stand very clearly in support of meeting whatever requirements Ukraine has; that guarantee has been given by successive Prime Ministers, including my right honourable friend Boris Johnson. The current Prime Minister has reiterated it in his meetings with President Zelensky. The Ukraine conference is ultimately about supporting reconstruction efforts but it will include our humanitarian efforts. I hear what the noble Baroness says on the importance of the use of ODA and financing. While I cannot speculate on what might happen in the future, we are very clear that we stand ready to support the humanitarian needs and requirements of Ukraine fully as well.

Lord Soames of Fletching (Con): My Lords, does my noble friend agree that, on top of the onerous requirements for civilian reconstruction of Ukraine, there will be the serious matter of dealing with the most battle-hardened army in Europe? It is a matter that the British Armed Forces would be very accomplished in helping with. Will my noble friend raise this matter in preparation for the civilian reconstruction, so that we are able to deal with what will be a very serious security situation?

Lord Ahmad of Wimbledon (Con): My noble friend shares a very valuable insight, and I assure him that I will do just that. We will work closely with all our key partners on the very points that he has raised. We fully support Ukraine in all aspects of its recovery, including its military capabilities.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, does the Minister realise that recovery is going to be a major task, almost equivalent to the Marshall plan after the Second World War, and that therefore a great deal of effort is going to have to be put into ensuring that? Does he see the fourth summit of the Council of Europe as an opportunity to discuss this further, as well as discussing further military support for Ukraine to get all 46 countries of the Council of Europe behind both the current military effort and the reconstruction effort? I thank him for ensuring that the United Kingdom will be represented at that fourth Council of Europe summit at the very highest level with the attendance of the Prime Minister.

Lord Ahmad of Wimbledon (Con): My Lords, I record our thanks for the vital work done by Members of this House at the Council of Europe. The noble Lord is correct that my right honourable friend the Prime Minister will attend the Council of Europe meeting tomorrow. He will participate directly on the issue of Ukraine, and we will work with our key partners. My attendance at the meeting with our Indo-Pacific partners as well as member states of the European Union also underlines the focus that we put on Ukraine. I will be taking over the baton, if I can put it that way, from the Prime Minister on Wednesday to ensure that the United Kingdom is represented at the Council of Europe fully and that our views are shared with our key partners.

Lord Alton of Liverpool (CB): My Lords, has the Minister seen the estimate that as much as £1 trillion will be required for the reconstruction of Ukraine, on the scale and size of something like the Marshall aid programme? To return to the Question asked by the noble Baroness, Lady Sugg, has he also seen that the money that has been moved into secret trusts by oligarchs in this country, in one case alone, amounts to more than £3 billion? Will he support, and encourage his noble friends to support, the amendment that was considered in Committee on the economic crime Bill, which enjoyed all-party support and would ensure that that money could then be deployed for the reconstruction of Ukraine?

Lord Ahmad of Wimbledon (Con): My Lords, I recognise the noble Lord's valuable efforts on this issue and many more. I can share with him that we are looking at all ways, means and mechanisms to ensure that all money can be utilised, but we must ensure that we do so according to law, as I alluded to in the response I gave to my noble friend Lady Sugg. I recognise the importance attached by your Lordships' House to ensuring that we can expedite some of these areas to ensure that the financing is in place. That is why I come back to the objective and sole purpose of the recovery conference, which is to include all parties, including, importantly, the private sector. We of course recognise the bill for recovery in Ukraine, and that is why we will host this conference side by side with the Ukrainians. We have wide attendance. We have been working through the G7, and that will be reflected in some of the outcomes of that important conference.

Automotive Manufacturing Sector: Support

Question

2.58 pm

Asked by ***Lord Woodley***

To ask His Majesty's Government what is their investment strategy to support the automotive manufacturing sector in the United Kingdom.

The Minister of State, Department for Business and Trade (Lord Johnson of Lainston) (Con): Our automotive industry has a long and proud history. We are determined to build on our heritage, and to secure international investment in the technologies of the future to position the UK as one of the best locations in the world to manufacture electric vehicles. That will include aspects such as the automotive transformation fund, our Advanced Propulsion Centre, UKRI, our critical minerals strategy, our overall global trade strategy, UKEF and,

on top of that, the specific investment opportunities that I, my team and colleagues from the Department for Business and Trade are working on assiduously.

Lord Woodley (Lab): My Lords, in my opinion, what appears to be missing here is a proper government strategy for the automotive sector as part of a much wider industrial strategy. The House will be well aware that the EU's Green Deal industrial plan is in place, with tens of billions of euros in manufacturing grants topped up by literally hundreds of billions in loans to companies, while the US is investing over $2 trillion in its advanced manufacturing, energy and clean technology efforts. We have already fallen behind our competitors, according to my contacts at the Society of Motor Manufacturers and Traders, who tell me that we are at a tipping point. Does the Minister therefore agree that what we need now is a truly tripartite industrial strategy council, with the Government, companies and trade unions working together, and that it should be placed on a statutory footing—as called for only this weekend, ironically, by Labour?

Lord Johnson of Lainston (Con): I am grateful to the noble Lord for his continued engagement on this important matter, which I know he holds dear to his heart, as do I. My department will work continually with all parties to ensure that we have the right amount of investment in our future industries. Please make no mistake about it: the creation of an EV industry in this country and the importance of the automotive sector is paramount to our long-term strategy, and to the success and prosperity of this great nation.

Lord McLoughlin (Con): My Lords, in looking at what the Government are doing to support the manufacturing industry, I ask: are they satisfied with the way in which industrialists and entrepreneurs see it at the moment? There was a call by James Dyson at the weekend, saying that there is not sufficient liaison. If he does not feel that the Government are on the side of industry in this country, that is very disturbing. What are the Government doing to put this right?

Lord Johnson of Lainston (Con): I am grateful to my noble friend for that comment but I do not necessarily see those figures in the facts that I look at. Look at the investments into life sciences, into fintech, into start-ups and venture: we lead the world, second only to the United States. On unicorns, which are an important measure of the sort of R&D that Sir James Dyson is talking about, if your Lordships took a hot-air balloon up over this great nation and looked down, you would see herds of unicorns thundering across our green and pleasant land, the sunlight glinting off their horns. But if your balloon drifted over the channel to the continent, you would see single unicorns, their ribs showing, tethered to a stake and munching dry grass. Our brains are our best defence, and the facts speak for themselves.

Lord Fox (LD): My Lords, I remind your Lordships' House that unicorns are mythical beings. I will return to the point of discussion: there is a lack of urgency and of scale. We are at a watershed; if the investments are not made very soon, they will never be made because they will have been made somewhere else. France is investing about €10 billion in automotive electrification and Germany about €7 billion. When will the Government understand the nature of the international competition that we face and put in place the scale and urgency that we need to get this done?

Lord Johnson of Lainston (Con): As I have expressed, the importance of investing in this area remains paramount. We have the automotive transformation fund, which is over £850 million, and the Faraday challenge. I have listed some other important aspects that the Government are focusing on. This has led to important investment, including into Pensana, Jaguar Land Rover, Mahindra & Mahindra, Motherson Group, TVS and the Hinduja Group, and a whole new range of investments into hydrogen-powered buses, which is a great success flag for Northern Ireland.

Lord Leong (Lab): My Lords, my first car, which I loved, was a British-made MG Midget in racing green. It is very sad that we are now at a point where unless the UK Government develop a credible automotive industrial strategy, Britain will soon have no automotive industry and the memory-making cars that come with it. We have world-class British automotive designers, internationally renowned British engineers and a skilled and hard-working British workforce. What plans do the Government have to utilise these assets to improve productivity, invest in research and innovation and ultimately transform the sector as it moves away from petrol and diesel?

Lord Johnson of Lainston (Con): I am grateful to the noble Lord, Lord Leong, for telling us about his car history. My first car was a Fiat Regata; I doubt that anyone in this House has ever driven one of those, and I would not necessarily advise it. It is important to look at some of the other aspects of where we are investing and have been successful in this country, and to trumpet the successes and triumphant elements of our car industry. Formula 1 is a very good example of that: two-thirds of the Formula 1 teams are effectively located here and the technology is developed here. There is our luxury car industry, where Bentley has recently announced £2.5 billion for further investment. We lead the world in luxury cars including, I am pleased to say, the rebirth and renewal of the important brand of Lotus. I met those in its owning company a few days ago and heard of their commitment to investing in this country, because we have the expertise to do the design, development and, ultimately, manufacture.

Lord Patel (CB): My Lords, the Science and Technology Committee's report published in November 2022 was concerned about the UK's capacity for electric vehicle battery production. It now comes to pass that Britishvolt, one of our biggest possible producers of electric vehicle batteries, has failed. What effect will this have on our automotive industry, as we have no other UK production of batteries?

Lord Johnson of Lainston (Con): I believe that the outcome has been relatively satisfactory, with the purchase of Britishvolt by Recharge Industries, which I have met on several occasions to ensure that it is committed

[Lord Johnson of Lainston]
to investing in this country. It will make non-vehicular batteries to begin with but has reassured me that it will ultimately make batteries that can be used in EVs. It is not true that we do not have prospects. As we know in this House, there has been £1 billion of investment in the Sunderland plant for Envision to allow us to make electric vehicles made by Nissan.

Viscount Stansgate (Lab): My Lords, further to the answer the Minister gave a moment ago, when he gazes down on the country from his hot-air balloon, can he tell us where the gigafactory for the manufacture of electric batteries, on which the future automotive industry of this country is going to depend, will be?

Lord Johnson of Lainston (Con): I have tried to cover the key areas where we are investing significantly alongside industry to build our EV industry. We have several important pools of capital. I have not mentioned UKEF, which has through various loan schemes also supported our existing and future manufacturers. On top of that, through the Faraday challenge we are investing very heavily in R&D, because innovation will drive the technological change that will give us these opportunities in the future.

Lord Howell of Guildford (Con): Has my noble friend noticed that Honda, which has given up manufacturing in this country, now proposes to import a low-cost EV made in China? Many are forecasting a tidal wave of lower-cost EVs from China as its industry expands at an amazing rate. Is our strategy robust enough to take account of that and of the devastating effect of the Inflation Reduction Act in America, which is sucking a lot of investment in automotive components and manufacture away from this country? Are we ready for these two blows?

Lord Johnson of Lainston (Con): We clearly import cars and run a global economy. I would like to raise to the House the importance of our trade deals. They will allow us, through the new rules of origin opportunities under CPTPP and so on, to make more cars with mixed-use components. I congratulate our Secretary of State, who is in Switzerland today to further this post-Brexit vision of Britain.

Lord Wigley (PC): My Lords, given that the future of the motor sector will be related to electric cars, can the Minister address the inconsistency in the rates of VAT exercised with regard to the electricity in private households and that available at public charging points? For those who do not have the benefit of a private drive and the ability to charge cars by their own homes, can the Government move towards an equalisation of these charges?

Lord Johnson of Lainston (Con): My Lords, as always, I am grateful to the noble Lord for raising important points, and this debate continues. However, we are investing £381 million to ensure that we have the right number of points around the country so that people can have the infrastructure they need to run their electric vehicles and make this vital transition to a zero-carbon future.

Global Britain: Traffic

Question

3.08 pm

Asked by ***Lord Moylan***

To ask His Majesty's Government what assessment they have made of the effect on the success of their 'Global Britain' initiative that, for a second year in a row, the Inrix Global Traffic Scorecard has found London to have the highest traffic delay times of any city in the world.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, the balance of transport choices in London, including the relative importance given to car traffic, is a matter for the mayor and Transport for London. However, with the opening of the Elizabeth line last year, London's reputation for efficient and modern transport has been demonstrated globally, an achievement for which many, including the noble Lord, can share credit.

Lord Moylan (Con): My Lords, with bicycle lanes that have not increased the uptake of bicycling as a mode of transport, with ULEZ extended to parts of London that neither need nor want it, and with a Labour-run local authority now tendering out its speeding enforcement to unsleeping robots to maximise its revenue, does my noble friend the Minister not realise that people are at the end of their tethers and expect the Government to act to defend them from these depredations?

Baroness Vere of Norbiton (Con): My noble friend is asking me to withdraw from the devolution agreement for London. We have no plans to do that, and I encourage Londoners to hold the mayor to account.

Lord Berkeley (Lab): My Lords, I congratulate the Minister on what the Government have done to get more bicycle lanes and footpaths since Covid. The problem is that so many people are getting fed up with car drivers and cycle lanes are now very full. Can the Minister say whether she has any plans to increase the number of cycle lanes in London or anywhere else?

Baroness Vere of Norbiton (Con): The Minister has no plans, because it is not up to the Minister to have those plans; it is up to the Mayor of London. The Mayor of London continues to invest in cycling and walking—that is his choice. The Government remain committed to cycling and walking as natural choices for the shortest journeys.

Baroness Randerson (LD): My Lords, there are many parts of London where 20 miles per hour zones have not yet been implemented by local authorities. There is good evidence from areas that have introduced them that they work very well in making the traffic flow more smoothly in areas of high congestion. Do the Government intend to encourage local authorities across Britain to look at this solution to congestion and delays?

Baroness Vere of Norbiton (Con): As the noble Baroness well knows, the Department for Transport does not operate roads other than the major motorways. It is for the local authorities operating those roads, having consulted local people, to make those decisions, including the introduction of 20 miles per hour speed zones.

Lord Lamont of Lerwick (Con): My Lords, does my noble friend agree that it must have been an absolute miracle with divine intervention that enabled the most reverend Primate the Archbishop of Canterbury to get a speeding ticket in central London? Is my noble friend Lord Moylan not right that this is a desperate situation? Whatever happened to the policy of lane rentals that was meant to charge contractors for taking up the space of roads while making alterations? It was meant to give them an incentive to complete works on time and to get rid of the spectacle we see all the time of roadworks with nobody there—including nobody working over the weekend—causing absolute chaos for the people of London.

Baroness Vere of Norbiton (Con): I am grateful to my noble friend for moving that question on. Lane rental schemes are a key part of the challenge of making sure that roadworks are taken down as soon as possible. In London, 69% of the TfL route network—the bit operated by the Mayor of London—is currently covered by lane rental schemes. I encourage all local transport authorities to look carefully at lane rental schemes, as they really can help to get roadworks finished on time.

Baroness Taylor of Stevenage (Lab): My Lords, despite the funding announced in the Budget, the Government have still slashed pothole funding by almost a quarter in real terms since 2020, and cuts to local government funding leave councils unable to meet this gap from other funds. Does the Minister believe that the millions of potholes which remain unfilled, including those on cycle ways—we have 45 kilometres of them in Stevenage—contribute to traffic delays across the UK?

Baroness Vere of Norbiton (Con): The Government are investing £8 billion over the next two years in all types of road enhancements and improvements, including £200 million for maintenance and potholes.

Lord Naseby (Con): Is my noble friend the Minister comfortable that London is now rated the most congested city in the world? Is she equally comfortable that our major retailers in the West End are suffering in relation to trade from people coming into our country? Finally, even the City of London, the centre of finance, is itself complaining that this is affecting the City badly.

Baroness Vere of Norbiton (Con): I think there is a slight question of clarification here. The data that my noble friend cites actually misses out several cities in the world. Lagos's traffic is 10 times worse than London's, and in Seoul it is twice as bad—so London is not the worst. However, what we have to understand, and what the Government understand, is that one needs a mixed economy for transport. Of course, car usage is important, but particularly in London, where excellent public transport is available, we need to make sure that we use that more. I note that traffic is back to 100% of pre-pandemic levels, but the Tube remains persistently below them. I think that the Mayor of London should be doing more to get people back on the Tube.

Lord West of Spithead (Lab): My Lords, it is quite clear that London's traffic is grinding to a halt; I drive in it regularly. I have talked to the people doing work on my house, doing boilers—brickies, and this sort of thing. They say that they can achieve only two tasks a day rather than three, and this has a real economic impact on their lives and on this city of ours. It is a disgrace, and something must be done to speed it up and allow a freer flow of traffic.

Baroness Vere of Norbiton (Con): I absolutely encourage the noble Lord to speak to his friend and colleague who currently holds the mayoralty for London. It is up to him to think about how that balance is achieved. I agree that there are challenges with regard to economic activity for those people who need to use the roads, and that is why the balance of transport is so important—and I believe that more can be done.

Lord Wallace of Saltaire (LD): My Lords, I entirely welcome what the Minister has said about the high quality of public transport in Greater London. A similar quality for the north of England—an Elizabeth line between Manchester and Leeds, for example—would transform the economy of the north. Is that among the Government's priorities for a long-term strategy for levelling up in the country?

Baroness Vere of Norbiton (Con): That is slightly beyond the scope of the Question. Obviously, the Government are committed to the integrated rail plan for the north, and the noble Lord will know that we are investing £5.7 billion under the CRSTS for sustainable transport schemes in many of our major cities.

Lord Cormack (Con): Is my noble friend aware that many of us look back with fond nostalgia to the days when London had one mayor living in the Mansion House? Would not it be a very good idea if we looked again at the whole idea of giving so much power to such an incompetent man and instead had a proper London authority? Bring back the old days!

Baroness Vere of Norbiton (Con): My Lords, sometimes it is impossible to go back to the old days, and this Government have no ambition to withdraw from the devolution settlements that are in place.

Lord Austin of Dudley (Non-Afl): My Lords, I invite the Minister, the noble Lord, Lord Moylan, and other Members of your Lordships' House to join us on the annual bike ride of the All Party Parliamentary Group for Cycling on 13 June so that Members of your Lordships' House can see that getting out of cars and on to bikes cuts congestion, is good for health and the environment, and a much quicker way to get around London.

Baroness Vere of Norbiton (Con): That is excellent free advertising for the noble Lord, and I am sure that many in your Lordships' House will join him.

Baroness McIntosh of Hudnall (Lab): My Lords, I think that the Minister in an earlier answer told the House that the Government had set aside £200 million for the repair of potholes. I assume that that is across the whole country. If it is not—and she is shaking her head—could she tell the House what estimate the Government have made of the cost per pothole?

Baroness Vere of Norbiton (Con): I shall write to the noble Baroness with further clarification of my remarks, because the £200 million is in addition to other funding and, unfortunately, I do not have that figure with me today.

Lord Haselhurst (Con): My Lords, on the basis of the evidence that we have so far of the effect of the Elizabeth line on the traffic flow through London, should we not now be dusting off the papers about the possibility of a Crossrail 2? It should not be forgotten.

Baroness Vere of Norbiton (Con): My Lords, there are many competing demands on the Government's resources. Certainly, Crossrail 2 would have its benefits, but we need to look at that in the context of other projects that might come to pass.

Retained EU Law (Revocation and Reform) Bill

Report (1st Day)

3.19 pm

Relevant documents: 28th Report from the Secondary Legislation Scrutiny Committee, 25th and 33rd Reports from the Delegated Powers Committee and 13th Report from the Constitution Committee

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

Amendment 1

Moved by ***Lord Callanan***

1: Clause 1, page 1, line 4, leave out subsection (1) and insert—

"(1) Legislation listed in Schedule (Sunset of subordinate legislation and retained direct EU legislation) is revoked at the end of 2023, to the extent specified there.

(1A) In that Schedule—

(a) Part 1 lists subordinate legislation;

(b) Part 2 lists retained direct EU legislation."

Member's explanatory statement

This amendment provides that the legislation to be revoked by Clause 1 is the legislation listed in the Minister's new Schedule.

The Parliamentary Under-Secretary of State, Department for Energy Security and Net Zero (Lord Callanan) (Con): My Lords, we have listened to the concerns of this House and today we are tabling a number of amendments to modify the first three clauses of the Bill.

Amendment 1 provides that the sunset in Clause 1 will be updated with a revocation schedule. This schedule will list retained EU law that will be revoked on 31 December this year. The revocation schedule includes around 600 pieces of legislation provided from departments across government and spans a huge number of policy areas. This will provide the legal clarity and certainty that many Members called for in Committee. The revocation schedule will provide certainty by listing exactly which pieces of REUL will be revoked at the end of the year. One of the main advantages of the schedule is the ability to efficiently and cleanly remove superfluous legislation without taking up disproportionate amounts of parliamentary time. It will thus allow us to remove legislation inherited from the EU that the UK no longer requires in an efficient and transparent way by the end of the year.

Retained EU law not included in the schedule will still be stripped of EU interpretive effects after 31 December 2023 and therefore assimilated into domestic legislation as per Clauses 4 to 7. This means we will still be removing the effects of general principles of EU law as an aid to interpretation, ceasing the application of supremacy and repealing directly effective EU rights so that they no longer have any effect in relation to these provisions. Consequently, nothing on our domestic statute book will be considered as retained EU law and the special status of retained EU law in the UK will come to an end.

Amendment 5 serves to remove subsections (3) and (4) of Clause 1 and insert a power for a relevant national authority to exclude legislation from revocation. This amendment ensures that we retain a limited preservation power in the Bill to enable Ministers and devolved authorities to preserve specific retained EU law so far as it would otherwise be revoked under Clause 1. The devolved authorities will therefore be able to exercise this power to preserve legislation so far as it is within their devolved competence. This power will be time-limited; it cannot be used beyond 31 October this year. These amendments set out the operation and principle of the schedule's approach. I look forward to discussing the content of the schedule in our debates on Wednesday.

Amendment 68 provides that the preservation power inserted by Amendment 5 will be subject to the draft affirmative procedure. In effect, this means that any preservation SI laid would need to be actively supported by both Houses of Parliament. This will ensure that, should a piece of legislation need to be preserved from the schedule list, this could be done only if there was broad approval across both Houses, avoiding the risk that this power is overused or not properly scrutinised if enacted.

Amendment 13 removes Clause 3, which contains the sunset extension power. Following the removal of the sunset in Clause 1 and the introduction of a revocation schedule, an extension power to the sunset is no longer needed and, by extension, neither is the clause as a whole.

I turn to the other amendment that I am supporting, which was tabled by the noble Baroness, Lady Chapman. I had every intention of laying this very amendment given Amendment 1, but the noble Baroness beat me to the punch on this occasion with her Amendment 9,

which removes Clause 2 from the Bill. This clause contains all exceptions to the sunset. Much like Amendment 13, this is a consequential amendment; Clause 2 will no longer be needed given the introduction of a revocation schedule. Removing redundant clauses to enable the effective operation of the Government's schedule makes sense. As such, I agree with this amendment and will support it. I beg to move.

Amendment 2 (to Amendment 1)

Moved by ***Lord Hope of Craighead***

2: At end, insert—

"(1B) Subsection (1) will only take effect if—

(a) the legislation listed in Schedule (Sunset of subordinate legislation and retained direct EU legislation) has been referred to a Joint Committee of both Houses, and

(b) a period of at least 30 days has elapsed after that referral, not including any period during which Parliament is dissolved or prorogued or either House is adjourned for more than four days.

(1C) If the Joint Committee, after considering any legislation included in this Schedule, finds that the revocation of any item of legislation represents a substantial change to current UK law, a Minister of the Crown must arrange for the revocation of such legislation to be debated on the floor of each House and voted on before the date in subsection (1).

(1D) If the revocation of any legislation is not approved by both Houses before the date in subsection (1), it is retained."

Member's explanatory statement

This amendment to the amendment in the name of Lord Callanan provides for the Schedule of retained EU law which is to be revoked to be referred to a Joint Committee of both Houses for sifting so that, in the case of those which represent a significant change from the preceding retained EU law, Parliament will be enabled to differ from the Executive and express its own view as to their contents.

Lord Hope of Craighead (CB): My Lords, I think it will start our debate if I speak to Amendment 2 at this stage. That amendment, of course, is in my name and the names of the noble Lords, Lord Hamilton of Epsom and Lord Hodgson of Astley Abbotts.

I do not need to take up time by speaking to Amendments 10, 11 and 12 in this group—which are also in my name, and to which the noble Lord, Lord Murphy of Torfaen, and the noble Baronesses, Lady Randerson and Lady Humphreys, have added their names. The issues raised in Amendments 10 and 12 are no longer live in view of the removal of the sunset provision from Clause 1 and the Government's proposal that Clause 3 should be deleted. This is also the case regarding the need to postpone the sunset date in the case of legislation relevant to common frameworks, which Amendment 11 seeks to do—although others of your Lordships may have something to say about this. Amendment 4 relates to a provision which the Government are proposing to remove from the Bill, so I do not need to say anything about that either. That leaves me with Amendment 2, to which I do wish to speak.

I am sure that I am not alone in welcoming government Amendments 1, 5, 12 and 68. This really is a victory for common sense. It was obvious to many of us in this House, especially those in touch with the devolved Administrations, that the scheme laid down in the Bill was never going to work within the time given to it. I reject the suggestion that the reason this is now being acknowledged is because of a failure of effort by civil servants. The fact is that however hard to civil servants tried, there was a real problem about getting the job done across all parts of the United Kingdom. There was always going to be a risk that work under the pressure of time would give rise to errors. Any error in this field, such as the removal of regulations that require or authorise the spending of money, could have grave consequences that could be hard to reverse. Care is needed, and that takes time. The devolved Administrations are in a particular difficulty. Their post-devolution regulations are not and cannot be listed on the dashboard; their legislative timetables are not equipped for the task within the timescale. That is the reality.

The Secretary of State deserves to be commended for the steps she has taken, but there remains a very significant gap which my amendments in this group—and in groups 3 and 6—are designed to address. This is that there is no provision for parliamentary scrutiny in the proper sense of those words. It is the greatest of ironies that taking back control over our laws—which is what Brexit was all about—has resulted in handing back this control to Ministers and civil servants, and not to Parliament. The parliamentary scrutiny over what they are doing is not there, other than in the most superficial way, as our power over delegated legislation is so limited. This has been described as an unprecedented transfer from Parliament to the Executive.

I think that all of us who were present at Second Reading can recall how strongly my noble and learned friend Lord Judge—whose absence I regret—felt about this subject. I am sure he would not object to my reminding your Lordships of what he said. It was short and to the point; it directed attention to what he thought was really happening. With his tongue firmly in his cheek, he said that he had received a letter by special messenger called "Restoring Parliamentary control". It went over the key provisions of this Bill, one by one, and ended with this assertion:

"By agreeing to all these separate surrenders, Parliament will have taken back control. We trust you agree".—[*Official Report*, 6/2/23; col. 1001.]

My Amendment 2 is based on amendments that were put down for Committee by my noble and learned friend Lord Judge, and my noble friend Lord Lisvane, who I am glad to see in his place. They provide for the referral of the list in the schedule to a Joint Committee of both Houses. In the event that the committee finds that the revocation of any item of legislation represents a substantial change of the law, it provides for that revocation to be debated on the Floor of each House and voted on.

Viscount Hailsham (Con): The trigger point in the amendment is quite a narrow one: "substantial change". Has the noble and learned Lord contemplated enlarging the power of the committee to require it to be put to the House if there was other substantial reason?

Lord Hope of Craighead (CB): My Lords, "substantial change" probably accommodates what the noble Lord was thinking about. I am following a formula which

[Lord Hope of Craighead]
the noble Lord, Lord Lisvane, thought was appropriate, bearing in mind that there are limits to the extent to which this House can lay down procedures for the other place.

3.30 pm

Anyway, the point of the amendment is to give what we require, which is that Parliament should control what is in the list, no more and no less. A quick reading of the schedule suggests that many of the items listed in it are things we can well do without. But my point is that it is for Parliament in the proper way to take that decision.

I should give notice that, when the time comes for me to move this amendment, I will seek to test the opinion of the House.

Baroness McIntosh of Pickering (Con): My Lords, I will speak to my Amendment 8. Before I do so, and in the interest of brevity, I entirely associate myself with the words of the noble and learned Lord, Lord Hope, because he encapsulated many of the ongoing concerns of the amendments in this group.

To a large extent Amendment 8 is redundant now that I support the amendments to delete Clause 2 that are consequential on the government amendments—I take the opportunity to congratulate my noble friend Lord Callanan and indeed the Secretary of State on having the good sense to table the amendments which the Government are moving in this group.

On government Amendment 1 and the others my noble friend referred to, can he say on what basis the secondary legislation and retained direct EU legislation contained in Schedule 1 have been chosen and what consultation the Government have undertaken to determine the contents of that list?

Briefly on my Amendment 8, I am grateful to the Law Society of Scotland for helping me draft the amendment and for the briefing I received from it in that regard. What the amendment has identified remains an issue with one category of legislation that is not covered by other amendments in the group. The purpose of Amendment 8 was to ensure that any retained EU law which is not identified as such until after the sunset date is excepted from the sunset provisions in Clause 1. The review of REUL was announced by my noble friend Lord Frost, looking at the UK Government retained EU law dashboard from Tableau Public, as referred to at paragraph 13 of the Explanatory Notes, which states that the Government are now

"in the position to ensure REUL can be revoked, replaced, restated, updated and removed or amended to reduce burdens".

I support entirely the opportunity given to us today to do that.

However, the Bill intends to go further to facilitate the review and provides that it should be carried out by the end of 2023. Given that we now know there are almost 5,000 pieces of retained EU law, as identified in the EU law dashboard, the Government must confirm whether the most recent Explanatory Note is correct or whether they expect the number to rise again.

I refer to the briefing I received from the FSA—the Food Standards Agency—which itemised in an extremely helpful tableau the reasons why it supports those pieces of legislation included in Schedule 1. However, the FSA says:

"We have had long-standing ambitions to reform the food and feed regulatory system and we welcome the opportunity to focus our attention on this. We recognise that meaningful reform must include consultation with the food industry, consumers and stakeholders, and I look forward to working with you".

So the question I put to my noble friend is: have the Government allowed sufficient time to ensure that the consultation that the Food Standards Agency wishes to conduct will be permitted to take place by the time Royal Assent is achieved?

My final question to the Minister is: if such a category comes to light within the three categories that have been identified as forming the retained EU law that forms the subject of the Bill after the Bill leaves this place and obtains Royal Assent, what opportunities are there to revisit that to ensure that that category is included the sunset clause, or can we assume that it will continue in existence in its current form, as currently on the statute book?

Lord Lisvane (CB): My Lords, I thank the noble and learned Lord, Lord Hope, for his kind reference to what I said in Committee and subsequently. In order to set the mind of the noble Viscount at rest, I suggest that the wording relating to the Joint Committee in Amendment 2 is entirely correct.

It is a very bad idea to try to regulate parliamentary proceedings by means of statute, and it very often ends in tears or worse. In this case, should Amendment 2 survive into the final version of the Bill presented for assent, it will be for the Houses to set up a Joint Committee. That Joint Committee, following the ancient practice that the interpretation of the orders of reference of the committee is a matter for that committee, will take a view on what constitutes "substantial", so there will be a certain amount of flexibility available at that point. It will also not be justiciable, because the operation of Article 9 of the Bill of Rights would prevent a court second-guessing what the committee decided.

Viscount Hailsham (Con): I thank the noble Lord for giving way, and I hate to cross swords with him on this matter, but the trigger point of "substantial change" is quite narrow. My noble friend Lady McIntosh spoke about lack of consultation, or inadequate consultation. That might surely be a reason for using the trigger power.

Lord Lisvane (CB): I absolutely agree and, as the noble Viscount has made clear, a number of things could be interpreted as of sufficient gravity to trigger, we hope, the powers in the Bill, then the Act, and it would be for the Joint Committee to decide—as a number of committees of your Lordships' House already decide—that the lack of consultation is a serious flaw in the bringing forward of proposals for, for example, delegated legislation. So I hope I have set the noble Viscount's mind at rest, but I am happy to talk to him outside the Chamber if further reassurance is required.

Lord Pearson of Rannoch (Non-Afl): My Lords, I ask noble Lords who support Amendment 2 how it is that they now wish to involve Parliament and our

democracy in getting rid of these laws when they were perfectly happy to see them imposed in a wholly anti-democratic process. I describe it as such because all the laws which the Government now wisely wish to cancel were proposed in secret in the European Commission. Their national interest was then negotiated in secret in the Committee of Permanent Representatives, after which they were signed off in the European Council and Parliament, which could not change them. Our Select Committees could indeed scrutinise a tiny sample of them, or even recommend them for debate in the Commons or Lords, but, once those debates, which could not change them, had taken place, they became our law. So why do the proposers and friends of Amendment 2 now wish to subject the process of their abolition to our democratic processes? And, talking of which, what do they say about the fact that the Bill has already been through the Commons?

Baroness Meacher (CB): My Lords, I want to make a single point. In his opening remarks, the Minister referred to the affirmative procedure as though it is a perfectly satisfactory way of dealing with these very substantial ministerial powers to deal with retained European law. As a former member of the Delegated Powers Committee, I want to say that that is absolutely not the case. Under the affirmative procedure, Parliament has no power to amend any proposals coming from Ministers. It is therefore absolutely essential that this House approves Amendment 2 in the names of the noble and learned Lord, Lord Hope, and others. I very much hope that it does so.

Lord Pearson of Rannoch (Non-Afl): My Lords, I am sure that the House will approve Amendment 2. I am not sure that the noble Baroness grasped the point I was trying to make, so, if I may, I will finish it.

I accept that the Government were in danger of biting off more than they could chew with their original proposals but those now seem eminently achievable, especially if our civil self-servants rise to the occasion in identifying the EU laws that we might want to retain—very few, I submit, so the effort should not exhaust them too much. But perhaps the *Daily Telegraph* was right in its headline on 10 May, which read:

"Whitehall 'blob' thwarts bonfire of Brexit laws".

I support the whole Government wholeheartedly in their endeavours.

Baroness Altmann (Con): May I clarify something? In his initial remarks, the noble Lord suggested that the problems he believes this Bill is designed to address stem from the fact that laws were imposed on this country. Whether or not one agrees with that statement, his proposal is that laws were imposed on this country without parliamentary scrutiny, and therefore without democratic accountability. If one accepts that that is the case, how is it then right to perpetuate that wrong by trying to get rid of those laws through a process that is itself without parliamentary scrutiny? The amendments are trying to impose parliamentary scrutiny; indeed, one of the reasons for our departure from the EU was to take back control to our Parliament, which is what these amendments seek to do.

Baroness Andrews (Lab): My Lords, in following on from what the noble Lord, Lord Pearson, said, let me say that we had that debate at Second Reading; it was exhaustive and the noble Lord's argument was, I think, properly demolished.

I welcome the Government's amendment. The Minister will know that I have been a fairly regular critic of the Government. I am afraid that I have to quote back to him now a letter that he kindly wrote on 5 April to the Common Frameworks Scrutiny Committee—I declare my interest as chair of that committee—because it will illustrate the scale and speed at which the Government have moved here. We had asked a raft of detailed questions and sought further clarity. This is what the Minister said,

"the sunset clause is the backbone of the Bill. It lays the groundwork for an ambitious and efficient overhaul of all REUL. The sunset date is the quickest and most effective way to end REUL as a legal category and will incentivise genuine … reform in a way that works best for the whole of the UK".

That really does illustrate how far the Government have moved on this. The Bill has lost its backbone—but we must remember that it was described as "hyper-skeletal" by one of our scrutiny committees, so there was not much backbone to be lost.

I think we all welcome the fact that, if the Government have had the courage and common sense to renege on this issue, it will not be much of a loss. Most importantly, they have removed the critical risk that we reiterated time and again throughout Committee. They have not removed all the risk, not by any means—we need much more clarity on the processes going forward and on the use to which ministerial powers may be put, which will come in later amendments—but the risk of chaotic, accidental, fatal mistakes being made and not being able to be recovered has been removed.

Regulations designed to protect people from harm and protect their rights were threatened with going over a cliff edge. I pick up the point of the noble and learned Lord, Lord Hope, that among those that might be lost is the web of interrelated regulations that enable common frameworks to function across the whole of the UK, balancing our need for harmony across the union with the necessity of divergence.

One of the good outcomes of the Bill is that those of us who laboured for three years in the vineyard of common frameworks, which were very far apart in the landscape, will finally have our moment in the sun when it is recognised how important they are for the future and health of the union. That has come about through the Bill with the hundreds of regulations that underpin the common frameworks.

I have some questions on this point—

3.45 pm

Baroness Fox of Buckley (Non-Afl): My Lords, I have one clarification for the noble Baroness. The point was made that this is not a Second Reading, but it has also been recognised that the amendments to the original Bill are substantial. The difficulty I have is how we hold this Bill to account when it is different from the Bill that we were holding to account. In many ways, it has been gutted, and we have had four days to assess it. I am not suggesting lots of Second Reading

[Baroness Fox of Buckley]
speeches; I simply wanted to reflect, as the noble Baroness already has, that this is a big change to the Bill. How do we deal with that in this discussion?

The Earl of Courtown (Con): I apologise for interrupting the noble Baroness, but I remind the whole House that, as we are on Report, there cannot be any interruptions apart from material descriptions of various features.

Baroness Andrews (Lab): I am grateful to the noble Lord. It is a measure of the speed with which the Bill has gone through every stage that these questions should be raised in the first place, but I leave it to the Government to reply.

I also wish to pick up the point made by the noble Lord, Lord Pearson, about whose fault it is that this process has been so slow. I was appalled by the comments of a previous leader of the House of Commons; I thought he traduced civil servants who cannot answer for themselves. In our committee, we have seen these officials working day and night, against the clock, to make some sense of a process which has simply not been sensible. To suggest that they have somehow been subversive, deliberately slow or incompetent is a real slur on the professionalism of officials and of the Civil Service. I hope that every Member of this House agrees with that.

My question to the Minister is this. I am grateful for what has been achieved, but I look at that list of 600 and am reminded of the 600 people going into the valley of death, bravely being sacrificed. There are some in this list that refer to common frameworks—for example, safety of food and emissions. There is no apparent reason why they are in there and I do not know how many there are. On behalf of our committee, I would like a list which tells us—

Lord Fox (LD): We have a list; there are 240.

Baroness Andrews (Lab): I am out of date already. That is excellent; I am very grateful and withdraw my question. I am delighted the Government have been so responsive.

My final point is on parliamentary control. I will certainly be supporting the amendment in the name of the noble and learned Lord, Lord Hope. It identifies two key risks. The Government have agreed in principle to a sifting mechanism, and it makes no sense for this batch of amendments to be left out of that sifting mechanism for the very reasons which the noble and learned Lord put and which I am now putting to the House: there are still elements of this list which require explanation, transparency and understanding. I would like the opportunity to see that process in place, as it affects these first regulations. This is a modest proposal and it is perfectly reasonable that the Government should do that.

There is also the much larger and more powerful question of parliamentary control. We have had very dramatic language from the two scrutiny committees of the House and we debated this at length in Committee. The case has been partially conceded, but by no means wholly. It once again reveals the limitations we face with secondary legislation and the way that primary legislation has been stripped out. It is essential that this batch goes before the sifting committee, in good faith, so that we can test the process and see whether it works and is fit for purpose for the more complex ones that will come later. I agree with the amendment.

Lord Hamilton of Epsom (Con): My Lords, I shall speak to the amendments to which I have added my name, Amendments 2 and 4. Like my noble friend the Minister, we campaigned to leave the EU and we found that people decided to leave for a number of different reasons. One of those reasons was the resentment people felt that laws were being passed in Europe and delivered to us here, and we had no say on them whatever. I very much echo the words of my noble friend Lady Altmann.

We scrutinised this legislation. I was on an EU scrutiny committee and we wrote a number of reports, some of which were somewhat hostile about the legislation going through, and of course, they made absolutely no difference whatever. Therefore, if we had said to the people on the doorstep who were concerned that they had no say on much of the legislation coming on to our statute book, and over which Parliament had no say, "Well, we have a great plan: we are going to bypass Parliament almost completely"—

Lord Kerr of Kinlochard (CB): I greatly enjoyed serving jointly with the noble Lord on the EU Select Committee. I point out that I was woken up three times on a Sunday evening by Delors asking me what the House of Lords European Union Select Committee had meant by a particular report on a particular piece of legislation. These reports were not a waste of time.

Lord Hamilton of Epsom (Con): I slightly wonder what effect they had on the statute book. The legislation went through, nothing was amended, nothing was voted down—it could not be, under the EU accession treaty—so, if you do not achieve any change in the legislation, I am not sure you can claim any great credit for having done anything to it. So I do not really accept that. This is one of the problems, and people did find it very frustrating that they had no say over what EU legislation went through.

We have passed over the making of our legislation from an unelected Commission in the EU to the Executive. Who are the Executive? The Executive are made up of Ministers, and civil servants who, in my view, will have much more influence over what happens to this legislation than Ministers will. The Civil Service used to be regarded as a Rolls-Royce. I am not absolutely sure that definition would apply today; it looks rather like an old banger in need of a serious MOT. Let us face it, the Civil Service has not done well in trying to locate retained EU law. It was given endless opportunities to dig this stuff out, and what happened? Virtually nothing, until panic set in when this Bill was being debated.

It is the job of departments to know what legislation they have. This applies not only to EU law but to all law, and one has been given the impression over the

past few months that they have absolutely no idea whatever what is on the statute book. Are these the right people to whom to pass all responsibility for EU law, without Parliament having any say? The answer is of course no. Parliament has to regain control of the legislative process. We have to make sure that Parliament decides what happens to this legislation, and that is why I am supporting Amendments 2 and 4 and subsequent amendments. I hope your Lordships will follow me through the Division Lobby.

Lord Carlile of Berriew (CB): My Lords, it is a pleasure to follow the noble Lord, Lord Hamilton, in what he said. My only passing thought is to award my noble friend, for his intervention, the "name-dropping of the week" prize.

I am not enthusiastic about disagreeing with the Minister, the noble Lord, Lord Callanan, because I know from listening to him many times that he is a great supporter of the rights of your Lordships' House to amend legislation, scrutinise what is before us and ensure that its powers are not somehow elided with those of the other place. However, this did bring me back to something that happened earlier in my life. For a period, I had one of those unusual characters, a senior clerk of great wisdom, in my barristers' chambers. When I was a Member of the other place, he used to say to me as I left chambers, "You're off to do your bit for democracy, are you?" That was a sort of pessimistic adieu as I left the office. When I became a Member of your Lordships' House, he used to issue me with the optimistic adieu, "So you're off to save democracy, are you?" That seems very apposite in relation to this debate. Indeed, what that great senior clerk, now sadly deceased, used to say to me really gives the answer to the extraordinary statement of the noble Lord, Lord Pearson, which we heard expressed by others in another debate just last week: that if the House of Commons decides to pass something, we should just roll over and take it as we lie in that supine position. That, of course, is not what we do in your Lordships' House.

I ask the noble Lord, Lord Callanan, what is to be lost by accepting Amendment 2? Even if it is a bit of an ad maiorem argument, what particular attention has he paid to the fact that my very distinguished noble and learned friends Lord Hope, who has moved Amendment 2 today, and Lord Judge—who unfortunately is unwell; otherwise, he would have been in a similar position today—have been the great movers behind this attempt to introduce an element of parliamentary scrutiny that has been drafted with great critical faculty, as opposed to requiring us to look at a long list and treat it as though it had some special wisdom in itself? For those reasons, if my noble and learned friend asks for the opinion of this House on Amendment 2, I—and I am sure many others who take a perhaps legalistic, but proportionately legalistic, viewpoint—will support him in the Lobby.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I will speak briefly to Amendment 14 in my name, to which the noble Baronesses, Lady Hayman of Ullock and Lady Altmann, and the noble Duke, the Duke of Wellington, have added their names.

I broadly welcome the government amendments tabled on 10 May but continue to be concerned about the ongoing lack of parliamentary scrutiny. While it is welcome that the Bathing Water Regulations 2013 and the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 are not listed in the Government's extensive list of statutory instruments to be deleted this year, this does not indicate whether at some future point these two SIs will not be brought forward for deletion without any parliamentary scrutiny.

Several Members of your Lordships' House have spoken passionately and repeatedly about the need to improve water quality across all areas, especially, as we approach the warmer weather, through the Bathing Water Regulations. The noble Duke, the Duke of Wellington, has raised the issue of British surfers being forced to leave the country to pursue their sport in Spain due to the appalling level of pollution in and around our coastal waters caused by sewage overflows. While this subject is extremely important, I do not intend to expand the debate, given that both your Lordships and the Minister have heard all the arguments and evidence on previous occasions. That evidence has not changed. However, I am looking for a firm assurance from the Minister that both these statutory instruments will be retained on the statute book. This will ensure that our children and others can feel a degree of confidence when they swim in our coastal waters and inland lakes that they will not be damaged by an unpleasant environment and that their health will be preserved. I look forward to a positive response, and hope that I and others can be satisfied that the Government support the view of those for whom this is a vital issue.

Viscount Hailsham (Con): My Lords, I have a very brief observation about Amendment 2, which I support and seems to have this other great advantage. Statutory instruments are largely drawn by officials and are not subject to great scrutiny by Ministers. That is my experience. Indeed, if noble Lords look at the schedule they will see a large number of statutory instruments. I very much doubt that Ministers have crawled over them in detail. If the trigger is exercised in accordance with the provisions of Amendment 2, Ministers will have to become engaged. It is much more likely at that point that you would get a proper response to the concerns expressed by the committee. That is an additional advantage that I would pray in aid.

4 pm

Baroness Jones of Moulsecoomb (GP): My Lords, in case anyone is thinking of voting against Amendment 2—even the Minister—it is worth remembering that Jacob Rees-Mogg said today that this Government gerrymandered the ID vote because they want to corrupt the voting system here in Britain. They wanted a government advantage from the voter ID and they found that they did not have it. We cannot trust this Government on any level on any issue, so Amendment 2 is vital.

Lord Hodgson of Astley Abbotts (Con): My Lords, I put my name to this amendment from the noble and learned Lord, Lord Hope. I will address the question—or possibly accusation—from the noble Lord, Lord Pearson,

[Lord Hodgson of Astley Abbotts]
head-on: I voted for Brexit, because I support policies designed to give the UK more freedom to operate in the world without the inhibitions that came with our membership of the European Union.

One of the reasons for my voting for Brexit was that I wanted to make some attempt to reduce what I saw as the marginalisation of the UK Parliament—that it was, under the system then prevailing, more or less reduced to a cipher, as my noble friend Lord Hamilton pointed out. My noble friend the Minister has made some significant changes. I, like other Members of the House, thank him for that. A lot has happened in the last few days and it might be that I have not understood fully what he is proposing and its implications, but as I read it at present it does not seem significantly to enhance Parliament's power.

I have one more reason why the House needs to be extremely careful about this matter. We are entering a brave new world in which, for better or for worse, we have greater control over our legislative process. This Bill could create a dangerous precedent as to how, in this brave new world, the Executive feel able to treat the legislature—the two Houses of Parliament.

For the rest of my remarks, I will briefly probe a little deeper the thinking behind the Government's approach and the level of parliamentary scrutiny of and involvement in the Bill. One of my last tasks before I handed over the chairmanship of the Secondary Legislation Scrutiny Committee to my noble friend Lord Hunt of Wirral at the end of January was to sign off the committee's report on this Bill, which the House may recall was entitled *Losing Control?: The Implications for Parliament of the Retained EU Law (Revocation and Reform) Bill*. The Government are required to provide a response to the recommendations made in reports from your Lordships' House, and they have done so. I am extremely grateful to my noble friend and his officials for the extensive and detailed 10-page reply. However, it is dated 10 May—last Wednesday—so again, if I have not been able to absorb the full implications of what he is saying, I stand ready to be corrected when he comes to reply.

There are two specific points that I would like to draw to the House's attention. The first is in paragraph 31 of our report and touches on the point made by the noble Baroness, Lady Andrews. We lay out a reason as to why, even if

"a definitive list of the relevant law were eventually compiled in time",

the House would be insufficiently informed unless something was said about the "individual piece" of legislation; to produce a list is not the same.

The Government's response was:

"The Schedule approach means that a definitive list of REUL to be sunset has, in fact, been compiled. This Schedule is subject to parliamentary debate and approval".

My concern is that the House approving the schedule—the long list of 600 or so SIs—is affording only the most tangential level of parliamentary involvement and approval. Do I assume that in giving my approval to the schedule I am automatically endorsing every one of the constituent SIs, or do the Government intend to bring forward an explanatory note on the reason for including each individual regulation on the schedule, many of which I agree are probably quite trivial, to be considered by both Houses? Without this, Parliament has no real understanding of what it is approving, and it is this uncertainty that makes the amendment moved by the noble and learned Lord, Lord Hope, so important.

My second and final point relates to the recommendation made in paragraph 33. Our report said:

"It is generally acknowledged that the scrutiny of secondary legislation falls very far short of the scrutiny afforded primary legislation. Downgrading the status of direct principal retained EU legislation so that it can be amended by 'ordinary powers to amend secondary legislation' … means therefore a corresponding downgrading of effective parliamentary scrutiny. Suggesting that this will have the advantage of saving parliamentary time does not make the Government's justification for this change any more persuasive. It is a matter for Parliament to decide how it should use its time".

The Government's response is:

"The Government disagrees that the scrutiny of secondary legislation falls short of the scrutiny of primary legislation. The scrutiny procedures for secondary legislation are long standing and are endorsed by Parliament during the passage of legislation".

I find this continuing government assertion that the scrutiny of secondary legislation is equivalent to that of primary legislation astonishing—jaw-dropping, to be frank. My noble friend's letter says that the scrutiny procedures for secondary legislation are long-standing, and he is right, but those long-standing procedures were designed for an earlier age when Governments used secondary legislation for what it says on the tin: to deal with issues of secondary importance and avoid gumming up the legislative machine. But successive Governments have used secondary legislation to pass into law—law that applies to every one of us—decisions too important to be left to secondary procedures with their "take it or leave it" unamendable approach. As I have said before, if the Government want to take a little they have to give a little, and so far the Government appear unable or unwilling to do this.

My concluding remarks are these: Parliament will stop this continuing shift in the balance of power towards the Executive and away from the legislature only by constantly explaining how fundamental to the health of our system of government it is, no matter how difficult, embarrassing or controversial it may be to do so. That is why it is essential that the House supports the amendment moved by the noble and learned Lord, Lord Hope.

Baroness Lawlor (Con): My Lords, I thank my noble friend the Minister for explaining so fully his amendment to the Bill. I am slightly saddened on two counts. First, I wish the list he provided in the schedule was a little more ambitious and extensive in the number of regulations and rules included. Secondly, I am saddened by the response of some Members of your Lordships' House.

I particularly oppose Amendment 2. The idea that there is an initial committee is hardly more than camouflage, because the committee is charged with putting any but the most negligible changes to both Houses.

The subsequent requirement in the amendment that a majority of both Houses has to approve the removal gives, in effect, the power of veto to an unelected

Chamber, in a way that goes contrary to the constitutional arrangements of a democratic country whose voters explicitly chose withdrawal from the EU and its laws, at the referendum and again in 2019. They voted overwhelmingly for a government pledge to carry out that mandate. The Executive have a mandate—a direct mandate—from the electorate to end EU law. That mandate must be respected, and must be respected by this House.

A much more extensive arrangement was put to the House of Commons, which passed at Second Reading by over 60 votes. I am very concerned that this House will, yet again, obstruct the will of the people, expressed in 2016—

Noble Lords: Oh!

Baroness Lawlor (Con): I am sorry, my Lords, but it was clearly expressed, and it was expressed again in 2019. A mandate was given to the Executive to remove EU laws; it was not given to this Chamber to hold it up.

Lord Hendy (Lab): My Lords, I doubt very much whether the will of the people was to remove the rights of working people. I doubt very much whether those who voted for Brexit voted to remove the rights and entitlements that they had inherited from EU law.

I too support the amendment in the name of the noble and learned Lord, Lord Hope. Last Wednesday, 10 May, to which the noble Lord, Lord Hodgson of Astley Abbotts, referred a moment ago, was a busy day for the Government. On that day, in the other place, the Secretary of State for Business and Trade made a Written Statement about this Bill, pointing out that amendments would be tabled to it. At the end of the Statement, she said:

"As part of this drive for deregulation, today I can announce that we will make improvements to employment law which could help save businesses around £1 billion a year, while safeguarding the rights of workers".—[*Official Report*, Commons, 10/5/23; col. 16WS.]

And she gave some indication of what those changes might be.

On that same day, the Department for Business and Trade also published a booklet called *Smarter Regulation to Grow the Economy*. From the last couple of pages of that we learn what is in the Government's mind: first, the requirement under the working time regulations to keep records of hours worked is to be removed. How businesses and their workers will be able to ensure compliance with the remainder of the regulations was not explained. Secondly, eight days of UK holiday are to be added to the 20 days of EU holiday for workers; but, it appears, this may result in economic loss, as the days allowed by the EU are paid on a different, higher basis than the UK days. Thirdly, rolled up-holiday pay—a technicality of employment law—is to be permitted, but the effect is to remove what was introduced as a protection for workers. Fourthly, the obligation to consult over redundancies is to be removed for small businesses.

Those changes are not very great, although they may be significant for some. In the vast number of amendments to this Bill that have been tabled—in particular, the 600 pieces of EU-derived legislation identified by the Government for removal or partial removal—I have looked at where those weakened employment rights are to be found. They are not there. The reason they are not there is that they will be introduced by statutory instrument after the Bill has become law.

We in Parliament need the chance to scrutinise what will otherwise be a constant stream of statutory instruments removing and weakening workers' employment rights and health and safety at work rights. That is why I support the important amendment from the noble and learned Lord, Lord Hope.

4.15 pm

Baroness Noakes (Con): My Lords, as a committed Brexiteer I was a strong supporter of this Bill, and it will not surprise noble Lords that my initial reaction to last week's announcement of the amendments that my noble friend has so ably just introduced was a big disappointment. It would have been a marvellous achievement had we achieved by the end of this year an understanding of what to do with retained EU law—in terms of retaining it, modifying it or repealing it—but in my heart of hearts I never actually thought we would get to that position, so I completely accept on pragmatic grounds that what my noble friend has brought forward today is the right thing to do, and I fully support that.

I completely understand what lies behind the sentiments expressed by the noble and learned Lord, Lord Hope, in his amendment, supported by other noble Lords who have spoken, but I think that noble Lords have missed the big picture here. There were problems with the existing Bill, such as not knowing exactly which bits of retained EU law were going to be included, because that number seemed to have a shape-shifting quality and it was very unsatisfactory for parliamentarians to legislate with a lack of certainty. It was also troubling that large swathes of law could have just disappeared from the statute book without any parliamentary intervention whatever. In addition, there was the possibility of a tsunami of statutory instruments modifying EU law by the end of the year, which would have put our procedures under great strain, whatever sifting or other mechanisms were put in place to ameliorate it. So the Government have made significant changes with the amendments that my noble friend has brought forward today. If the noble Lords put it in that context, they will see that the Government have been very responsive to the issues that have been raised by noble Lords during the passage of the Bill, and I hope they will not let the best be the enemy of the good with the amendments that they have tabled.

With the absence of the sunsetting, we have another problem: how do we know that we are ever going to finish the task of examining, and deciding what to do with, retained EU law? We have 600 laws in the new schedule, but we know nothing about what is going to happen to the other pieces of retained EU law. That is why I have tabled an amendment, which we will not reach until Wednesday, asking for some form of reporting by the Government so that at least we keep under scrutiny the nature of that process. I hope that between now and our next Report day—

Lord Hope of Craighead (CB): My Lords, there are references—for example, in Clause 16—to a sunsetting date, so there are parts of the Bill that retain sunsetting and it has not entirely been departed from. I see the value of sunsetting and I am in favour of reforming our rules book, but it would be a mistake to think that we were taking the brake off completely; that is not the way the Bill is constructed.

Baroness Noakes (Con): With the greatest respect to the noble and learned Lord, I think the main substance of sunsetting has been removed by the amendments put forward by my noble friend because we do not reach a cliff edge at the end of this year, or such a later date as might have been put in place, for the whole of retained EU law to disappear if it had not been dealt with. That is the issue that I was referring to.

Perhaps I could just complete what I was saying. I hope that between now and our next day on Report we can have some constructive dialogue with my noble friend the Minister about how we can have some kind of process, information sources, or whatever, to ensure that what we have lost with these amendments—which is ensuring that we deal with the whole of retained EU law—can be salvaged.

Viscount Stansgate (Lab): My Lords, it is not my intention to detain the House for long, because I think the House wants to move to a decision, but I will make one point about what might be described as the big picture. Today's debate takes its place in the long history of debates about Europe and will be interesting to read afterwards. However, about a couple of weeks ago—I forget exactly how long ago it was—we had a short debate in this Chamber on the state of parliamentary democracy. The noble Baroness, Lady Neville-Rolfe, replied to it as the Minister. We did not have enough time, but it was a useful debate to have. I suggest to the House only that the sense expressed during that debate, that over a long period Parliament has lost power to the Executive and that what we need is to reclaim power for Parliament over the Executive, is best encapsulated by Amendment 2 in the name of the noble and learned Lord, Lord Hope. I very much hope that the House passes it.

Baroness Jolly (LD): My Lords, I will speak briefly in support of Amendment 16, tabled in my name alongside those of the noble Baroness, Lady Finlay of Llandaff. and the noble Lords, Lord Clarke of Nottingham and Lord Collins of Highbury. I declare an interest as president of the Royal Society for the Prevention of Accidents, RoSPA. I am sure I speak on behalf of many Peers from across the House in expressing relief at the U-turn. It is testament to the House, as well as to organisations such as RoSPA, that swathes of life-saving health and safety legislation are saved from the REUL bonfire.

Health and safety impacts every area of our lives and it is not limited to certain sectors. I hope the debate around the specifics of the Bill has shone a light on the need for a holistic approach when addressing these issues. The House will have heard me say before that the UK is a global beacon for safety. Thanks to the Minister's amendment, I am hugely reassured and say that this continues to be the case.

Baroness Finlay of Llandaff (CB): My Lords, very briefly, I too added my name to Amendment 16, so well introduced by the noble Baroness, Lady Jolly. I simply remind the House that, when we remove legislation and regulations, it can have unintended consequences. There is evidence that accidents happen. For example, if we abandon working time directives and regulations, when people are overtired their accidents can be fatal—and there have been fatal accidents. Let us not lose sight of the clear evidence of harms when regulations are no longer in place, because lost lives cannot be reclaimed or replaced. The amendment proposed by the noble and learned Lord, Lord Hope, provides a check mechanism for Parliament to look at regulations and allow scrutiny before things are abandoned. Therefore, although I do not anticipate Amendment 16 being pressed to a vote, I strongly support Amendment 2.

Lord Jackson of Peterborough (Con): My Lords, I will speak—briefly, I hope—to the Government's Amendment 1. I direct your Lordships back to the comments of the noble Baroness, Lady Fox, who is absolutely right: this Bill, in its current position on the Order Paper, is substantially different from the Bill that was considered by the House of Commons and at Second Reading by this House. If we are to properly scrutinise and analyse the Bill, and have proper oversight of it, we have to be cognisant of that fact.

Notwithstanding the comments of my noble friend the Deputy Chief Whip, where else are we going to acknowledge the very substantial and significant change that has come as a result of the Government's announcement last week? It is a reasonable point to make. If this were any other Bill—any other potentially epoch-making primary legislation—your Lordships would be up in arms about the fact that we are rushing through on Report the Government's amendment to Clause 1, which effectively rips up the Government's policy on the Bill.

I defer to no one in my admiration for my noble friend Lord Callanan, the Minister. I worked with him in DExEU in the run-up to Article 50 and the TCA. He is one of the most gifted Minsters. He has obviously had a very difficult time in your Lordships' House, putting a viewpoint that has not always been universally popular.

However, the wider context is very important, as put forward by my noble friend Lady Noakes. The Prime Minister did say that in his first 100 days as PM we would review or repeal post-Brexit EU laws. Indeed, that bastion of blue in tooth and claw Conservatism, the *Independent* newspaper, described the government retreat as a course of action that

"turns the logic of the bill on its head".

I do not underestimate the task that we as a Government—or this House and the Government—gave to civil servants. In fact, the agency Thomson Reuters estimated in 2017 that 52,741 laws were introduced in the UK as a result of EU legislation between 1990 and 2017. Many of them of course were worthwhile and much needed, but many were about protecting boondoggle schemes, market distortions, oligopolistic behaviour and were designed to ossify market dominance, restrict the need for innovation and lock out more agile and dynamic competitors.

Notwithstanding that, I welcome the Government's sincere endeavours to both review the regulations and to deregulate more broadly. But we have seen that 52,000 shrink to 600. Most EU laws will remain on the statute book, seven and a half years after in the EU referendum we decided to take back control and trust our own elected politicians rather than a foreign legal entity—in this case the European Court of Justice.

Ministers pray in aid the capacity and capability—or not—of civil servants to scrutinise, prioritise and audit so much of our retained corpus of EU law. But I saw, in my role as a special adviser in the run-up to the TCA and the Article 50 process, that with firm and principled political direction and drive, so much more could have been achieved with vision rather than capitulation.

In fairness, it is not solely the responsibility of this Administration. I concede in all fairness—it would be churlish not to—that the previous Johnson Administration could and should have legislated for a Bill in 2021 rather than last autumn. The Government have resiled from a well-understood political commitment, which voters supported with a strong mandate, and which passed, as my noble friend Lady Lawlor said, in January in the Commons.

No one ever voted for these proposals. The Government have picked a side: big business, senior civil servants, special interests, well-remunerated lobbyists and the ex-Mandarin cohorts ably represented in this House. Leave was the biggest vote in British electoral history, but that counts for nothing as opposed to the pearl-clutching vapours of big business, self-interest and shareholder value dressed up as defending parliamentary sovereignty and concern for "significant uncertainty". Whither the vision of self-government, independence, democratic renewal and sovereignty of June 2016? Instead, we have the cold pragmatism and cynicism of a technocratic elite.

This has not been handled well by the Government. I refer in particular to the lack of proper scrutiny by the European Scrutiny Committee in the other place, and the failure of the Minister to properly attend to those issues.

I will finish by making reference to Schedule 1. We are offered the mere scraps from the table with the new schedule. It is not so much a bonfire of regulations but a damp, fizzing Catherine wheel. There is no fundamental interest in that schedule in the governance of our country.

4.30 pm

The people rejected consensus in 2016 and demanded change, but what we get is the removal of: regulations on levies on cereal, wheat, rye flour, groats and meal; the regulation on the importation of the Atlantic bigeye tuna from Equatorial Guinea; special measures regarding tuna loins in Kenya; a regulation on anchovy fishing in the Bay of Biscay; and—this might have caught our Lord and saviour Jesus Christ in his capacity as a fisherman in the Sea of Galilee—a directive recognising the Hashemite Kingdom of Jordan with regard to systems for training and certification of seafarers. I know that the EU was very interested in regulatory overreach.

It is with regret and huge disappointment that, notwithstanding all those things, I will support the Government on this. But I think that voters feel aggrieved and disillusioned—

Noble Lords: Oh!

Lord Jackson of Peterborough (Con): I will have my say; plenty of people have had a say on the other side.

The disillusionment of people who supported Brexit in good faith is bad for democracy. People are beginning to ask, "Does democracy work?"

Lord Hacking (Lab): My Lords, I will move the House away from the Bay of Biscay and back to this Bill. I tabled Amendment 7, that Clause 1 should not be retained, but I will not move it in view of the radical changes that the Government have brought to the Bill. I therefore easily support the noble and learned Lord, Lord Hope, on his Amendment 2. However, I do so with a substantial caveat: that whatever decisions are made by way of advice from the Joint Committee. We must remember that the Joint Committee's central role is to decide whether the item of legislation before it will bring about a substantial change to current UK law, although the Joint Committee will also bring other considerations.

Important as that is, this is only part of our duty; indeed, our duty is to the whole of the Bill and to the whole of the new schedule before Schedule 1. The Minister referred to 600 specified pieces of EU law, which are represented in the long list represented in the long list before Schedule 1. I have done the arithmetic—even though my arithmetic has never been quite perfect—and the total is 928. We have a responsibility for every one of those 928 EU measures.

I ask your Lordships to concentrate on our wider responsibility, such as whether there is a need to revoke a particular piece of legislation. Is it causing any harm? There are a number of other tests which your Lordships should apply, but which will not fall under the remit of the Joint Committee. I draw noble Lords' attention to the six sets of Habitat (Salt-Marsh) Regulations stretching over pages 24 and 25 of the Marshalled List. The question, for which we have a responsibility to answer, is: are they defective? If so, how?

Noble Lords: Wednesday!

Lord Hacking (Lab): Is somebody correcting me?

Lord Liddle (Lab): We will discuss it on Wednesday.

Lord Hacking (Lab): I got a prompt from beneath me that we are discussing this on Wednesday. I will not go into further detail; I just wanted to bring your Lordships' attention to one example out of the 928 EU measures which fall under the new schedule before Schedule 1. The same test could easily be applied to the Civil Aviation (Safety of Third Country Aircraft) Regulations, which is on line 177 of page 27 of the Marshalled List. We have wider responsibilities, and we should exercise our influence over them during the passage of the Bill.

Lord Kerr of Kinlochard (CB): My Lords, I am happy to follow the noble Lord, Lord Hacking, and I agree with both his points. I have the strong impression, having read through the list of titles, that the great bulk of the legislation to be eradicated, listed on the 57 pages of the new schedule, is in fact defunct and can perfectly reasonably be removed. That is the impression that I get—but that is from reading the titles. I cannot remember the details even of the particular pieces of law that I was involved in drafting, and there are a few of them here. We have a duty to establish a sensible procedure. It could be that there are unintended consequences. I strongly support Amendment 1, the government amendment, but a necessary corollary to that amendment is that we must pass Amendments 2 and 4.

Lord McLoughlin (Con): My Lords, I very much welcome the changes that the Government have brought forward, but I also think that the amendment moved by the noble and learned Lord, Lord Hope, is one that the Government should very seriously consider, and I shall support it later on this evening—and I shall support it for a simple reason. The question as to whether or not we leave the European Union has been settled. I was on a different side to my noble friend Lord Hamilton—I believed that we should remain in—but I accept that that debate has gone and that I lost it. We now have to move on, and we must find a way in which to give the House of Commons and the House of Lords a say over the legislation that is going to replace it.

The sad story of this Bill so far is that we were told that there were 3,000 pieces of legislation, then it was 4,000 pieces—and we now have 900 pieces that can be got rid of very quickly. One thing that is changing dramatically is how a lot of detailed changes have to be made at pace, and it is not always going to be the case that there will be time for primary legislation going through both Houses of Parliament. That is why we need to adapt ourselves to a very different mode of doing regulations. Some of the regulations are technical and the House will not necessarily want to take a particular view but, when they are of a more practical nature, I think that there should be a Joint Committee of both Houses that says to the Government: "Hold on, let's discuss this". That is what happened when we had the initial withdrawal Bill and, in a way, the proposals that have been put forward today are mirror images of those particular ways forward.

The changes that the Minister has brought forward, which are very welcome, came very late in the day, and nobody really knew what was happening until late last week—and we are debating them here this afternoon. So I very much hope that the amendment proposed by the noble and learned Lord, Lord Hope, will give the Government time to reflect and see that they have nothing to fear from a Joint Committee of both Houses looking at these matters. After all, if the Government have a majority, it will probably have one on that committee as well—and that is a sensible way forward, giving that parliamentary accountability that we all wish to see.

Baroness Fox of Buckley (Non-Afl): My Lords, I would like to focus my probing on Amendment 1—

Lord Davies of Gower (Con): My Lords, the noble Baroness has spoken once in this debate, and the good book says that it is one opportunity at Report.

Noble Lords: Front Bench!

Baroness Fox of Buckley (Non-Afl): I think that I have been encouraged to go ahead. Is that appropriate?

Noble Lords: No!

Lord Davies of Gower (Con): No, it is not appropriate.

Lord Lilley (Con): My Lords, very briefly, the case for what we are doing was put best by the noble Lord, Lord King, former Governor of the Bank of England. He said that there was a case for remaining in the EU to retain some influence, albeit small, over European legislation and there was a case for leaving to enable us to revise EU laws. There was no case for leaving and not using our opportunity to revise those laws.

A paradox arose in previous stages whereby those who, apparently with no problems at all, had allowed laws to be passed with little or no say by Parliament for 44 years became, overnight, welcome champions of full parliamentary process. Those on the pro-Brexit side of the campaign found themselves in the difficult position of arguing for rather streamlined and inadequate processes of parliamentary scrutiny, partly because there was a trade-off: there was a case for taking more time to maximise the thoroughness of scrutiny and a case for seeking speedy completion of the process to minimise uncertainty.

Amendment 2 gives us the opportunity for a degree of more thorough parliamentary scrutiny, which I think both sides welcome, but I would like an assurance from the Government that it will not prolong uncertainty for too long. The fewer the measures in the schedule, the more measures are outside it and could be liable to a process of reform or even removal over a longer period, therefore prolonging uncertainty. I would like to know before Wednesday why the some 2,000 laws that the Civil Service did not know existed have not been put in the schedule. If no one knew that they were there, what harm can there be in removing at least some of them?

More seriously, part of the process of this Bill is surely to enable us to transform legislation that we retain on the statute book into a more common-law process, more suited to Britain and our procedures. I would like some assurance that that will happen and an explanation of why, given that in most common-law countries there is little or no product legislation—they must be of merchandisable quality, safe and not harmful, but the law does not specify how or why they are made, in the way that the EU rules that we inherited do, largely for protectionist reasons—there is no removal of product legislation in this schedule. Surely it would be possible and bring us into line with much of the world.

Lord Fox (LD): My Lords, this has been a very extensive debate. The noble Lord, Lord Jackson, mentioned churlishness in a different context; it would be very churlish for these Benches not to welcome the

government amendments in this group and the fact that the Minister has co-signed Amendment 9 in my name and that of the noble Baroness, Lady Chapman.

We owe the Minister a debt of gratitude. All through the grinding Committee, he stuck poker-faced to the party line, but then it seems he sprang into action; he took the spirit of what he heard in your Lordships' House and, using his not inconsiderable powers of persuasion on the Secretary of State, he ensured that the whole government position flipped by 180 degrees. We need to thank him for listening to your Lordships in Committee.

We heard some concern about what is in the new schedule, which we will debate on Wednesday. Some of us received at 2.40 pm some explanation as to why particular regulations were put in. Clearly, that was late—we should have had it a lot earlier—but Amendment 2 takes the place of our having to work through the night on that spreadsheet. Should the noble and learned Lord, Lord Hope, seek the opinion of the House, we on these Benches will support him. Part of the road can be travelled with this group, as long as the noble and learned Lord's amendment is included.

Baroness Chapman of Darlington (Lab): My Lords, it has been a bit of a saga getting to where we are, but it is incredibly welcome that Ministers have tabled the amendments before us today. This means that we do not need to debate my Amendment 6, which would have had a similar effect to the Government's amendments. I also welcome the Government's acceptance of my Amendment 9, which deletes Clause 2.

4.45 pm

There are still major problems with the Bill. The first issue is this. On Wednesday evening the Government published a schedule of retained law that departments have identified for removal on 31 December this year. This list of 650 pieces of law came without explanation of why each item is to be revoked, whether it is redundant or duplicated elsewhere and, if so, where we can find the relevant successor legislation. We will debate items in the schedule more fully later—and, clearly, we are pleased that the automatic sunset has been removed—but it is ridiculous to publish the revocation list so late in the day. I now have the explainer—as does the noble Lord, Lord Fox, I think—but I believe other noble Lords still do not have it. We did not get it until 2.26 pm today. We should not really have had to ask for it; all noble Lords should have had it before now.

We note that Ministers have given themselves and the devolved authorities until 31 October as a cooling-off period, in case there are still mistakes in this list. Perhaps we could be more confident in the contents of the list had it been available sooner and included the rationale for each decision earlier. Supposing for a minute there is no dispute over the contents of the schedule, the problem remains that there is still great uncertainty about the Government's intentions. Statements are made to the press implying that regulations such as working time directives will be removed, and assurances are given to Parliament that workers' rights are safe in the Government's hands. We are not helped by the Government's refusal so far to allow adequate parliamentary scrutiny of changes to important regulations that will come about as a result of the Bill. This is continuing to cause concern inside and outside this House.

We on these Benches therefore strongly support Amendment 2 in the name of the noble and learned Lord, Lord Hope. I am not going to repeat his argument. It is a straightforward process of sifting so that any items identified as substantial and listed for revocation can be considered properly. I do not see this as a huge burden on the Government. Ministers themselves are clearly concerned that there are errors in the list, or they would not have given themselves until 31 October to correct any mistakes. I hope the noble and learned Lord, Lord Hope, puts his amendment to a vote as he will have the support of these Benches. It would be even better for the Minister to indicate that the Government are willing to accept the idea.

We welcome the Government's amendments, but this Bill really ought to serve as a lesson to lawmakers—now and in the future—that legislating in a factional interest, rather than the national interest, is always a mistake.

Lord Callanan (Con): I thank all noble Lords who have contributed to this debate. I find myself standing here bathed in sunlight; I am not sure whether that is a sign.

Lord Fox (LD): My Lords—

Lord Callanan (Con): I do not require the noble Lord's advice on this.

I will start with Amendment 2 from the noble and learned Lord, Lord Hope, which requires that legislation listed in the revocation schedule be referred to a Joint Committee of both Houses and be considered by the committee for a period of at least 30 sitting days. Should the Joint Committee consider that the revocation of the legislation listed would substantially alter UK law, a Minister of the Crown must ensure that the revocation be debated and voted on by both Houses prior to 31 December.

I start by reassuring noble Lords that it is the Government's view that this amendment is unnecessary. Every piece of retained EU law in the schedule has been thoroughly reviewed, and will be reviewed and debated alongside Amendment 64, which has been tabled. I am confident that the changes to Clause 1 that we have introduced have alleviated the substantial concerns raised by Members across this House during the passage of the Bill and provided the legal clarity and certainty that has been called for.

Although I know that a number of noble Lords have not yet had the chance to see it, today we have published an extensive schedule explainer—again, responding to the concerns that many Members have raised; officials have been working hard on this all weekend—which explains, line by line, why each of the, in total, 587 pieces of legislation has been deemed suitable for inclusion on the schedule. That has been sent to every Member in advance of the debate on Wednesday. I hope that this will alleviate the concerns raised in this debate, including by my noble friend

[Lord Callanan]
Lord Hodgson and the noble Lord, Lord Kerr, and other noble Lords, about the amount of information that has now been made publicly available.

In addition, the preservation power in Clause 1 will enable relevant national authorities to preserve legislation on the revocation schedule where they deem it necessary and where the relevant procedures and timescales have been adhered to. This provides a proportionate safeguard against unforeseen consequences of legislation listed on the schedule being revoked. The purpose of our amendment is to provide that legal certainty and clarity as efficiently as possible. To require yet further referrals and debates, and approvals to the list which can be scrutinised during the Bill's passage, is unnecessary.

On Amendment 4, I have introduced changes to the Bill that I hope will reassure the noble and learned Lord, Lord Hope of Craighead—I think they have done—that his proposed changes to the functioning of the Bill are not necessary. Indeed, the revocation schedule I have laid guarantees that only a set amount of retained EU law will be revoked, which is clearly set out in the Bill. This is very similar to the mechanism proposed in this amendment that would see instruments or provisions expressly listed in a ministerial Statement. However, for a number of reasons, I believe that my proposed revocation schedule is better equipped to deliver this amendment's desired outcome.

For similar reasons I am opposed to Amendment 6. This amendment would introduce changes to Clause 1 that are reflective of those already introduced by the Government. Indeed, the revocation schedule in Amendments 1 and 5 seeks to accomplish similar goals to Amendment 6 but in a more comprehensive way. This amendment would require a list to be compiled in order to be revoked and would open the door for multiple such lists being laid over the coming months. Again, the proposed revocation schedule is already drafted, has been vetted and is ready, and I believe it is a more appropriate solution. Finally, the amendment has unclear timelines and does not offer as much certainty as the revocation schedule, which is clear about when the revocation of pieces of retained EU law would occur and works in step with other timings in the Bill, such as the expiry of the powers on 23 June 2026.

I was going to refer to the amendment in the name of the noble Lord, Lord Hacking, but he said that he will not press it.

Amendment 8 attempts to exempt any pieces of legislation from the sunset should they be identified after the end of 2023. As I already outlined, this amendment is now unnecessary.

Amendments 10, 11 and 12 all concern the devolved Administrations and their preservation power in what was Clause 3. However, given that under my proposal Clauses 1 and 2 have been removed from the Bill and a revocation schedule has replaced the sunset, these three amendments are defunct and we ask that they are not pressed.

Amendment 16 seeks to oblige the Secretary of State to publish a health and safety impact assessment for any retained EU law which is to be revoked, at least 90 days before the revocation. All legislation listed on the revocation schedule has been considered by the relevant departments and checked by the relevant teams. As such, a health and safety impact assessment is not needed, given the depth of the work that has already been carried out.

We have introduced this Bill to help us realise the opportunities of Brexit. I reassure my noble friend Lord Jackson and other noble Lords that the Government remain committed to a reform programme. Legislation that has been identified on this schedule had already been identified and would have been allowed to sunset anyway. We are still committed to making the opportunities of the reform programme, and we retain the ambition and fundamental purpose behind this work.

I hope that the noble and learned Lord will feel able to withdraw his amendment and that other noble Lords will not press theirs and will support the government amendments.

Baroness McIntosh of Pickering (Con): Before my noble friend sits down, will he respond to my question about sufficient consultation time being allowed? The Food Standards Agency has accepted all the legislation that relates to it which falls in the revocation schedule to which my noble friend referred, subject to sufficient time for consultation. Can my noble friend say, hand on heart, that, by the time the Bill is concluded, there will be enough time for consultation before the schedule applies?

Lord Callanan (Con): I have seen the letter from the Food Standards Agency to which my noble friend refers. The schedule is published and we have now published the explainer, so people can see what is on it. The vast majority of legislation published on the schedule is unnecessary and redundant, and can be safely revoked.

Baroness Bakewell of Hardington Mandeville (LD): Before the Minister sits down, I listened very carefully but I did not hear what he had to say about Amendment 14 and the reassurances I was seeking.

Lord Callanan (Con): Can the noble Baroness remind me what her Amendment 14 is about, please?

Baroness Bakewell of Hardington Mandeville (LD): Water directives.

Lord Callanan (Con): The directives she seeks an explanation on are not listed on the revocation schedule. Therefore, they continue to be in operation. They will be subject to a reform programme, but that is a question she will need to direct towards the Secretary of State at Defra.

Lord Hope of Craighead (CB): My Lords, I have listened very carefully to what the Minister said. I have not seen the additional information which has apparently been circulated to some Members of this House, and I think many Members have no idea what it contains. That makes my point for me: proper parliamentary scrutiny is essential. That is what my amendment is all about and, with great respect to the Minister, I do not

think he has really answered that point of principle. Having moved Amendment 2, I wish to test the opinion of the House.

4.57 pm

Division on Amendment 2

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Division No. 1

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Amendment 1, as amended, agreed.

5.09 pm

Amendment 3

Moved by ***Baroness McIntosh of Pickering***

3: Clause 1, page 1, line 4, leave out "the end of 2023" and insert "11.59 pm on 31 December 2028"

Baroness McIntosh of Pickering (Con): My Lords, this amendment relates to the remaining sunsetting clauses. It is important to state at the outset that, as the noble and learned Lord, Lord Hope, said in moving his Amendment 2, a number of sunset clauses revert. I also take the opportunity to seek clarification regarding something my noble friend Lord Callanan said, as Minister in charge of the Bill: that under Amendment 14, all existing water directives and regulations will remain in place. I press him for an assurance that all those statutory instruments, regulations, assimilated law, retained EU law—whatever we are going to call them—that relate to Defra, which I understand are the bulk of all the retained law that was passed following the EU withdrawal agreement, will by default remain on the statute book. Is that going to happen automatically, or is my noble friend saying that statutory instruments will have to be put forward by Defra, following the passage of the Bill, on which we will subsequently vote? I would like my noble friend to address at the outset of his concluding remarks on this little group of amendments what exactly the legal position is, for our better understanding.

In preparing the amendments in this group, Amendments 3, 36, 38, 42, 43 and 44, I am immensely grateful to Michael Clancy and the Law Society of Scotland, who share the concerns that I have about the remaining sunset clauses and the impact they will have in this regard, as they relate to the Bill going forward. The purpose of Amendment 3 is to give greater clarity about the extension, and to extend the date from that proposed in the Bill, the end of 2023, to 11:59 pm on 31 December 2028. There is serious concern about the proposed statutory deadline being the end of 2023 as, for reasons that pertain also to the debate we had on the first group, it does not appear to allow sufficient time to enable a review of all the remaining European law to be completed properly, following what I would deem to be proper consultation with the devolved Administrations and all the relevant interested parties, including the UK parliamentary and devolved legislation committees.

I would argue that the additional time is needed to enable a more thoughtful and comprehensive approach to amending or repealing the remaining REUL under the Bill. I believe that the choice of date should be made on the application of good legislative practice, including considered analysis of the legislation involved and consultation with those who will be affected by the variation or revocation proposed by the regulations in question. Therefore, the later date I have set out in Amendment 3 would allow that to happen. It would enable better law to be passed, and I believe that Parliament is here to make good laws, not laws to which we have to return later. I hope my noble friend will look favourably on that. Does he believe in all honesty that there is sufficient time for this?

In his reply to me when I tabled a similar amendment in Committee, my noble friend stated that it would not be a cliff edge:

"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".—[*Official Report*, 28/2/23; col. 232.]

Having dispensed with the sunset clause in the government amendments we have adopted or are about to adopt, there is a good argument for pushing back the sunset clause, as I set out in Amendment 3.

5.15 pm

If my noble friend the Minister is not minded to support my amendment, will he alternatively set out a timetable or plan giving specific details of which government departments are involved in the exercise, and which retained EU law is involved for each government department and devolved Administration? Will he set out this afternoon what consultation will be undertaken by each department or Administration, and how many instruments will need to be passed by the UK Parliament or the devolved Governments? There needs to be much more transparency regarding the remaining sunset clauses in order to provide certainty for businesses and individuals that will be affected by the sunsetting of retained EU law, and for those such as the Law Society of Scotland, the Bar Council of England, the Law Society of England and Wales, and indeed the Faculty of Advocates, of which I am a non-practising member, to give them enough time to adapt.

Amendment 36, in a similar vein, is concerned with the power to restate retained EU law. In it, I ask that we push back the deadline to 31 December 2028, because when the Bill is given Royal Assent there will not really be sufficient time to deal with these measures. We need more time, given that there are many hundreds of measures in the revocation schedule we have just considered, and there are thousands more, some of which we are as yet unaware of.

Similarly, Amendment 38 would give a power to restate assimilated law or to reproduce sunsetted retained EU rights, powers and liabilities, et cetera. In that amendment, I ask for a similar extension, from 23 June 2026 to 31 December 2028. The date of 23 June seems very arbitrary; I do not know if the department is going to close up on 24 June 2026, but I am asking for an extension in relation to Clause 14 as well. Similarly, Amendment 42 seeks an extension to the deadline in Clause 16 of 23 June 2026 for the power to revoke or replace EU law. Again, I hope the Government will be minded to accept that.

Finally, Amendments 43 and 44 seek a similar extension to secondary assimilation of law. Failure to allow more time may be an additional argument for triggering the procedure referred to during consideration of the first group of amendments, so I think there are very good reasons why the Government should commit to the extension.

I call on the Minister to explain, first, why these sunsetting clauses remain in the Bill; secondly, whether the Government agree that there could be insufficient time to consult not just interested parties but the devolved Assemblies, and to allow them to consult; and thirdly, to confirm whether he accepts that the dashboard still does not include all the retained EU law—in whatever form—that has been passed by devolved Assemblies.

Given that the vast majority of the remaining retained EU law relates to Defra, will it be retained by default or will Defra have to pass a number of statutory instruments to secure it? Moreover, what is the position regarding the Minister's own department, and others, in respect of which there will be a lot of retained EU law secondary legislation to which these sunset clauses apply? With those introductory remarks, I beg to move.

Lord Hacking (Lab): My Lords, as the Minister will recognise, the noble Baroness, Lady McIntosh, has taken a close part in all our discussions throughout the Bill's passage. She has been wholly consistent in arguing that we, or the country, should be given more time to fully process its contents. I hope my Front Bench will support her.

Lord Hamilton of Epsom (Con): My Lords, I wish I could support my noble friend but I am afraid I cannot. She shows a total misunderstanding of the way in which bureaucratic minds work: if you extend a deadline, they do nothing until they are approaching it. All that happens is that you prolong the whole thing. Let us face it, we would not be considering the whole business of how many laws we should be retaining or binning if there had not been a sunset clause in the original drafting of the Bill. That concentrated minds in Whitehall and got them to start finding out how much legislation they have. I think some of them were quite surprised how much there was. I certainly cannot support this amendment.

Baroness Butler-Sloss (CB): I welcome that 500 of the regulations will be dealt with on Wednesday with a view to them being revoked, but what worries me is that there must be at least another 3,000. What will happen to them? At what point, if ever, will this House have an opportunity to comment on them?

Lord Fox (LD): It is the Minister's turn.

Lord Callanan (Con): Thank you; I did not get up because I thought the Opposition Front Bench was going to speak. I reject Amendments 3, 36, 38 and 42 to 44, tabled by my noble friend Lady McIntosh.

I will deal with the point raised by the noble and learned Baroness, Lady Butler-Sloss, and give an explanation to my noble friend Lord Hamilton. A notion seems to be springing up that the Government and departments somehow did not know what legislation they actually had responsibility for. They knew very well what legislation they had; what was sometimes unclear was whether that legislation was as a result of an EU obligation and therefore was retained EU law. This was because, over the 40-odd years of our membership, different Governments had different policies. Only a small part of EU legislation was introduced through the so-called Section 2(2) pipeline of the European Communities Act. If it is those regulations, that is very obvious—people know where that has come from—but Governments often did not want to say that legislation was introduced as a result of an EU obligation. It was therefore introduced under various instruments, under either domestic legislation or normal domestic secondary legislation. Therefore, the difficulty that departments faced was identifying what was an EU obligation. It is not that they did not know what legislation they were responsible for, were somehow

[Lord Callanan]
finding legislation down the back of the sofa or anything else. That has been the issue: the definition of what was retained EU law. I hope that explanation is helpful.

Amendment 3 seeks to change the sunset date, pushing it back to the end of 2028. Given the amendments to the Bill that we have already discussed and the significant changes to the operation of the sunset, I hope my noble friend recognises that it is therefore not necessary to also change the sunset date. The current scope of the sunset in Clause 1 will no longer be relevant, as it will be replaced with a schedule to the Bill. The schedule will list retained EU law that departments have identified for removal. This is the only legislation that will be revoked on 31 December 2023.

Similarly, Amendments 36 and 38 seek to change the date of the powers to restate under Clauses 13 and 14. Amendment 36 would mean that Clause 13 was capable of acting on retained EU law until 31 December 2028. Pieces of retained EU law that are not included in the revocation schedule will, of course, not be revoked on 31 December 2023, but they will be stripped of their EU interpretative effects and assimilated in domestic legislation.

Consequently, those pieces of legislation will no longer be retained EU law. They will be assimilated law as part of the normal law of the United Kingdom, and the status of retained EU law on the UK statute book will come to an end. There will be no more REUL after 31 December. As retained EU law will end as a legal category at the end of this year, it is right that this power, which is capable of acting only on REUL, expires then. I am not clear why my noble friend wants to extend the sunset date of a power that will no longer be required.

Amendment 38 seeks to change the date on which the power to restate assimilated law under Clause 14 will expire from 23 June 2026 to 31 December 2028. It is in my view entirely right and appropriate that this power should be available for a time-limited window up to 23 June 2026. This is consistent with the powers to revoke or replace in Clause 16. I am confident that the time window currently set out in Clause 14 will provide sufficient time for the power to be exercised on all the necessary legislation.

Amendment 42 changes the date on which the powers to revoke or replace within Clause 16 are capable of acting on REUL from 23 June 2026 to 31 December 2028. Similarly, Amendment 43 changes the date that the powers to revoke or replace can act on assimilated law to 31 December 2028. Amendment 44 changes the date in Clause 16(11) from the end of 2023 to the end of 2028 so that the references to retained EU law in Clause 16(8) can be read as a reference to assimilated law until 31 December 2028. Again, this group of amendments is no longer necessary due to the revocation schedule. There is more than adequate time for the use of the powers on assimilated law within the timescales provided for in the Bill. The powers to revoke or replace will enable UK and devolved Ministers to remove those regulations that are no longer fit for purpose and replace them with regulations that are more tailored to the UK within a timely manner, and the Government are committed to achieving these much-needed reforms by 2026. That is why the powers are restricted in their use and available only for a time-limited window, up to 23 June 2026. I hope that, with the explanations I have been able to provide, my noble friend will withdraw her amendment.

Lord Hacking (Lab): Before the Minister sits down, can he explain assimilated law? The present position—it is clearly shown in the schedule—is that either the European provision turns up as a statutory instrument or it is referred to precisely by the regulation number of the EEC or EU regulations. How are we going to find this assimilated law?

Lord Callanan (Con): The noble Lord is confusing two things. The schedule is the retained EU law that we are proposing to allow to be revoked on 31 December this year. Assimilated law will be that retained EU law, stripped of its interpretive effects, that will remain on the statute book. We will end the special category of retained EU law that has existed because of our membership of the European Union. The noble Lord is confusing two things. The items listed in the schedule will disappear, and the rest, which is not revoked, will become assimilated law. The powers that remain can act on that law to change or modify it. That will be subject to approval by Parliament through the normal process.

Lord Hacking (Lab): How do we identify the assimilated law on our statute book?

Lord Callanan (Con): The dashboard lists all the pieces of retained EU law that have been identified; the schedule lists those that are being revoked.

Baroness McIntosh of Pickering (Con): My Lords, while I am extremely grateful to my noble friend, I think he has made a bit of an own goal because I think it is still the case that the dashboard is simply not comprehensive. My concern, and I think that of the noble Lord, Lord Hacking, the noble and learned Baroness, Lady Butler-Sloss, and others, is that there are a number of items of EU law that are simply not on the dashboard. As we speak today, I am unclear about what the legal status of the dashboard is.

What I do take comfort from, based on what I understand my noble friend to have said, is that, if, for example, there is a piece of Defra retained EU law that does not appear in the revocation schedule on which we are going to vote, it will remain on the statute book and, even more importantly, it cannot be amended. So it can neither be revoked nor amended. If that is not the case, I would ask my noble friend to rise to the Dispatch Box and explain where I am wrong.

5.30 pm

As he has not risen, I am taking it that any Defra or other retained EU law that is currently on the statute book and not in the schedule will remain part of retained EU law and, furthermore, cannot be amended. I am grateful to my noble friend for his clarification in that regard. I shall beg leave to withdraw my amendment on the understanding that what I have said is correct. If I am wrong, I believe that my noble friend must stand at the Dispatch Box and say that it is possible to

amend retained EU law that is not on the revocation schedule before us today. That is an extremely important legal point.

Lord Callanan (Con): I have explained this, but I will do so again. The powers to modify, change or update the assimilated law remain in the proposals. Obviously, the measures that are in the schedule will be revoked, but there are powers to modify, or restate. To take an example, interpretive effects are being abolished and, in some pieces of legislation, that will require minor changes to that legislation, to update it, because of the removal of interpretive effects. The policy intent will stay the same, but it is possible that some minor changes will be required, which is why the Government need this power. So the noble Baroness is partially correct to say that existing measures that are not being revoked will become part of assimilated law; but the Government do have the power to modify or change them.

Baroness McIntosh of Pickering (Con): My Lords, I am not sure that that is entirely clear, but I have pressed the point as much as I can at this stage. I beg leave to withdraw my amendment.

Amendment 3 withdrawn.

Amendment 4 not moved.

Amendment 5

Moved by ***Lord Callanan***

5: Clause 1, page 1, line 10, leave out subsections (3) and (4) and insert—

"(3) Subsection (1) does not apply to anything specified in regulations made by a relevant national authority.

(4) No regulations may be made under subsection (3) after 31 October 2023."

Member's explanatory statement

This amendment leaves out subsections (3) and (4), in consequence of the Minister's amendment at page 1, line 4, and inserts a power for a relevant national authority to exclude legislation listed in the Schedule from revocation under this Clause.

Amendment 5 agreed.

Amendments 6 and 7 not moved.

Clause 2: Exceptions to sunset under section 1

Amendment 8 not moved.

Amendment 9

Moved by ***Baroness Chapman of Darlington***

9: Leave out Clause 2

Member's explanatory statement

This is related to the amendment in the name of Baroness Chapman of Darlington to replace Clause 1.

Amendment 9 agreed.

Amendment 10 not moved.

Clause 3: Extension of sunset under section 1

Amendments 11 and 12 not moved.

Amendment 13

Moved by ***Lord Callanan***

13: Leave out Clause 3

Member's explanatory statement

This amendment leaves out clause 3 (extension of sunset under clause 1).

Amendment 13 agreed.

Amendment 14 not moved.

Clause 4: Sunset of retained EU rights, powers, liabilities etc

Amendment 15

Moved by ***Lord Hope of Craighead***

15: Leave out Clause 4 and insert the following new Clause—

"Revocation of retained EU rights, powers, liabilities etc

(1) Any rights, powers, liabilities, obligations, restrictions, remedies and procedures retained by section 4 of the European Union (Withdrawal) Act 2018 are revoked at the end of 2023 in accordance with subsections (2) to (4).

(2) A responsible Minister of a relevant national authority may make a statement before the end of October 2023 to, as the case may be, each House of Parliament, the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly, identifying any rights, powers, liabilities, obligations, restrictions, remedies or procedures that the relevant national authority has decided not to restate, reproduce or replace before the end of 2023 and that it wishes to be revoked at the end of 2023.

(3) If both Houses of Parliament, the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly, as the case may be, resolve that a right, power, liability, obligation, restriction, remedy or procedure identified in the statement referred to in subsection (2) be retained, it is not to be revoked under subsection (4) at the end of 2023.

(4) If, and to the extent that, no such resolution referred to in subsection (3) has been made before the end of 2023, the rights, powers, liabilities, obligations, restrictions, remedies and procedures identified in the statement referred to in subsection (2) are revoked with effect from the end of 2023.

(5) Any right, power, liability, obligation, restriction, remedy or procedure that is revoked by virtue of this section is not recognised or available in domestic law at or after the end of 2023 (and, accordingly, is not to be enforced, allowed or followed)."

Member's explanatory statement

The purpose of this amendment, which is modelled on the amendment to Clause 1 in the name of Lord Hope of Craighead, is to enable Parliament and the devolved legislatures, not the Executive, to have the final decision as to whether or not rights, powers, liabilities &c. retained by section 4 of the EU (Withdrawal) Act 2018 should be revoked at the end of 2023.

Lord Hope of Craighead (CB): My Lords, I will speak to two amendments in this group: Amendment 15, which I am moving, and Amendment 76, which comes later in the Marshalled List; I shall explain what that is about. One or two ancillary amendments—Amendments 69, 73 and 74—are related to Amendment 76.

This group seeks to develop further the application to this Bill of the principle of parliamentary sovereignty. Amendment 15 is in the name of the noble

[Lord Hope of Craighead]

Lord, Anderson of Ipswich. I added my name to it, as did the noble Lords, Lord Hamilton and Lord McLoughlin. The noble Lord, Lord Anderson, is not here today, so I am moving Amendment 15 on his behalf.

Amendment 15 is directed to Clause 4, which is headed "Sunset of retained EU rights, powers, liabilities etc". I say to the noble Baroness, Lady Noakes, that this is an example of a sunset that is still in the Bill and which we are not disputing should remain in the Bill. It provides, first, that

"Section 4 of the European Union (Withdrawal) Act 2018 … is repealed at the end of 2023".

It then provides that

"anything which, immediately before the end of 2023, is retained EU law by virtue of that section is not recognised or available in domestic law at or after that time (and, accordingly, is not to be enforced, allowed or followed)".

The purpose of Amendment 15 is to provide a mechanism for parliamentary scrutiny of subsection (2). There could be a great deal of law hidden behind the clause which we cannot understand or see. Therefore, it should be fully investigated by the relevant committee. The mechanism that we propose in Amendment 15 is that the law that would be affected by Clause 4(2) must be identified by the making of a Statement to Parliament before the end of October, which would then provide a basis for the matter to be debated in both Houses. The purpose of the amendment is simply to close a gap that might otherwise remain in the need for effective scrutiny.

I shall not take up time by reading out the whole of Amendment 15 as your Lordships can see what is there, but the explanatory statement says that it is modelled on the amendment to Clause 1, in my name, which has just been agreed by your Lordships,

"to enable Parliament and the devolved legislatures, not the Executive, to have the final decision as to whether or not rights, powers, liabilities … should be revoked at the end of 2023".

I think that is all I need to say about Amendment 15. I do not want to take up further time by adding more to what I have said.

Amendment 76 in my name, along with—as I have said—those of the noble Lords, Lord Hamilton, Lord McLoughlin, and Lord Anderson, is very important because it is directed to the very heart of the Bill; this lies beyond the schedule that we will be looking at and beyond Clause 4, to which I have just been referring. It is directed to Clauses 13, 14 and 16.

I remind your Lordships that Clause 13 is headed "Power to restate retained EU law". Clause 14 is headed "Power to restate assimilated law or reproduce sunsetted retained EU rights, powers, liabilities etc", and Clause 16 is described as "Powers to revoke or replace". These are extremely important powers that, as the Bill stands, are to be exercised by statutory instrument, not subject to parliamentary scrutiny, which is what we are seeking to do.

I do not wish to go over the arguments that we have debated so fully today, beyond emphasising that these are very far-reaching powers that will result in a complete rewriting of much of the law that we have kept on our departure from the EU. We do not dispute the need to do that—there has been a good deal of reference already today to the importance and indeed necessity of carrying out these exercises—but our point is that that cannot be left entirely to Ministers and civil servants without proper parliamentary scrutiny.

Amendment 76 is once again based on an amendment proposed by the noble Lord, Lord Lisvane, in Committee. It would provide for any instruments made under these three clauses to be referred to a Joint Committee of both Houses for scrutiny. Again, if that committee found that the regulations represented a substantial change to the preceding EU law or that sufficient public consultation had not been carried out, a Minister of the Crown would have to arrange for the instrument to be debated on the Floor of each House. It is contemplated that the Houses may agree to amendments, whether or not proposed by the Joint Committee.

Of course, the Minister may come up with a better scheme for subjecting those regulations to effective public scrutiny, but this is the best that, with the assistance of the noble Lord, Lord Lisvane, we have been able to devise. We have tried to keep the procedure as quick and simple as possible without disturbing the sunsetting provisions in the clauses and we are reasonably sure, on the advice of the noble Lord, that our proposal will meet these requirements.

Viscount Hailsham (Con): Could the noble and learned Lord deal more fully with the amendment provision? It is a most interesting provision because hitherto my understanding has always been that statutory instruments cannot be amended. What is proposed in new paragraph 8A(3) in Amendment 76 is a power to amend a statutory instrument. I would like to know—

Lord Harlech (Con): My Lords, could I ask my noble friend to turn around and address the House?

Viscount Hailsham (Con): I am so sorry. Being rather deaf, I have to listen to what the noble and learned Lord is saying by turning towards him. I apologise. I would like to know—[*Laughter*] I am doing it again. I would like to know what the procedure is. Is it precedented, or is it a new concept that the House is being asked to contemplate—namely, the power to amend statutory instruments?

Lord Hope of Craighead (CB): My Lords, the amendment, which I invite the noble Viscount to look at more closely, is carefully worded. All we say is that if any amendments to the regulations are agreed to—we have to be extremely careful in our proposal because we cannot direct what a Joint Committee of both Houses is going to do, which is a matter for it—we suggest that the committee may feel it appropriate to recommend that amendments should be laid. That is a matter for the Joint Committee. We are not giving a power ourselves but handing it over to the Joint Committee, which I think the noble Lord, Lord Lisvane, will confirm.

Viscount Hailsham (Con): I am sorry to press the noble and learned Lord—while looking straight at your Lordships' House—but is the concept that there will then be on the Order Paper proposed amendments to the statutory instrument, or will there be an informal

recommendation by the Select Committee? Those are not the same things. I would be very pleased if they were a power to amend statutory instruments, and I would really like to know what procedure is contemplated.

Lord Lisvane (CB): It is with a certain amount of trepidation that I seek to answer the question. The noble and learned Lord, Lord Hope, will correct me if I am wrong, but as I understand it the idea is that the amendments—which might come from the Joint Committee or from another source, as foreseen in sub-paragraph (3) in the amendment—would come forward and could be to put to either House or both Houses as Motions that a certain order should be laid in a form so amended. If that Motion was agreed to—it is a sidestep procedurally because it is not acting on the text of the order itself—and the will of either House was that there should be such amendments then it would be for Ministers to re-lay the order, taking those amendments and the decision of the House or Houses into account.

5.45 pm

Lord Hope of Craighead (CB): I am extremely grateful to the noble Lord for his explanation. I think the noble Viscount will appreciate that we have to deal with this very carefully. On the other hand, I think he will agree that, given the nature of the task being carried out, it would be extremely unfortunate if a flaw were spotted and nothing could be done about it. We are trying to suggest a mechanism by which something that is agreed by the Joint Committee, and indeed by both Houses as necessary, should be capable of being done. I hope I may leave it at that. This is a carefully drafted amendment that is doing its best to address an extremely important and, in some respects, quite delicate task.

When the time comes, if necessary, I shall seek the opinion of the House on Amendment 76. For the time being, because we have before us Amendment 15, that will be my position too, if necessary, when Amendment 15 is called.

Lord Hodgson of Astley Abbotts (Con): My Lords, we have had two significant amendments proposed by the noble and learned Lord. I have Amendments 73 and 74 in this group, which are small and technical but significant in the way in which they try to enhance the scrutiny provisions that underlie the noble and learned Lord's two amendments, which I entirely support. I will not repeat my reasons because I would be largely rehearsing the arguments that I made an hour and a half ago.

It is generally anticipated, though not certain, that the Secondary Legislation Scrutiny Committee will be one of the bodies appointed to carry out some scrutiny of the regulations, as and when this particular part of the Bill comes into force. The Bill as drafted envisages a period of 10 working days for a report to be produced by the SLSC that would then come before the House, and the House would make its mind up about its view of that report on the instrument. The Government use the example—the dreaded precedent—of the 10-day period provided under the European Union (Withdrawal) Act 2018. In the SLSC report that I referred to earlier, we proposed that the period should be extended from 10 days to 15. We said in paragraph 58:

"We know from our own experience in scrutinising proposed negatives under the 2018 Act that, depending on the day of the week on which a proposed negative has been laid, meeting that 10-day deadline could be challenging".

Under the Bill, the regulations to be scrutinised are of an entirely different level of policy implication, importance and significance. This view and the proposal for a five-day extension—by no means a huge length of time—have been endorsed by the Hansard Society, which Members of the House will be aware is an academic expert in matters of parliamentary procedure.

In Committee on this Bill on 8 March, at col. 876, my noble friend, having heard the debate on these amendments, was kind enough to offer to go away and reflect. I have no doubt that he did his level best, but I fear that he was rebuffed because the Government said in their response to the SLSC report of 10 May:

"Having considered this carefully and in particular how the existing 10 day sifting practice works, the Government remains of the view that a 10 day sifting period is sufficient for SIs laid using the powers in the Retained EU Law Bill … The retained EU Law programme is a similar challenge"—

to 2018—

"but it is no more complex or demanding".

I have just two points on that. First, to describe this Bill as no more complex and demanding, compared to that of 2018, is, I am afraid, plain wrong. It is a much more significant piece of legislation than the 2018 Act. Secondly, the members of the SLSC do not come to this view ex cathedra. We think about it, but we also talk and take into account the views of the highly experienced and dedicated staff, who produce excellent reports which come before your Lordships' House every week.

To conclude, I suppose I could just about have got my mind around my noble friend's view that it should be 10 days after all when we were under the cosh of the 31 December drop-dead end date. We do not have that now, so the time pressure that was otherwise going to be imposed has now been released and reviewed. I urge my noble friend to go back to the chateau behind the lines and ask the general commanding to think again. If the Government do not think again, it will be yet another example of how they appear intent on marginalising Parliament at every single opportunity.

Viscount Hailsham (Con): My Lords, if I might briefly comment on the suggestion of the noble and learned Lord, Lord Hope, about amendments—

Lord Harlech (Con): My Lords, the guidance in the *Companion* states that, on Report, Members are asked to make their reflections once.

Viscount Hailsham (Con): But I asked a question; I did not make a speech before. The question is one that I want to emphasise now.

Time and time again, this House has had to address the ability of Parliament to amend statutory instruments. The explanation given by the noble and learned Lord, and by the noble Lord, Lord Lisvane, makes it plain

[Viscount Hailsham]
that on the question of amendments, we have to rely entirely on the good faith and discretion of the Minister. What in fact was being said by the noble Lord, Lord Lisvane—I am grateful to him—is that the House, by a Motion, can express a view but the ability to change the statutory instrument depends on—

Baroness Williams of Trafford (Con): My Lords, I think my noble friend is actually making a statement.

Viscount Hailsham (Con): I am making a speech, not a statement. I do not think I know the difference between the two. I was making a contribution in the debate.

What the noble and learned Lord and the noble Lord have demonstrated is that the ability to amend statutory instruments is dependent upon the discretion of the Secretary of State. I have long taken the view, and I hope your Lordships would agree that, especially when you have so many statutory instruments, this House should be able to amend them—

Baroness Williams of Trafford (Con): My noble friend is making a statement. He is not asking a question, and we should let others get on with their one speech.

Baroness Ludford (LD): My Lords, these are rather strange goings-on.

From these Benches, we support all the amendments in this group and I thank the noble and learned Lord, Lord Hope, for introducing them. If he chooses to test the opinion of this House, we will support him on Amendment 15 and, later, on Amendment 76.

Rather like group 5, which we will come to later and is about the powers of courts, this group is about trying to introduce some legal stability and certainty into what has been a bumpy process for this Bill. One could say that the Bill is no way to run a whelk-stall. As my noble friend Lord Fox said, we did get some explanations for the measures to be revoked in the schedule, but it was only just before—or just after—we started to debate Clause 1, and we only got the amendments to the Bill four days ago. It has been a bit of a rollercoaster, and any effort to introduce some certainty and predictability is to be welcomed.

I will speak exclusively to Amendment 15, which is very important. The Government may be retaining a lot more EU law, but they have insisted—indeed, the Minister keeps repeating that they are proud of this—on playing fast and loose with the way that retained EU law will be interpreted, such as ending the much misrepresented supremacy of EU law and the general principles which guide it, as well as EU rights, which this amendment is particularly about. It is quite a mystery as to how the retained law is to be interpreted.

No one, least of all the Government, knows what the impact of this abolition will have on legal certainty and continuity. Mr Jacob Rees-Mogg's flippant response that "life is uncertain" was typically unhelpful. Can the Minister tell us what assessment the Government have made of the loss of any interpretive effects in the measures to be revoked? What effect will abolishing any interpretive effects in the revoked list have on laws which are retained and assimilated? Are the Government going to put interpretative effects back into SIs on amended, restated, retained and assimilated law, and how will that work? I hesitate to say that it could come back by the backdoor because, quite honestly, any retention could well be helpful to lawyers, the courts and so on. At the moment, we just do not know and are in considerable uncertainty about what the Government's regulatory intentions are.

We know from Clause 16, which we will come to later, that the Government do not want to increase regulatory burdens. Some of us are a little wary of their definition of burden. According to the smarter regulation document of last week and the consultation on employment law, which I think came out on Friday, it includes the burden of recording working hours, which is odd, and calculating holiday pay. All of that could have a considerable impact on quite a lot of people.

The Government also want regulators to have a growth duty, to

"prioritise growth alongside … their core functions, such as protecting consumers or our natural environment".

Indeed, they have cited Ofwat, Ofgem and Ofcom in this context. Some of us are a bit concerned that, particularly in the water industry, regulators have already given too much leeway to water companies' growth, particularly in dividends and bosses' pay—though perhaps not so much in sewage treatment capacity. There is quite a lot of concern about how all these regulatory intentions, which we are finding in statements and consultation documents, fit the professed commitment to maintain higher standards—I think the noble Lord, Lord Hendy, mentioned this earlier. But if higher standards are kept, particularly those which derive from EU law, how are they going to be interpreted? Some clarity from the Government would be very desirable this afternoon.

Lord Hamilton of Epsom (Con): My Lords, I added my name to Amendments 15 and 76. Amendment 76 is in the name of the noble and learned Lord, Lord Hope. This, of course, is what puts meat on the bones of the whole business of restoring parliamentary sovereignty. It is very important that we get back the sovereignty of Parliament, and this is a great opportunity to do it.

There has been a steady erosion, as my noble friend Lord Hodgson has commented, in which statutory instruments are being used to a greater extent. This merely moves power from Parliament to the bureaucracy of this country. This is not a situation that any of us should welcome. If we want to restore our democracy, we should have a Joint Committee of both Houses to look at this legislation. It is very important that we concentrate on the future of this country and of our Parliament and start to restore some of its influence in the world today.

6 pm

Baroness Randerson (LD): My Lords, I rise to speak to Amendments 73 and 74, to which I added my name. I will preface my remarks with a brief comment about the attempts by the Government Front Bench to curtail people's right to ask questions of other Members during speeches this afternoon. That is most unfortunate

and particularly ironic in a debate that is pivoting on the issue of the powers of Parliament to scrutinise legislation. I hope that the Government Front Bench will think again about that line of action.

I welcome the Government's concessions in the Bill, but I still want to remark on the length of time it took them to wake up to the inevitable—the realisation that the Bill was impossible to implement and requires fundamental change. I am deeply grateful to the Minister, the noble Lord, Lord Callanan, for taking that message from this House to the Government. At the same time, having woken up to the need for change, the Government have now given us an impossible timescale in which to consider the 600 pieces of legislation they have identified—we have 48 hours from now. This remains a very flawed Bill, therefore, and represents a major accumulation of power in the hands of the Executive. That is power seized from both this Parliament and, despite important government concessions, the devolved Administrations.

The amendments to which I have added my name are of the most minor nature. Indeed, in Committee the Minister gave us cause to hope that the Government might look positively on such a change. They are minor—an extension from 10 to 15 days for the committees to look at this legislation—but they are nevertheless important because, without that minor change, the sifting of legislation will present a major hurdle.

The noble Lord, Lord Hodgson, referred to the report of the Secondary Legislation Scrutiny Committee in his speech on the first group of amendments. That report was called *Losing Control?*. I am delighted to now be a member of the Secondary Legislation Scrutiny Committee under the able chairmanship of the noble Lord, Lord Hunt, who is in his place. These minor amendments ask simply for Parliament to be given time to do its job. The Government have accepted that their initial Bill was impractical in its timescale. They now need to accept the lessons of that and, even at this point, to accept this minor change.

This Government have broken new boundaries by producing increasingly skeletal Bills and relying heavily on secondary legislation to flesh out the real meaning of their legislation. SIs are not immune to error. The Home Office recently accumulated a record of having to withdraw one in five of its SIs and remake them. That is not a record of perfect legislation. The Government need to accept that they make mistakes.

We have government by SI now, but the rules and procedures for scrutiny of SIs are locked in the past when primary legislation was much more detailed. If we are to be forced to work this way, procedures must change or there will be major legislative errors. I support the amendments put forward by the noble and learned Lord, Lord Hope, and so ably explained by the noble Lord, Lord Lisvane, as a good, practical way of dealing with the new approach to legislation.

Baroness Noakes (Con): My Lords, I would like to offer a brief comment on Amendment 76 in the name of the noble and learned Lord, Lord Hope of Craighead. Like many Members of your Lordships' House, I find the way in which we deal with the increasing amount of secondary legislation fundamentally unsatisfactory. I pay tribute to the work done by my noble friends Lord Hodgson of Astley Abbotts and Lord Blencathra and their respective committees last year, and to the important debate held in your Lordships' House.

We should move towards re-examining how we handle secondary legislation going forward. However, I do not think that the right way forward is to produce one amendment in one Bill and try to say that it answers the problem. I have the greatest respect for the noble Lord, Lord Lisvane, because of his tremendous experience in the other place. But let us not pretend it is easy to find a good solution that will work with both Houses and produce the right degree of additional scrutiny without completely holding up the Government's secondary legislation programme.

We should take time—I hope the Government will find time—to work between both Houses to find good, practical solutions going forward, but we should not legislate in haste in this Bill. We have secondary legislation procedures that have served us pretty well for a long time. The noble and learned Lord, Lord Hope of Craighead, referred to needing to deal with flaws in secondary legislation. They can already be dealt with; they do not need any special apparatus to do so. The noble Baroness, Lady Randerson, referred to the procedure whereby statutory instruments are withdrawn when flaws are pointed out. That is a part of our existing procedure, and it works perfectly well. Let us not pretend it is so broken that we have to invent a special procedure for the Bill.

Lord McLoughlin (Con): My Lords, my name appears on Amendments 15 and 76, spoken to by the noble and learned Lord, Lord Hope. Following what my noble friend Lady Noakes has just said, I say: if not now, when?

It is clear from this debate so far that we sometimes feel that somehow all this European legislation was forced on us and we never wanted it. The simple fact is that we would have had to legislate for a lot of it ourselves. Actually, what happened was that sometimes it was gold-plated—not by Europe but by us. One thing we must be careful not to see happen now is future regulations coming forward and being gold-plated without Ministers necessarily realising what has possibly happened.

I have been fortunate in serving as a Secretary of State. I must admit: I cannot say that, when officials came to me and said that we would take something through on delegated powers, I said, "Well, I must really examine every last word of that particular piece of legislation".

Baroness Noakes (Con): Shame!

Lord McLoughlin (Con): Yes, of course, shame—absolutely a shame. I completely accept what my noble friend is saying. It is a shame and a disgrace, but sometimes you get such a number of regulations coming forward that you might just let them believe what you are saying because you know you are not going to have to defend it in Parliament. That is something that I think my noble friend Lord Hamilton said a few moments ago. It will make a Government more responsive if they feel they have to defend it on the Floor of either the House of Commons or your Lordships' House.

[LORD MCLOUGHLIN]

That is why we have had several debates, including, as my noble friend Lady Noakes said, the earlier debate as a result of the Delegated Powers Committee—which I now chair following my noble friend Lord Blencathra—and the committee chaired by my noble friend Lord Hodgson. It is a way to make sure that the Government are more accountable to the elected House as well as to your Lordships' House, where we can also sometimes ask, "Has A or B been thought of?". That is very much why I hope the Government will consider this in due course. As I said, the overall changes made to the Bill already are very welcome, but the number of changes, and the speed with which they have been made, makes us question, rightly, how well thought out the Bill was in the first instance.

Lord Kerr of Kinlochard (CB): It is a pleasure to follow the noble Lord, Lord McLoughlin. His historical point is completely correct: the period of maximum EU legislation was during the delivery of the single market programme, which was based on the Cockfield White Paper and the agreement between Prime Minister Thatcher and President Delors. That legislation came through mainly in the early 1990s, and some of it is in the schedule—it has probably been overtaken by something else. It is simply not true that it was all imposed on us.

I support Amendment 76, which is essential. I can explain my reasoning by reminding the House of what Clause 16 says. It is a bit presidential; one might almost say "dictatorial". Clause 16(2) says:

> "A relevant national authority may by regulations revoke any secondary retained EU law and replace it with such provision as the relevant national authority considers to be appropriate and to achieve the same or similar objectives".

In the phrase "considers to be appropriate", "appropriate" is a very presidential word rather than a parliamentary word. Okay, there is still the saving caveat that it has

"to achieve the same or similar objectives",

but here comes Clause 16(3), which uses almost exactly the same wording:

> "A relevant national authority may by regulations revoke any secondary retained EU law and make such alternative provision as the relevant national authority considers appropriate".

Here there is no saving caveat about achieving the same or similar objectives, so under Clause 16 the Executive may, by regulations, do whatever they well choose. That seems to me to make it absolutely essential to have the parliamentary scrutiny for Clauses 13, 14 and 16 that would be delivered by the amendment in the name of the noble and learned Lord, Lord Hope.

Baroness Fox of Buckley (Non-Afl): My Lords, the noble Lord, Lord McLoughlin, is certainly correct that no legislation was forced on the UK by the EU. Indeed, many Ministers from all parties were happy to take advantage of laws made in Brussels, which they sometimes even suggested, by coming back to the UK and reading out the legal text from the EU Commission—and then, if there was any objection, they blamed the EU. But what was removed from that equation was the scrutiny and accountability of the electorate. They were the people who were told that they could not change the law; it was ring-fenced away from them. That is what voters rejected in 2016.

I will be clear on what this Bill is all about by quoting the European Commission, because I know that so many noble Lords trust it and not me. In October 2021 the EU Commission stated, in relation to a dispute with Poland:

> "EU law has primacy over national law, including constitutional provisions … All rulings by the European Court of Justice are binding on all Member States' authorities, including national courts".

That is no longer the case for the UK, and we are now trying to untangle how we deal with that.

In relation to the Bill, it is, in my opinion, not the case that Brexit was an act of reclaiming sovereignty, a blueprint for saying exactly what laws we would keep or retain, or a means of just getting rid of EU law as an end in itself, as it were. Rather, it was about putting the responsibility for choosing which laws to prioritise, reform or even improve in the hands of the Government and Parliament, who are answerable to the British people—the electorate. I have listened carefully to a lot of the very thoughtful amendments put forward to try to ensure that too much power is not put in the hands of the Executive or Whitehall, as opposed to an accountable Parliament, but I get anxious about how the arguments are posed sometimes, so I will query some of the amendments in this group.

6.15 pm

I really appreciated when the noble and learned Lord, Lord Hope of Craighead, emphasised that he was trying to find a solution that is as quick and simple as possible. I worry that the removal of the sunset clause, as we have previously discussed, might mean a loss of a sense of urgency in our task. It is our obligation to rejuvenate and improve laws now that we are in charge of them. The idea outside this House that things have been rushed through is unconvincing. This process should have started when the electorate voted in 2016 and instructed parliamentarians to get on with it, but it did not, and so it has dragged on. Sometimes I think that, when people say this has been rushed through, they neglect to mention that that is because we did not do anything for so many years, and therefore there is now a sense of urgency. I mention this because I am concerned that some of the attempts, even by the Government, to remove the sunset clause, in the way that has been discussed previously, will breed cynicism and a distrust in the electorate about the breaking of promises and the possibility that this is just a delaying tactic. So I am very pleased to hear the noble Lords who put forward the amendments being aware of the time issue.

It seems to me that the sheer number of EU laws and regulations grows daily. Every time I look, it has gone up by another thousand or so. The invaluable research organisation Facts4EU.Org, which keeps track of this—it seems almost ahead of the official tracker—has noted that four substantial agencies, including the Health and Safety Executive and the Department for Energy Security and Net Zero, have only just started reporting, so you know that the number will just go up and up. The sheer mind-boggling numbers and scale indicate how much of our sovereignty, as the UK, was undermined by the many laws and regulations not made in the UK and accountable to the British public.

I was very struck by the question that the noble and learned Baroness, Lady Butler-Sloss, asked: where will it all end? That was a very good question. One feels that, if the Government or those putting forward the amendments had a sense of real urgency, they would count the laws and say that there is a definitive time by which we will have said, absolutely, which laws came from the EU. That would be helpful and at least give a sense that, now we do not have the cliff edge to fall off and all the unintended consequences, this was being taken seriously.

The only other thing that I want to mention is that I fear that one of the consequences of the fact that so much law was not made and so many policies were not designed directly by UK legislators and politicians is that, possibly, we have lost the art of lawmaking because, as it were, we outsourced it elsewhere. I am concerned, therefore, that we get on with the job of improving legislative processes.

As mentioned earlier, I am no fan of SIs and delegated powers and giving too much power to the Executive, but I do not necessarily want to use this Bill to try to resolve all those problems. I would like to see them being resolved, but I am concerned that the solutions being proposed being put forward at the moment actually involve even more delegation of powers. Even the Joint Committees of Parliament are not entirely open to improved lawmaking, it seems to me, and I want some assurances from those who propose that as the remedy that they will not become—dare I mention it—an extension of the "blob" or some of the prejudices in this House.

I noticed earlier, for example, when the noble Lord, Lord Jackson, was speaking, that there was a huge amount of grumbling and complaint and so on. I actually made a mess of the rules by trying to stand up and defend someone earlier by, I thought, asking a question, then being stopped from speaking, because I felt that it was unfair that somebody was being accused of making a Second Reading speech when it was not Second Reading, and I was trying to explain why—blah, blah, blah. The reason why I am saying that is because this House is not necessarily representative of the electorate of this country.

Lord Foulkes of Cumnock (Lab Co-op): That is true—absolutely, not at all.

Baroness Fox of Buckley (Non-Afl): Indeed, so that is true. For once noble Lords are agreeing with me: this House is not representative of the feelings of the British public. Therefore, the Joint Committees of Parliament, which include many from this House, who are hostile to what the British public voted to do in the past—

Noble Lords: Oh!

Baroness Fox of Buckley (Non-Afl): I am simply asking whether that is the solution to resolving the problems that we face in terms of our disentanglement from the European Union's lawmaking.

Lord Hamilton of Epsom (Con): Before the noble Baroness sits down, could she tell us, then, what Bill is the ideal Bill to bring an end to the constant use of statutory instruments?

Baroness Fox of Buckley (Non-Afl): My Lords, I—

Baroness Williams of Trafford (Con): My Lords, I apologise for intervening again, but the rules found in the *Companion* are very clear about speaking once on Report.

Baroness Lawlor (Con): My Lords, Amendment 15 is modelled on the amendment proposed earlier to Clause 1. As noble Lords who have put the amendment have said, this is to enable Parliament, not the Executive, to have the final decision. It may seem strange that I oppose that, but I do oppose it, because it makes the assumption that, in general, EU rights, powers and liabilities should remain after our withdrawal, unless a specific decision is taken in each case to remove them. On the contrary, the decision at the referendum, confirmed in 2019, was to leave the EU and leave behind its rights, powers and liabilities. Moreover, the House of Commons has voted in favour of Clauses 4(1) and 4(2).

Rather than a defence of parliamentary power, about which noble Lords have spoken very eloquently, this will or may appear a rear-guard action to retain binding links with the EU system of law, despite the decision. To repeat again what I said on the amendment to Clause 1, a direct mandate was given to the Executive to end that legal system, and it is not for this House to obstruct that mandate any longer.

Lord Hunt of Wirral (Con): My Lords, I shall say a brief word. Having taken over from my noble friend Lord Hodgson of Astley Abbotts of chair of the Secondary Legislation Scrutiny Committee, I would like to support his words and the words of my colleague, the noble Baroness, Lady Randerson, with regard to Amendments 73 and 74.

As we have heard, under the European Union (Withdrawal) Act 2018 the committee was charged with an additional function—the scrutiny of what are called proposed negative instruments laid under the new sifting mechanism. The committee had 10 days to report on those proposed instruments and, to the immense credit of the committee and of the talent of the staff concerned, it rose to that considerable challenge of meeting a demanding deadline under the leadership of my noble friend. But this was not an easy matter. In its report on the Bill, the committee warned that the task of sifting would be even more challenging under this Bill because of the potential significance and complexity of the instruments to be sifted.

During the debate in Committee, in which I participated in support of my noble friend, the Minister gave us some hope that he understood the persuasiveness of the case for extending the scrutiny period. Sadly, that was not to be, and the Government in their response to the committee's report on the Bill said that they did not accept the need for the period to be extended. This is very disappointing indeed. As I said in Committee, the committee would not expect to use the full 15 days for every proposed negative instrument—far from it. What is being asked for is an extension of the deadline in recognition of the fact that the Bill has the potential for generating more complex and far-reaching policy changes through instruments subject to the sifting mechanism than the 2018 Act has.

[Lord Hunt of Wirral]

I warned my noble friend the Minister that when he got back to the department, after his warm words in support of my noble friend and other noble Lords who participated, people would tell him that it was impossible, because it would set a terrible precedent—and I think that that is probably what happened. I would ask him just to think again, because I do not think that it sets a precedent at all; it is a unique occasion. If the Government are to demonstrate their support for effective parliamentary scrutiny—and, in particular, effective use of the sifting mechanism—I would urge him to think again and accept these amendments.

Lord Fox (LD): My Lords, this has again been a lively debate. The Government's concession on Amendment 1 ensures that the bulk of retained EU law will remain on the statute book as assimilated law at least for a while, but there are no moves in the Government's amendments to change the Bill's proposal for the Executive to sunset retained EU rights, powers and liabilities. Amendment 15, proposed by the noble Lord, Lord Anderson, and moved by the noble and learned Lord, Lord Hope, would ensure that it is Parliament rather than the Executive that will have the final say over whether those rights, powers and liabilities should be revoked at the end of the year. That is very important and that is why we will support that amendment, if it is put to the vote.

I turn to Amendment 76. Speaking in the Commons last week, after the Government had announced their plans in the press and, latterly, to the Commons, the Secretary of State said that

"the Bill provides business certainty and legal certainty".

It does not provide either of those. Despite the U-turn on sunsetting, the Bill still retains those powers that will enable Ministers to amend retained EU law, now assimilated law, by statutory instrument when they deem it to be appropriate. As the Secretary of State also said last week:

"Most importantly, it gives us the space to focus on the reform programme".—[*Official Report*, Commons, 11/5/23; col. 447.]

So all the thousands of pieces of legislation that are assimilated automatically by this amended Bill can be revoked or reformed with almost no opportunity for debate or amendment in this crucial legislation.

As we have heard, this represents a huge gathering of power to the Executive. Amendment 76 from the noble and learned Lord, Lord Hope, ensures that any SIs the Government propose to make using this power are referred to a Joint Committee of both Houses for scrutiny. If the Joint Committee finds that a significant change to the law is proposed, then the SI must be debated on the Floor of each House. This is what Parliament is here to do. There is also a provision to ensure that amendments to such SIs can be agreed by both Houses. We had a lively debate in three corners of the House about that. When the time comes, these Benches will support this amendment.

6.30 pm

Lord Hannan of Kingsclere (Con): My Lords, I am very struck by the change in tone in this House. For years, we were told that the EU was an association of nations and that it was some abstruse, recondite obsession of Eurosceptics to claim otherwise; now we are told that it is a massive Jenga set and that, if we take anything out, the whole structure will come tumbling down because it is so deeply embedded in our domestic law. For years, we were told that we had extraordinary Rolls-Royce civil servants and that we were the best country at implementing everything; now it is suddenly beyond them to repeal the same things within a reasonable deadline. For years, we were told that parliamentary sovereignty was a 19th-century hang-up of interest only to eccentrics; suddenly—I welcome this—it has become a deep concern on both sides of the Chamber.

In accepting the previous debates in this House, the Government have done their best to reach a balance. They must implement the decision and have done so in a way that takes account of the objections raised on all sides by your Lordships. They deserve rather more recognition than they are getting this afternoon.

Lord Collins of Highbury (Lab): My Lords, to pick up that point, we have heard in every debate a recognition that the Government have moved, which has been very important and welcome.

Some people want to continue a debate about Brexit. These amendments are not about that. That is why I totally support the noble Lords, Lord Hamilton and Lord Hodgson, who have previously participated in debates in this House on the nature of secondary legislation and how it has increased, and how it empowers the Executive. This is a unique situation; we have established the principle in the first group but, if we are to make changes—revise, reform and revoke—how will we ensure that the people with the responsibility to legislate have the responsibility properly to scrutinise and amend if necessary? People jump up and down and ask whether this is the right place to have a debate about secondary legislation. I am not too bothered about that. I am concerned about outcomes. Parliament should have the opportunity properly to scrutinise the changes and powers in this legislation. The noble Lord, Lord Lisvane, and the noble and learned Lord, Lord Hope, have offered us a process in this Bill for those changes to be made.

The noble Lord, Lord Hodgson, has pushed me on numerous occasions, particularly when we debated his committee's report, on whether a future Government would adopt this for statutory instruments. I cannot make that commitment, but I know that, if we adopt Amendment 76, it will establish a practice that people might see is beneficial for future arrangements. We can have a win-win situation. This debate is not about Brexit. It is about who has responsibility to legislate in this country. It is not the Government; it is our duty. That is why we should support Amendments 76 and 15.

Lord Callanan (Con): My Lords, Amendment 15 tabled by the noble Lord, Lord Anderson, and moved by the noble and learned Lord, Lord Hope, effectively seeks to delay a vital part of the Government's retained EU law reform programme whereby EU rights, obligations and remedies saved by Section 4 of the European Union (Withdrawal) Act 2018 will cease to apply in the UK after 31 December 2023. The matters saved by Section 4 consist largely of rights, obligations and

remedies developed in the case law of the Court of Justice of the European Union. Many of these overlap with rights already well established by domestic law in this country, and those overlaps can cause confusion.

Where the UK and devolved Governments consider that there is a need to codify any specific rights that may otherwise cease to apply, this can be done under the Bill's powers. These codified rights will be placed on a sustainable UK footing, providing certainty and therefore safeguarding and enhancing them in domestic statute. The Bill is ending the current situation whereby citizens must rely in some cases on an unclear category of law and complex legal glosses to enforce their rights. Sadly, the proposed amendment seeks to perpetuate this situation, which the Government consider unacceptable. I hope the noble and learned Lord will withdraw his amendment.

Amendments 69, 76, 73 and 74 relate to Schedule 4 and parliamentary scrutiny. Amendments 73 and 74, tabled by my noble friend Lord Hodgson of Astley Abbotts, relate to the sifting procedure and seek to extend the period during which committees of this House and the House of Commons can make a recommendation about the relevant scrutiny procedure for regulations made under Clauses 13, 14 and 16. Specifically, these amendments seek to change the time limit under which both Houses can make recommendations on the appropriate procedure to be used when an instrument is laid and subject to the sifting procedure.

As the provision is drafted, relevant committees of this House and the Commons have a period of 10 sitting days to make recommendations on the appropriate scrutiny procedures. This starts on the first day on which both Houses are sitting after the instrument has been laid. If the period of 10 sitting days does not cover the same dates for both Houses, the end date of the relevant period will be the later of the two dates. Amendment 73 extends the number of sitting days in the period from 10 to 15 for the House of Commons, while Amendment 74 does the same for this House.

As I have been reminded by a number of noble Lords, particularly my noble friends Lord Hodgson and Lord Hunt, I committed in Committee to review the 10-day scrutiny period for sifting. I engaged in extensive discussions not just in the department but with the business managers about whether a 10-day sifting period was sufficient. As my noble friend Lord Hodgson intimated, I was not successful in persuading them. The Government's position remains that a 10-day sifting procedure is sufficient for SIs laid under the powers in the Bill.

It is also worth pointing out that we had that debate under the old provisions of the Bill. Under the new schedule approach, the total volume of statutory instruments to be delivered via the reform programme has been significantly reduced. My noble friend's concern that there was not enough time to consider them properly will have been to some extent allayed, given the previously very large volume of SIs.

From previous experience, the 10-day period worked quite well during the programme of SIs for EU exit and is in line with the sifting procedures and legislation introduced under the European Union (Withdrawal) Act. I have some confidence that it will continue to work well in this scenario. Therefore, I am afraid the Government do not consider it necessary to extend the time limit within which an instrument is scrutinised as part of the sifting procedure.

I turn now to Amendments 69 and 76 from the noble and learned Lord, Lord Hope. These amendments put a somewhat novel scrutiny procedure in place for the powers under Clauses 13, 14 and 16. Specifically, Amendment 69 removes the requirement for certain regulations made under those clauses to be subject to the affirmative procedure. In consequence of this, Ministers would be left with a choice between the negative or affirmative procedures, with the former subject to the sifting procedure.

Amendment 76 imposes this novel and untested scrutiny requirement on regulations made. This takes the form of an enhanced sifting procedure—not dissimilar to the super-affirmative procedure—under which Parliament may make amendments to a proposed instrument. The Government believe that the purpose of this Bill is to ensure that we have the right regulations in place which are right for the whole of the UK. The House can be assured that the Government will ensure that any significant retained EU law reforms will receive the appropriate level of scrutiny by the relevant legislatures and will be subject to all of the usual processes for consultation and impact assessment. However, we also believe that we have to ensure that the limited amount of parliamentary time that is available is used most appropriately and most effectively. Requiring that the powers be subject to additional scrutiny is neither appropriate nor necessary in this case.

The sifting procedure that we suggested was purposely drafted as a safeguarding measure for these powers. The sifting procedure will give the UK Parliament the opportunity to take an active role in the development of this legislation. It is a tried and tested method of parliamentary scrutiny which delivers—in my view—good results for everyone and does draw on the expertise of our various parliamentary committees. Requiring that legislation to be subject to novel, untried, untested and onerous scrutiny, such as this enhanced sifting mechanism would—in my view—not be an effective use of parliamentary time. It would result in delaying departments delivering their REUL reform programmes and would delay the Bill in delivering its objective of bringing about much-needed REUL reform. For all those reasons, the Government cannot support Amendments 69, 76, 73 and 74.

Lord Hope of Craighead (CB): My Lords, I am very grateful to all noble Lords who have spoken in the course of this debate. I do not want to go over the arguments again. On the criticisms the Minister has made about my two amendments, I have only two points to make.

First, I think he said that the purpose of Amendment 15 was to delay the process that Clause 4 is talking about. That is simply not true. We have kept within the timetable that Clause 4 itself lays down. As I made clear, the aim throughout our amendments is to try to achieve what is required as quickly as possible. The sunset date in Clause 4 remains, according to our amendment. So, to say that we are delaying anything is, with great respect, not the case.

[Lord Hope of Craighead]

Secondly, to describe Amendment 76 as novel and untested is not a criticism that meets the situation. We are dealing with an entirely new situation where we are having to redesign an enormous quantity of EU law which we have inherited. Of course, the system we have devised is new because we are dealing with something we have never encountered before. That itself is no answer to the point that we were making throughout: parliamentary scrutiny is essential. The noble Lord, Lord Kerr, drew attention to provisions in Clause 16 which absolutely emphasise the essential nature of that. So I move Amendment 15 and, if it is not agreed to, I wish to test the opinion of the House.

6.44 pm

Division on Amendment 15

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Amendment 15 agreed.

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6.56 pm

Amendment 16 not moved.

Clause 7: "Assimilated law"

Amendment 17

Moved by ***Lord Hope of Craighead***

17: Clause 7, page 5, line 25, at end insert—

"(6A) The Scottish Ministers may by regulations make provision amending an enactment that is within devolved competence in consequence of the name of a thing being changed by subsection (1).

(6B) The Welsh Ministers may by regulations make provision amending an enactment that is within devolved competence in consequence of the name of a thing being changed by subsection (1).

(6C) A Northern Ireland department may by regulations make provision amending an enactment that is within devolved competence in consequence of the name of a thing being changed by subsection (1)."

Member's explanatory statement

This amendment gives the Scottish and Welsh Ministers and a Northern Ireland Department a power, equivalent to the power of Ministers of the Crown in Clause 7(6), to amend legislation in consequence of the change in terminology from 'retained EU law' to 'assimilated law' made by Clause 7.

Lord Hope of Craighead (CB): I am sorry; it falls to me to introduce this group—again.

This is about devolution. One of the concerns about the Bill as drafted is that it does not pay proper attention to the devolution settlements as regards Scotland, Wales and Northern Ireland, and to the key principle of respect and co-operation that underpins those settlements. I have several amendments in this group to which I wish to speak, as briefly as possible: Amendments 17, 35, 37, 39, 72A and 75.

Amendment 17 seeks to extend the regulation-making power under Clause 20 that is referred to in Clause 7 to Ministers in each of the three devolved Administrations. I seek clarification from the Minister as to whether this point is already met by government Amendments 57 to 60, which, among other things, extend the power in Clause 20 to make regulations to the devolved Authorities. If that is the case, I am very grateful and may not press this amendment.

Amendments 35, 37 and 39 seek to ensure that the consent of the relevant devolved legislatures is sought before a Minister of the Crown can make regulations under Clauses 13, 14 and 16 where the provisions fall within devolved competence. The principle that lies behind these amendments is very simple: respect and co-operation is key to the effective operation of the devolution settlements, and that is what these amendments seek to give effect to.

Amendment 75, to which Amendment 72A is related, seeks to apply the same principle to the powers given to a Minister of the Crown acting alone under Part 3 of Schedule 4. These powers should be exercised in devolved areas, only with the consent of Scottish or Welsh Ministers or a Northern Ireland department, as the case may be. These amendments are not intended to delay matters; they simply seek to obtain the proper respect for the devolved Administrations which is the essence of the devolved settlements.

I am open to correction; it may be that the government amendments meet what I am seeking. However, if they do not go far enough, I invite the Minister to give further thought to my amendments. I beg to move.

Baroness Finlay of Llandaff (CB): My Lords, I have added my name to Amendment 39, and I am most grateful to my noble and learned friend Lord Hope for the way in which he has introduced this group.

The problem, basically, is that Westminster seems to be trying to make laws that cover devolved matters, which cuts across the democratic mandate of devolved Ministers and legislatures. The consent process has to be in the Bill, and I can see that Amendment 75 would be speedier than Amendment 39, to which I have put my name. I very much hope that the Government will be able to tell us that they accept Amendment 75 or that their amendments will do exactly what that amendment states, as that will be a faster process, from Minister to Minister, rather than having to go through the whole process of debate. However, I do not think that agreements behind the scenes and reassurances that this will be sorted out later will be adequate.

7 pm

Now that there is no sunsetting at the end of the Bill, we do not have a time constraint on gaining consent, so I hope the Government will not say that this will impose a time limit, because it would be possible to have a very fast turnaround through Minister-to-Minister communication for an individual SI that affects devolved law. In summary, I hope that the Government will accept Amendment 75. I do not necessarily expect that they will accept Amendment 39, but if they do not do anything in this area, it threatens the whole constitutional arrangement of the UK as it now stands.

Baroness Ritchie of Downpatrick (Lab): My Lords, I speak to Amendments 41 and 46 in my name. These amendments would ensure that a substantial policy change in human rights, equality and environmental protection in Northern Ireland may not be effected by the exercise of delegated powers. Given the ongoing lack of a functioning Executive and sitting Assembly, this raises serious concerns about the implementation of the Bill in Northern Ireland, and the amendments in my name would add a helpful safeguard in these challenging circumstances. Therefore, to be brief, I ask the Minister to give careful consideration to, and accept, the amendments as a means of ensuring that the devolution settlement in Northern Ireland is protected and that issues of equality and human rights and environmental considerations are all protected, as required under the Good Friday agreement.

Baroness Humphreys (LD): My Lords, I shall speak briefly to amendments in this group tabled by the noble and learned Lord, Lord Hope of Craighead, to which I have added my name, and I thank him for introducing the amendments so clearly and comprehensively.

I am grateful to the noble Lord the Minister—or perhaps to the noble Baroness, Lady Neville-Rolfe—for the concessions the Government have brought to Report. The Bill is in a better state than when we first debated it at Second Reading, and many of the House's concerns have been addressed, but there remain some significant issues pertaining to the Bill on which I hope that the Minister will look favourably.

The amendments deal with obtaining the consent of the devolved legislatures to the making of regulations that fall within their devolved competence, and equivalence of powers for Ministers where the provisions of regulations again fall within the devolved competence of the legislatures. It is clear that these amendments do not seek additional powers for the devolved legislatures; they merely secure those powers that the legislatures already have—powers devolved to them by this Parliament but which the Bill ignores or chooses to overlook.

One of my main concerns about the Bill in its original form was that it usurped the powers of this Parliament and those of the devolved legislatures, and this view was echoed across the House. In Committee, I was heartened to hear strong and powerful speeches from those on Benches across the House in support of the devolved Administrations and legislatures, and I thank those who spoke for their support.

The noble Baroness, Lady McIntosh of Pickering, reflected my view when she said—and I hope my précis of her comments does her justice—that she might not necessarily support a political party in power in a devolved legislature, but that her focus and support was on the legislature itself. I think that reflects the view of many in this House, and certainly those on these Benches.

In his letter to us, the Minister said that he had listened to the House and, in fairness, he has—to an extent. I hope he is still in listening mode and, as I said earlier, will be able to look favourably on these amendments.

Finally, as this will be my last contribution in debates on the Bill, I express my gratitude to the noble and learned Lord, Lord Hope of Craighead, for the part he has played in its progress and improvement. His leadership, knowledge of constitutional and devolved matters, forensic legal analysis of the Bill, and tenacity have made a massive contribution and have led us to where we are today. We have an improved Bill, and it can be improved further by the Minister accepting the noble and learned Lord's amendments. In the event of him wishing to press any of them to a vote, he will have the support of these Benches.

Lord Wigley (PC): My Lords, not having taken part in earlier stages, I will say no more than a sentence to thank the noble and learned Lord, Lord Hope, for proposing this amendment and to agree with the previous speakers about devolved powers.

The Minister of State, Cabinet Office (Baroness Neville-Rolfe) (Con): My Lords, I too thank the noble and learned Lord, Lord Hope of Craighead, the noble Baroness, Lady Ritchie of Downpatrick, and other noble Lords who have contributed to this debate, to all the extensive and useful debates we had in Committee, and—this is important—for the useful engagement that has taken place on the devolutionary aspects of the Bill.

The Government have listened carefully to the concerns raised both in the debates in Parliament and by the devolved Governments and have tabled the government amendments in this group in response. Amendments 52 and 53 extend the power to make consequential provision under Clause 20 for the devolved authorities. Amendment 58

extends the power to make transitional, transitory and savings provisions under Clause 23 to the devolved authorities. These amendments will make the consequential power and the power to make transitional, transitory and savings provisions concurrent powers. This will enable UK Ministers and the devolved Governments—or both acting jointly—to exercise the powers in devolved areas.

The remaining government amendments, Amendments 54, 55, 56, 57, 59, 60, 65, 66, 67, 70, 71, 72 and 77, are consequential. They will remove the requirement for the devolved Governments to request the UK Government to make such changes on their behalf. Furthermore, these amendments will align these powers with the other powers in the Bill, which are also conferred concurrently on the devolved Governments.

I hope that noble Lords will agree that this is a meaningful change to the Bill that demonstrates the UK Government's commitment to working collaboratively with the devolved Governments—which we talked about in Committee—and ensuring that the Bill works for all parts of the UK. Amendment 71 is a further technical amendment that I think everybody is happy with.

Amendment 17, tabled by the noble and learned Lord, Lord Hope of Craighead, is to Clause 7. As we have now extended the power to make consequential provision under Clause 20 on devolved authorities, he is right that it is no longer necessary.

I turn to Amendments 35, 37, 39 and 75, which relate to powers under Clauses 13, 14 and 16 and Schedule 4. Amendment 35 requires that the power to restate REUL cannot be used to restate it in areas of devolved competence unless the relevant parliament has provided legislative consent for the retained EU law to be restated. Amendments 37 and 39 place similar requirements on the power to restate under Clause 14, and on the powers to revoke or replace under Clause 16.

In essence, these amendments would carve out regulation within areas of devolved competence in the absence of legislative consent. As has been said, Amendment 75 similarly seeks to impose a requirement for a Minister of the Crown to seek legislative consent when using the powers on legislation within areas of devolved legislative competence. These amendments are unnecessary. The UK Government are committed to ensuring that the provisions in the Bill, including its powers, are consistent with the devolution settlements and work for all parts of the UK. Indeed, the majority of the powers in the Bill are conferred concurrently on the devolved Governments, which will enable them to make active decisions regarding their retained EU law.

It is not necessary to limit the use of the powers within areas of devolved legislative competence by requiring UK Ministers to obtain legislative consent. Rest assured, the concurrent nature of the powers is not intended to affect the devolution settlements, nor to influence decision-making in devolved Governments. Rather, it is intended to reduce additional resource pressure on the devolved Governments by enabling the UK Government to legislate on behalf of a devolved Government where they do not intend to take a different position.

Let me move on and address Amendments 41 and 46, eloquently spoken to by the noble Baroness, Lady Ritchie of Downpatrick. Her amendments would restrict the exercise of the powers to revoke or replace and the power to update. They require that any replacement instruments could not effect substantial policy change relating to human rights, equality or environmental protection that has effect in Northern Ireland. The Government intend to maintain the UK's leading role in the promotion and protection of human rights, equality, the rule of law and environmental protections. We are proud of our long and diverse history of freedoms. The Government do not intend to undermine our hard-won human rights, equality and environmental legislation through the exercise of these powers. I should perhaps add that we are committed to ensuring the UK's compliance with our international obligations, such as our human rights obligations. I therefore do not judge that the proposed restrictions to this clause are necessary.

Amendment 61 in the name of the noble and learned Lord, Lord Hope of Craighead, is no longer necessary in the light of the amendments that the Government have tabled in relation to Clause 23.

Finally, I turn to the noble and learned Lord's latest amendment, Amendment 72A. It relates to Amendment 76, which we discussed in the previous grouping and which seeks to insert a new paragraph in Schedule 4 to the Bill. As Amendment 76 has fallen away, this amendment is now redundant.

Let me say that we have come a long way on this part of the Bill, as has been acknowledged on all sides. For all the reasons I have outlined, I ask that these amendments be withdrawn or not pressed.

Lord Hope of Craighead (CB): My Lords, I am grateful to all noble Lords who spoke in this debate; I am particularly grateful to the noble Baroness, Lady Humphreys, for her very kind words.

I listened carefully to what the Minister said. I am grateful for her assurance that Amendment 17 is not required; that was my impression, so it is nice to have confirmation of that from her.

As far as the other amendments are concerned, I take the point that increasing pressure on resources is something that we should try to avoid. I see the value of joint working, which is really what the Minister described to us in her reply. I recognise that the Government have gone a long way in their amendments in this group, for which I am extremely grateful; I am sure that all others who care about devolution would say the same.

I will not press the amendments, but I hope that the message is still powerfully in the mind of the Government that continued co-operation and easing of the pressures round about to achieve a consensus across the board is the way to proceed if we possibly can. I think that the signs behind the scenes are that that can be achieved. I am grateful for that. For that reason, I beg leave to withdraw my amendment.

Amendment 17 withdrawn.

7.15 pm

Clause 8: Role of courts

Amendment 18

Moved by ***Lord Hope of Craighead***

18: Clause 8, page 6, leave out lines 27 and 28

Member's explanatory statement

Inserted paragraph (b), which this amendment seeks to remove, could undermine legal certainty and risk bringing the judiciary into the political arena.

Lord Hope of Craighead (CB): My Lords, this is an entirely different group. Amendment 18 deals with the provisions relating to the role of the courts in reforming our law in the light of our withdrawal from the European Union.

This group contains various amendments in my name, which fall into two parts. Both relate to the provisions of Clause 8, which is designed to deal with the subject matter that I just mentioned. The first part—Amendments 18 to 29—is concerned with the role that the courts will play in reforming our domestic case law as we depart from retained EU case law. The second part—Amendments 30 to 34—is concerned with the role of the Lord Advocate in the making of references to the courts on points of law regarding retained case law. The noble Lord, Lord Anderson, has kindly added his name to my amendments in the first group but, for reasons that I can well understand, he has not gone that far in relation to my amendments about the Lord Advocate.

I can be very brief about the first group because the Minister has now added his name to two of my amendments in it, for which I am grateful; these are Amendments 24 and 27. He has also added two consequential amendments of his own.

My amendments were designed to do two things. The first was to simplify the work of the courts in this potentially difficult area and preserve legal certainty. The second was to give the courts a discretion to decline to accept a reference by a lower court or tribunal on retained case law in place of the obligation to do so, which is what the Bill currently provides. The obligation was an obstacle to efficiency in the running of the courts. It never made sense for the senior courts to be so encumbered by worthless or unnecessary references as to be unable to conduct their business in the way they would wish to do.

I am very pleased that the Government have now accepted that the senior courts should have that discretion and that, in the Bill as currently drafted, "must" should be changed to "may". It means that good sense has prevailed and that the courts will not have to accept a reference on points that have already been decided or would be better dealt with under another reference that is already pending or one that has no reasonable prospect of success. That is extremely helpful; I know that, for his part, the President of the UK Supreme Court is also grateful to Ministers for making that concession.

The Minister has not gone as far as I would have liked on my other amendments, but I am not going to look a gift horse in the mouth, if I can put it that way, so I will not press those amendments.

As for the second group, relating to the role of the Lord Advocate, the Lord Advocate has written to the Secretary of State more than once to explain her concerns, which I have tried to capture in my amendments. She is seeking parity with the UK law officers in the exercise of the functions to which this clause refers. Her point is that her role is not thought to be a political one in furtherance of Scottish government policy; nor should it be thought that she exercises her role collectively with the Scottish Ministers. She values her independence, which is crucial to the position that she occupies as the senior law officer in Scotland.

I do not think that it would assist the House if I were to develop these arguments further now, but I would be grateful if the Minister would undertake to ask the Secretary of State to look at this issue once again, one more time, so that a proper balance can be achieved. I beg to move.

Baroness Ludford (LD): My Lords, I will be brief. I lend the support of these Benches to the important amendments from the noble and learned Lord, Lord Hope of Craighead, and the noble Lord, Lord Anderson of Ipswich. They might seem perhaps a little specialised, but they are extremely important. There might not be any intention to press any of these amendments to a vote, but I do hope that the Government will see their way to taking on board more than they have already in the two amendments from the noble Lord, Lord Callanan.

These amendments are about trying to remove threats to legal certainty and therefore to increase legal certainty, respecting the courts and their ability to run their business efficiently and removing the peril of the court being asked to venture into political and policy matters. We know about the flak to which the courts have been exposed—including, it has to be said, not being defended by the person in government who should have defended them.

It therefore seems perverse that the Bill, as drafted, would increase the likelihood of the courts being exposed to being hanged, drawn and quartered, as we have seen on the front pages of certain newspapers at various times. So there is a desire to get more predictability and certainty into the law, and more discretion for the courts to run themselves as they see fit and not have to do things that would get them into shark-infested waters. So, even though it seems that these important amendments will not be determined by the House today, I hope that the Government will reflect before Third Reading and see the wisdom behind them.

Baroness McIntosh of Pickering (Con): I am sorry to speak out of turn, but I entirely support all the amendments in this group. In particular, I endorse the plea of the noble and learned Lord, Lord Hope, on the status of the Lord Advocate. Could the Minister clarify, either at this opportunity or at a later stage of the Bill, the points that the noble and learned Lord made, because it would not be acceptable for the Lord Advocate to be treated differently from any other law officer in the land?

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bellamy) (Con): My Lords, in view of the fact that the most important and contentious amendment to the Bill, which has been moved by the

noble and learned Lord, Lord Hope, is fully agreed and accepted by the Government, and that other amendments are not being moved—although I will deal with the Lord Advocate point—with your Lordships' permission, I will take this quite shortly, especially having regard to the clock. But that in no way underestimates the importance of the issues we are debating.

First, the Government are extremely grateful to the judiciary and other stakeholders for drawing our attention to the issue of "may" rather than "must". I am extremely grateful for the dignified and discreet way in which those matters have been resolved to everyone's satisfaction. The central point that the courts should have the relevant discretion is accepted and, as I say, the Government are pleased to adopt the amendments of the noble and learned Lord, Lord Hope.

As to the remaining amendments in the group, the Government share the desire of the House that the role of the courts should be as simple as possible. We do not consider that the way the Bill is currently drafted drags the courts into some kind of political controversy. I am not able to give the noble Baroness, Lady Ludford, the undertaking she seeks that we shall further consider those amendments. Of course, nothing is ever ruled out, but it would be wrong for me to say that it is currently the Government's intention to propose further amendments to the Bill. I can go into this in more detail one by one and perhaps, if the noble Baroness has a moment, I can explain the Government's position bilaterally. I am very much in the hands of the House but, as these amendments are not actually being moved, I do not feel that it is right to take up time explaining why the Government take the position that we do. However, the Government's door is always open to discuss particular points with any noble Lord.

I simply say that the tradition of common law has enabled the law to evolve over centuries, while preserving a reasonable degree of predictability. That technique is well known in the United Kingdom and I have no doubt that it will continue to be honed and progressed in the future.

As to the specific amendments on the powers of the Lord Advocate, I confess to some diffidence in the face of the pre-eminence of the noble and learned Lord, Lord Hope, on Scots law and other matters. At present, the Government do not feel that we should accept the proposed amendments. Amendments 30, 32, 33 and 34 would allow the Lord Advocate to intervene in any case, irrespective of whether the issue was a devolved matter under Scottish legislation or a reserved matter in which the relevant competence is exclusively that of the United Kingdom. That is our understanding of the effect of the amendments. The Government's position is simply that that change would be constitutionally inappropriate. In our view, references and interventions by the Lord Advocate, a Minister in the Scottish Government, are quite properly restricted to legislative matters within the devolved competence of the Scottish Government. That is the Government's position on that broad issue.

Finally, Amendment 31 would none the less give the Lord Advocate intervention powers not only in Scottish legislation, which is what the Act is about, but also for certain retained functions of the Lord Advocate. Here I very much bow to others' more detailed knowledge of what exactly these retained functions are. The Government's understanding is that they relate mainly to the prosecutorial functions, since it is the Lord Advocate who is ultimately responsible for criminal prosecutions in Scotland. The nearest analogy outside Scotland is arguably to the DPP for England and Wales or the DPP for Northern Ireland.

The Government therefore respectfully oppose this amendment since, first, no similar powers are conferred on the DPPs in England, Wales or Northern Ireland. Secondly, the devolved powers to intervene in relation to the devolved law officers are limited to legislation, as exhaustively defined in the case of Scotland, Wales and Northern Ireland, and there does not seem to be any clear reason for treating Scotland differently from the other devolved Administrations.

Thirdly, and again the Government are open to correction, it is difficult to see how, in practice, the amendment might bite in any practical way. Fourthly, any blurring of the line beyond the scope of devolved legislation, as defined in the Bill, is not shown, in the Government's view, to be sufficiently justified and would be outside the scheme of the Act. So, essentially for those reasons, the Government will not be able to accept the amendments in relation to the Lord Advocate and I respectfully ask the noble and learned Lord, Lord Hope, not to press his amendments in that regard.

7.30 pm

Lord Hope of Craighead (CB): My Lords, I am very grateful to the Minister for his careful reply. On the point that we are agreed upon, the change of the word "must" to "may" may seem a very minor change, but words matter a great deal and it is a very significant change indeed. That is why I express gratitude to the Minister and, on his behalf, the gratitude of the president of the court for accepting that change, because it makes a great deal of difference to the court and the way in which it can organise its business. It can be relied upon, I think, to exercise its functions under the Bill to the fullest degree in seeking to achieve the aim, which is, as speedily as possible, a return to our own system of law from what we have inherited from the European Union.

As for the retained functions of the Lord Advocate, the word "retained" is really referring to pre-devolution functions. The Minister is quite right that the principal function of the Lord Advocate before devolution, which is retained, is the right to continue the whole responsibility of conducting criminal prosecutions in Scotland. There is something that he has missed out: it is perhaps not very significant, but investigation of deaths is also a function of the Lord Advocate which is retained.

I think all I can say is that I appreciate the thought that has been given to the Lord Advocate's request. Of course, she is disappointed that the view has been taken that everything she is asking for cannot be given to her and we will just have to see how the system works out. Of course, it is all a matter of making references to the court. No doubt, in the course of

[Lord Hope of Craighead]
argument, things may be presented which the court can consider if they are on the fringes of what is described in the Bill, or the Act as it becomes.

Words matter: again, the court will look at the reference and see whether it is something that it can accommodate within the wording of the legislation. So, I am grateful to the Minister for his careful reply and the thought that has been given to it and I will not press those amendments. For the reasons I have given, I beg leave to withdraw Amendment 18.

Amendment 18 withdrawn.

Amendments 19 to 23 not moved.

Amendment 24

Moved by ***Lord Hope of Craighead***

24: Clause 8, page 7, line 39, leave out "must" and insert "may"

Member's explanatory statement

This amendment seeks to preserve the court's discretion to refuse to accept a reference, which is a necessary safeguard against abuse.

Amendment 24 agreed.

Amendment 25 not moved.

Amendment 26

Moved by ***Lord Bellamy***

26: Clause 8, page 8, leave out line 1

Member's explanatory statement

This amendment is consequential on the amendment at page 7, line 39.

Amendment 26 agreed.

Amendment 27

Moved by ***Lord Hope of Craighead***

27: Clause 8, page 8, line 3, leave out "must" and insert "may"

Member's explanatory statement

This amendment seeks to preserve the court's discretion to refuse to accept a reference, which is a necessary safeguard against abuse.

Amendment 27 agreed.

Amendment 28 not moved.

Amendment 29

Moved by ***Lord Bellamy***

29: Clause 8, page 8, line 6, leave out paragraph (b)

Member's explanatory statement

This amendment is consequential on the amendment at page 8, line 3.

Amendment 29 agreed.

Amendments 30 to 34 not moved.

Clause 13: Power to restate retained EU law

Amendments 35 and 36 not moved.

Clause 14: Power to restate assimilated law or reproduce sunsetted retained EU rights, powers, liabilities etc

Amendments 37 and 38 not moved.

Clause 16: Powers to revoke or replace

Amendment 39 not moved.

7.35 pm

Consideration on Report adjourned until not before 8.15 pm.

Ukraine

Statement

The following Statement was made in the House of Commons on Thursday 11 May.

"With permission, Mr Deputy Speaker, I will update the House on Russia's attacks on civilians and critical national infrastructure in Ukraine.

We are now on day 442 of the conflict. During this period, Moscow has, according to the United Nations, provoked the largest displacement of people in Europe since World War II, including almost 8 million refugees and almost 6 million internally forced from their homes.

We must not lose sight of those staggering statistics. Worse still, Russia's battlefield setbacks have led to it cynically targeting energy infrastructure, putting millions of people at risk of sickness and death in cold, unsanitary conditions. Take the besieged city of Bakhmut, where there are now fewer than 7,000 residents, 1/10th of the original population. For the last nine months they have been hiding in basements, without clean water, electricity or gas, and with minimal connection to the outside world.

From the scale of the Russians' attacks, it is clear that they have not limited themselves to military targets. Their purpose is simply to terrorise the local population into submission. That is the only conclusion that can be drawn when we look at Russia's ever-expanding charge sheet of international humanitarian law violations. As of 2 April, there have been 788 attacks on healthcare facilities: hospitals, clinics and medical centres. There have been instances of damage to educational facilities: schools, daycare centres and even nurseries.

Meanwhile, Russia has plundered crops and agricultural equipment on an industrial scale, destroying grain storage and handling facilities. According to estimates from the Kyiv School of Economics, Russia stole or destroyed 4.04 million tonnes of grain and oilseeds, valued at $1.9 billion, in Ukrainian territories during the 2022 season. Meanwhile, the Kremlin's continued intransigence is contributing to the current backlog of grain exports.

Besides that, Russia has bombed industrial facilities, including the Azot chemical plant, risking toxic industrial chemical release and environmental impact. It has attacked Ukraine's largest refinery at Kremenchuk on at least three occasions. It has bombed airfields, ports, roads and rail networks, preventing refugees from fleeing the danger. It has taken out communications networks, affecting banks, the internet and cellphones, with residents in some areas now forced to barter for

food. Kremlin strikes on substations, powerplants and powerlines have also impacted water treatment facilities, leaving cities such as Mariupol without water and reliant on delivery of bottled supplies.

At the same time, Russia has forcibly occupied and undermined the safe operation of the Zaporizhzhia nuclear power plant, the largest in Europe. As Rafael Grossi, director general of the International Atomic Energy Agency, has said:

> 'Every single one of the IAEA's crucial seven indispensable pillars for ensuring nuclear safety and security in an armed conflict has been compromised'.

He recently warned that the situation around the plant was 'potentially dangerous'.

Sadly, at least 23,000 Ukrainian civilians have been killed or wounded so far, although the actual figure is likely to be substantially higher. Thousands of citizens have been sent to sinister 'filtration' camps before being forcibly relocated to Russia. Some 6,000 children, ranging in ages from four months to 17 years, are now in 're-education camps' across Russia.

Both United Nations and United States investigators have found that Russia has committed war crimes, with reported evidence of executions, torture and sexual violence in civilian areas. In early April President Zelensky said that more than 70,000 Russian war crimes had been recorded since Putin's invasion. The names of Bucha and Izyum have become synonymous with mass murder. The world will not forget the bombing of the drama theatre in Mariupol, where 1,200 civilians sought shelter under a giant sign reading 'Children'. No matter how much Russia tries to hide and bulldoze over the scene, we will not forget.

Even in the territories that Russia has illegally annexed, citizens find themselves subjected to the worst excesses of totalitarianism. A Russian passport is increasingly essential to access vital services—a nightmare for those with newborn babies. Civilian infrastructure, such as healthcare facilities, is being seized and repurposed to treat wounded servicemen. Kill lists of civic leaders have been drawn up, citizens executed in cold blood and concerted attempts made to erase Ukrainian culture, history and identity.

We should be clear: the targeting of civilians and infrastructure essential to the civilian population of Ukraine has not happened by accident in the fog of war. Much of it was planned Russian policy. Russia has form, and we have seen its handiwork in Syria. In March, President Putin himself was indicted by the International Criminal Court for war crimes.

However, we should also be clear that, as numerous credible reports indicate, while Russia's morally bankrupt approach might have been made in the Kremlin, it is often carried out willingly, not just by rogue units, but by the ordinary rank and file across the Russian armed forces. An even clearer picture of Russia's barbaric approach emerges when we look at some of the weapons it is using against innocent civilians. I am not referring here to the extensive strikes against Ukraine's electric power network from cruise and surface-to-surface missiles, the use of short-range ballistic missiles such as the Iskander, which infamously hit the train station in Kramatorsk, killing 60 and wounding more than 110, or even the two 500 kilogram bombs dropped by Russian fighter aircraft on that Mariupol theatre.

The fact is that Russia has used cluster munitions with wholesale disregard for human life and civilians. They have been dropped near a hospital in Vuhledar. A 9M79-series Tochka ballistic missile delivering a 9N123 cluster munition warhead killed four civilians and injured another 10, including six healthcare workers. Russia has used Smerch cluster munition rockets in three neighbourhoods in Kharkiv, Ukraine's second largest city, resulting in reports of nine civilian deaths and 37 injuries, according to the United Nations.

Russia also relies on massed fires. Indiscriminate artillery bombardments of built-up areas account for the vast majority of civilian casualties—injured or killed. Moscow also makes extensive use of conventional anti-personnel mines and improvised booby-traps to indiscriminately harm civilians. Dead bodies, the homes and vehicles of Ukrainian civilians and even children's toys have been rigged up as lethal devices. Russia has laid mines remotely and mechanically, covering significant areas of farmland, with scant evidence that it has either marked minefields or warned civilians about their presence. Those minefields will leave a legacy long after the conflict ends.

Russia has used hundreds of Iranian-made Shahed drones to attack targets in Ukraine. Loitering munitions sent on numerous suicide missions have repeatedly taken their toll on civilians. Last week, those weapons struck a university campus in Odessa and civilians were once more in the crosshairs in Kyiv.

From the start I have been clear that our support for Ukraine is responsible, calibrated, co-ordinated and agile. Aligned and united with the international community, we are helping the Ukrainians to defend their homeland. Most importantly, our support is responsive to Russia's own actions. None of this would have been necessary had Russia not invaded, but now it is about pushing back Russian forces and deterring them from committing yet more crimes, by holding the Russian military establishment to account for its actions.

In December, I wrote to Russian Defence Minister Shoigu, setting out the UK Government's objection to the deliberate targeting of civilian infrastructure, and stating that further attacks—contrary to international humanitarian law; for example, the principle of distinction codified in Articles 48, 51 and 52 of additional protocol 1 to the Geneva conventions—would force me to consider donating more capable weapons to Ukraine so that the Ukrainians may better defend themselves within their territory.

Unfortunately, Russia has continued down that dark path. This year Russia's leadership has continued to systematically target civilians and civilian infrastructure with bombs, missiles and drones. More medical facilities were targeted in January than in the previous six months combined. Russia has bombed power facilities in Kyiv, Kharkiv, Ivano-Frankivsk, Lviv, Zaporizhzhia and Odessa oblasts. Incidents of civilian casualties have increased, especially in areas close to the front line such as Kherson and Bakhmut.

In January a block of flats in Dnipro was wiped out by a 5.5 tonne Russian 'Kitchen' missile that probably caused 124 casualties, including 45 fatalities. In March, a five-storey apartment block in Zaporizhzia was attacked with an S-300 missile that completely destroyed the

building. Between 27 April and 2 May, Russian forces conducted strikes against Ukraine using Kh-101 and Kh-555 long-range air-launched cruise missiles.

Despite the Kremlin's claims that it is targeting Ukraine's 'military-industrial facilities', one of the buildings struck was a nine-storey apartment building. The salvo left 23 dead and dozens more injured. Last week, Russian shelling struck residential buildings and on Monday Russia bombed a Red Cross warehouse full of humanitarian aid.

Drone footage from Bakhmut appears to show white phosphorus raining down on a city ablaze. The use of such incendiary weapons, which burn at 800 degrees centigrade, within concentrations of civilians is a contravention of protocol 3 of the Convention on Certain Conventional Weapons.

As I have said many times, we simply will not stand by while Russia kills civilians. We have seen what Ukrainians can do when they have the right capabilities. In recent days, 30 Shahed drones have been shot down. The Ukrainian air force says that 23 out of 25 cruise missiles fired from sea and land have been downed. We have also had confirmation from Lieutenant General Oleschuk, the Ukrainian air force commander, that even Russia's much-vaunted 'Killjoy' air-launched hypersonic missile has been brought down. That is why the Prime Minister and I have now taken the decision to provide longer-range capabilities.

In December, I informed the House that I was developing options to respond to Russia's continued aggression in a calibrated and determined manner. Today I can confirm that the UK is donating Storm Shadow missiles to Ukraine. Storm Shadow is a long-range, conventional-only precision strike capability. It complements the long-range systems that have already been gifted, including the HIMARS and Harpoon missiles, as well as Ukraine's own Neptune cruise missile and longer-range missiles gifted elsewhere. The donation of those weapon systems gives Ukraine the best chance to defend itself against Russia's continued brutality, especially the deliberate targeting of Ukrainian civilian infrastructure against international law. Ukraine has a right to be able to defend itself against that.

The use of Storm Shadow will allow Ukraine to push back Russian forces based within Ukrainian sovereign territory. I am sure that the House will understand that I will not go into further detail on the capabilities, but although those weapons will give Ukraine new capability, Members should recognise that those systems are not even in the same league as the Russian AS-24 'Killjoy' hypersonic missile, Iranian Shahed one-way attack drones, or even the Kalibr cruise missile, which has a range of more than 2,000 kilometres—roughly seven times that of a Storm Shadow missile. Russia must recognise that its actions alone have led to such systems being provided to Ukraine. It is my judgment as Defence Secretary that this is a calibrated and proportionate response to Russia's escalations.

When travelling through Ukraine, as I have done several times since the invasion, one sees the smashed buildings and piles of rubble, where there were once thriving businesses and homes full of life. They reveal the truth of Russia's invasion: needless destruction and gratuitous violence, and—despite warnings—Russia's continued violations of international law and deliberate targeting and killing of civilians. They are the visible and tragic symbols of the Kremlin's desperation.

Try as it might, the Kremlin cannot hide the fact that its invasion is already failing. The Russians can only occupy the rubble left by their destruction. All this week's Victory Day parade did was showcase that historic failure. It demonstrated Putin's efforts to twist the Soviet Union's sacrifice against the Nazis, and was an insult to the Russians' own immortal regiment. It was the façade of power, a distraction from the faltering invasion, an appeal to unity while even Russia's own leadership loses confidence—the hypocrisy of claiming victimhood while waging a war of its own choosing.

The reality is that this is a war of President Putin's own choosing at the expense of Ukraine's sovereignty and civilian lives. The UK stands for the values of freedom, the rule of law, human rights and the protection of civilians. We will stand side by side with the Ukrainians. We will continue to support them in defence of their sovereign country. I commend this Statement to the House".

7.36 pm

Lord Coaker (Lab): My Lords, I thank the Government for their Statement last week in the other place and for the opportunity to take it here today. As the House knows, His Majesty's Official Opposition fully support the Government in the action they are taking to support Ukraine in its fight with Russia. We fully recognise that this is all our battle, a battle to maintain the international rules-based order, and that such aggression cannot and will not be tolerated.

Is not one of the greatest misjudgments that Putin made that Europe would not stand shoulder to shoulder with Ukraine, would not support Ukraine against this illegal Russian attack and, even if we did, that support would only be limited and for the short term? So, it was good to see the solidarity that President Zelensky has had, particularly this weekend in Italy and from France. But does the Minister agree that it was particularly good to see Germany promising an additional €2.7 million in military aid, and the German Defence Minister saying that it would provide help for

"as long as it takes"?

On collaboration, will the Minister update us on any recent discussions there have been with the United States and on its view of where we are at the present time?

On last week's announcement, we support the announcement of the new military equipment, such as Storm Shadow. On Storm Shadow, can the Minister confirm that Ukraine has all the necessary planes to launch these weapons, given that, as we all know, they are air launched? Last week, President Zelensky said:

"Not everything has arrived yet … We are expecting armoured vehicles".

Can the Minister update the Chamber as to whether all the promised equipment, including armoured vehicles, has now been delivered? I understand the Defence Minister said he was going to write to the shadow Defence Minister: is there any update on that?

We read in the media today that further weapons have been promised as a result of the welcome meeting today between the Prime Minister and President Zelensky at Chequers. Can the Minister confirm what these new promised weapons are, and what other agreements were discussed and made at Chequers today? How many long-range attack drones, for example, are to be sent, and are there air defence missiles in sufficient numbers to defend against Russia's unrelenting and indiscriminate attacks?

Is it not important for us all to emphasise that these are defensive weapons, weapons developed to help Ukraine recover lost sovereign territory, not an attack on Russia itself? Of course, we support the announcements I just mentioned on drones and air defence weapons made today by the Prime Minister, but I just seek further clarity from the Minister this evening.

On fighter jets, can the Minister tell us when the announced training of Ukrainian pilots on western fighter jets will commence, and how many pilots we expect to train? We read today in the media, and indeed from the various press releases from No. 10, that the Prime Minister

"has promised to spearhead an international effort to secure fighter jets for Ukraine".

Can the Minister explain which countries this means, and how he intends to do this? In other words, the Prime Minister has announced a so-called "jets coalition". Can the Minister give us some more detail, particularly on any timescale and the types of jets we are talking about?

The Minister will also know of the role that the Wagner Group is playing in the war in Ukraine. What plans do the Government have to proscribe it, particularly as the Defence Secretary said that the Wagner Group

"does pose a threat to the United Kingdom and her allies, either directly or indirectly"?—[*Official Report,* Commons, 11/5/23; col. 478]

Finally, the will of the Ukrainian people has been immense and, frankly, inspirational. The Defence Secretary reminded us that it is day 442 of the conflict, with almost 8 million refugees and 6 million people internally forced from their homes. Some 23,000 Ukrainian civilians have been killed or wounded, with 6,000 children appallingly sent to so-called re-education camps. We need of course to provide the military aid that is needed and to do so, as we are doing, proportionately and sensibly, but, alongside that, does the Minister agree that we must continue to support the Ukrainian men, women and children who are also on the front line with all the help that they need?

President Putin chose to invade Ukraine and its sovereign territory. He must continue to know that we in the West, with the UK at the forefront, will continue to stand for freedom, democracy, human rights and the rule of law. We should stand by the people of Ukraine and continue to support them as they defend their country. As I say, their fight is our fight.

Baroness Smith of Newnham (LD): My Lords, from these Benches, as so often when we discuss Ukraine or other defence matters, I endorse wholeheartedly everything that has been said by the noble Lord, Lord Coaker. Therefore, rather than re-iterating the questions he has raised, I will ask a few more about what is going on on the ground in Ukraine.

Like the noble Lord, I obviously welcome this Statement, and we endorse what His Majesty's Government have been doing in terms of support for Ukraine. It was very clear when Boris Johnson was Prime Minister how far the United Kingdom supported Ukraine and stood shoulder to shoulder. It was not immediately clear that that was followed through, and I think that today it has become very clear that Rishi Sunak as Prime Minister really does understand the importance of supporting Ukraine to the largest extent possible.

The Secretary of State for Defence has said on numerous occasions that the Statements he makes are deemed to be "proportionate". I would be grateful if the Minister could explain to the House, as the noble Lord, Lord Coaker, has asked, what precisely is being offered today and what more His Majesty's Government expect to do. I initially had this Statement as a "check against delivery" document which had a nice little bit in red which said, in square brackets, "blank for announcement". The announcement is covered in *Hansard*, but even *Hansard* from last Thursday has been overtaken by the discussions today, so I think the House would welcome an understanding of what is happening in terms of drones and long-range missiles.

I particularly wanted to ask what discussions His Majesty's Government may be having, not just with NATO partners but within the UN, about some of the war crimes being perpetrated. The Secretary of State's Statement talked about the casualties, but also various war crimes. In particular, one of the issues that we have seen in Syria, and which we are seeing again now in Ukraine, is the bombardment of healthcare facilities. What assessment have His Majesty's Government made of the actions of Russia in this regard, and to what extent is it possible to already begin to make a case? Those victims—innocent children and others who are in hospital facilities—really need to be looked at as a matter of urgency. Clearly, as the noble Lord, Lord Coaker said, we also support the men on the front line and the women and children who may be at home, but that wanton attack on healthcare facilities is unspeakable. Equally, there have been attacks on energy facilities and nuclear power facilities, and I wonder what activity His Majesty's Government are undertaking to support Ukraine in making sure its infrastructure is secure. Beyond the military hardware and the training, are His Majesty's Government are able to provide additional support on the ground in that regard—we obviously know about the humanitarian aid.

Like the noble Lord, Lord Coaker, I conclude by supporting the work that has been done by His Majesty's Government and our service personnel in helping train the Ukrainians.

The Minister of State, Ministry of Defence (Baroness Goldie) (Con): My Lords, I thank the noble Lord, Lord Coaker, and the noble Baroness, Lady Smith, for the tenor of their remarks. I welcome their support. I think one of the most important demonstrations of this political unanimity is evidenced by the response of the noble Baroness, the noble Lord and their counterparts in the other place. I think that sends a powerful message from the UK that Putin has to understand—the noble Lord, Lord Coaker, made the point—that we

[Baroness Goldie]
are not just absolutely joined together in the UK but are playing our role with our allies and partners; it is that aggregate effect which is having such a detrimental impact on Putin's illegal war.

The noble Lord, Lord Coaker, praised Germany. I absolutely agree with that; it is a very welcome augmentation of all the help that has been given. I think the noble Lord asked me specifically about recent discussions between the UK and the United States. I cannot comment on specific detail, but I can say that we are regularly in communication and, of course, at the various international fora because we have the G7 imminently approaching. Of course, there will be further discussions with the US there.

The noble Lord, Lord Coaker, asked about Storm Shadow, which is an air launch capability, and whether Ukraine has sufficient planes to mount that. My understanding is that it has. I cannot comment specifically on operational activity, but I would seek to reassure the Chamber that that capability is up, ready and capable of action with immediate effect.

The noble Lord asked a specific question which I think his colleague in the other place, the right honourable John Healey, asked, about whether all armoured vehicles have been delivered. I know that a lot of them have been delivered, but I do not have the precise details, so I will undertake to write to noble Lords once I am aware of the content of the response being delivered by my right honourable friend the Secretary of State.

There were some specific questions about the nature of what was announced today. Today was indeed a very exciting day for the United Kingdom and, I hope, for President Zelensky. Once again, we commend President Zelensky for his unflagging dedication to his country and his unflagging energy and tireless efforts to continue to beat the drum, to go around potential donors and try to make them aware, as acutely as he can, of what the need is and how immediately that has to be responded to. I think today was a case in point.

Of the further provisions that were announced today, these are air defence missiles and unmanned aerial systems; that includes hundreds of new long-range attack drones. I have a little more specific information about that. The unmanned aerial systems will improve the Armed Forces of Ukraine's ability to find targets, to improve accuracy of artillery fire, to resupply AFU personnel operating across the front lines and to disrupt Russian logistics and command nodes.

I understand that the longer-range attack drones will deliver a kinetic effect comparable to an artillery shell, but they will extend the range at which Ukraine can target and disrupt Russian activity. In a sense, that complements what is a pretty mighty weapon in the form of Storm Shadow. Your Lordships will be aware that that has a very pronounced lethality effect. That is precisely why we think that is what Ukraine needs now to deal with this relentless onslaught by the Russian forces as they seek to prosecute their illegal occupation.

The noble Lord, Lord Coaker, sought clarification that all of these armaments and different types of weaponry being made available by the United Kingdom to Ukraine are clearly donated for defensive purposes. They are. Indeed, there is nothing provocative about this. The United Kingdom is absolutely clear: our responsibility is to help Ukraine to defend itself. That has been our consistent approach to all this. Of course, this illegal war could end tomorrow if Russia agreed to stop it and to withdraw from its illegal occupation.

The noble Lord had a question about the training on the fighter jets. I have some information on that. I am given to understand that, this summer, we will commence an elementary flying phase for cohorts of Ukrainian pilots to learn basic training. As your Lordships will understand, the plane we are now talking about is the F16. That is not part of the UK's capability, but apparently we are able to adapt the programme used by UK pilots to provide Ukrainians with piloting skills that they can apply to a different kind of aircraft. That training goes hand in hand with UK efforts, which are continuing, to work with other countries on providing F16 jets, which are now declared to be Ukraine's fighter jet of choice. As to more specific information about the training programme, I can only undertake to investigate further; if I learn more I will undertake to inform your Lordships.

The noble Lord specifically raised the Wagner Group, which we all agree is a brutal and repugnant organisation. If the Government are considering proscribing any organisation, they do not comment on whether that is under consideration. However, I can say to your Lordships that significant measures have already been taken against the Wagner Group; that includes sanctioning Yevgeny Prigozhin and his family, and Dmitry Utkin, who are leading personnel within the Wagner Group. We are very clear about our desire to do everything we can to disable the Wagner Group. As I said, it is an entirely repugnant organisation, and your Lordships will be aware of the at times appalling conduct in which it has engaged.

The noble Lord asked specifically about the help we have been able to give on the humanitarian front, and specifically about how we are helping Ukraine to look to the future. It is very important, and signifies a note of optimism, that people are thinking about the future. The UK has been a leading bilateral humanitarian donor, with a £220 million package of humanitarian aid. We have also given a significant amount—about £75 million—of fiscal support grant and a £100 million grant to support Ukraine's energy security reforms. Importantly, with our Ukrainian friends we will co-host the 2023 Ukraine recovery conference in June. We plan to mobilise public and private finance to ensure that Ukraine gets the vital reconstruction investment that it needs.

I might just mention that current UK recovery activity is focused on immediate needs, such as demining and the restoration of essential infrastructure and services. That includes support for the Halo Trust, which has demined more than 55,000 square metres of land, and a £10 million aid package to help Ukrainian Railways to repair damaged rail infrastructure.

The noble Baroness, Lady Smith, asked about war crimes and quite rightly raised the absolutely disgraceful and atrocious bombardment by Russian forces of innocent civilian facilities, whether that is dwelling houses of

individuals or healthcare facilities, all of which is appalling and completely unacceptable. As she will be aware, we have been doing everything we can to support the International Criminal Court in the pursuit of its important work. I think we are all very clear that war crimes have been committed. The International Criminal Court has issued a warrant for arrest and we are supporting it. Interestingly, alongside the United States and the European Union, we have established the Atrocity Crimes Advisory Group in support of Ukraine's domestic war crimes prosecutions.

The final point that was raised related to an important observation by the noble Baroness about the Secretary of State, my right honourable friend Ben Wallace, making proportionate Statements. I am absolutely clear and he has been at pains to articulate, as he did when he was dealing with the Statement in the other place, that all of this is about giving a proportionate response to enable Ukraine to defend itself in answer to brutal, absolutely objectionable and appalling behaviour by the illegal invading Russian forces.

I hope I have managed to deal with the principal points raised, but if there is anything I have omitted I shall undertake to write.

7.56 pm

Viscount Stansgate (Lab): My Lords, the Minister is correct to say that today is an important day. The whole House supports President Zelensky in his trip around some of the key European partners over the last few days. I myself saw for the first time ever helicopters landing live on the lawn at Chequers. I do not know whether other Members noticed it; I do not think I have ever seen that before. However, I want to ask just one question about Storm Shadow, to which the Minister referred. As I understand it, this missile has a longer range than others previously provided by us to Ukraine. Without getting into operational matters, I want the Minister to reassure the House that some understanding or arrangement has been made with Ukraine that absolutely minimises any risk that one of these missiles supplied by us should land on sovereign Russian territory.

Baroness Goldie (Con): I assure the noble Viscount that we have agreed mechanisms in place to ensure that these weapons will be used within Ukrainian territory to disrupt Russia's ability to strike Ukrainian civilians and critical national infrastructure, and to relieve pressure on Ukraine's front lines. It might be helpful for him to know that this capability is subject to the missile technology control regime. On that basis, we have in place a Government-to-Government assurance with Ukraine to facilitate the transfer.

Lord Harris of Haringey (Lab): My Lords, clearly, the whole House is behind the support that the Government are showing for the Government of Ukraine against the illegal attack from Russia. But clearly, the more that we are at the forefront of that, the more likely it is that we may be subject to some form of retaliation, whether explicitly or by grey zone means, to which it would be difficult to attribute the reasons concerned. For example, as we know from the past year or so, there has been interest from Russian submarines in the undersea cables that come into this country, and there have been issues around the pipelines. All of these things go on all of the time. Could the Minister give us some reassurance, without going into too much detail, as to the measures we are taking to deal with possible activities, potentially on a deniable basis, against us as a result of the support we are showing for Ukraine?

Baroness Goldie (Con): The noble Lord poses an important question. Regarding recent activity, he is correct that Russian ships were operating in the North Sea. The Ministry of Defence constantly monitors activity within UK waters and the economic exclusion zone to counter and deter detected threats, and British warships frequently patrol and shadow foreign vessels throughout the UK marine area. Royal Navy vessels are routed through the North Sea where possible on increased surveillance of offshore oil and gas installations. In addition to our effective armed surface fleet, we also have multirole ocean surveillance vessels. HMS "Scott" is currently in service and operating, and very recently we made an off-the-shelf purchase to acquire at speed a new multirole ocean surveillance vessel, recently named RFA "Proteus". It is currently being readied for operational activity, so I hope I can reassure your Lordships that we are vigilant about that threat.

Baroness Hodgson of Abinger (Con): Like others, I congratulate the Government on all the support they are giving to Ukraine. My noble friend touched on war crimes. There has been much sexual violence perpetrated by Russian troops. The UK has been at the forefront of the preventing sexual violence in conflict initiative. Are we helping Ukraine with documenting war crimes so that eventually, people can be held to account for them? Also, we are not hearing much from the women of Ukraine at the moment. Like many wars, this war is looking solely masculine, but we all know that women and children are disproportionately affected. Will we be helping to ensure that women participate in any peace talks that take place and that they are included in any plans for reconstructing and rebuilding Ukraine, which I imagine will be discussed at the upcoming Ukraine recovery conference here in London next month?

Baroness Goldie (Con): The UK is very conscious of the atrocities which have been perpetrated by Russian forces in Ukraine. We respond to that as best we can with a mixture of humanitarian aid, some of which I have already described. For example, we have given very significant donations of medical support to Ukraine. My noble friend makes an important point about the role of women in Ukraine. Ms Zelenska has been an admirable advocate for the position of women in Ukraine. I do not think any of us will forget her eloquent address to parliamentarians when she came to visit us, and I think we were all moved by what she had to say. She described graphically the situation to which my noble friend refers. Undoubtedly, as we try to construct a programme of recovery activity, women in Ukraine will have an extremely important role to play, and I hope that many of them will feel they can be involved and included. Perhaps what my noble friend perceives as a low profile by Ukrainian women

[Baroness Goldie]
is simply attributable to their fundamental desire to keep themselves and their children safe, to keep as far as possible out of danger and to ensure that they simply can survive from one day to the next. Our sympathy goes out to all the women in that plight, who are, against all odds, showing such courageous and stoic leadership in looking after their families.

Lord Hussain (LD): I agree with everything that has been said. Many countries are supporting the Russian economy even through this war, and that includes purchasing Russian oil. Some of those countries we know very well. They are good friends of Britain as well, including India. What are His Majesty's Government doing to persuade India not to purchase Russian oil while the war in Ukraine is going on?

Baroness Goldie (Con): The United Kingdom was instrumental in getting an oil price cap placed on Russian oil, so oil prices have fallen significantly for Russia, apparently lowering its energy revenues by more than 25%. We as a country always advocate that people should not be supporting the illegal invasion of Ukraine and that they should be looking at every activity in which they engage to work out whether it supports Russia or not. We are aware that the effect of sanctions on Russia and the Russian economy has been significant, such that Russia is in recession. Russia's GDP declined by 2% to 3% in 2022, and forecasts suggest that it will fall a further 1.5% in 2023, which is apparently the longest recession for more than 25 years. There is evidence that Russia is being starved of the key western goods and technology it requires, and we are seeing that in its inability to produce modern equipment and up-to-date technology. It seems that its larder is bare in that respect.

Baroness Bennett of Manor Castle (GP): My Lords, I can help the Minister regarding her response to the noble Baroness, Lady Hodgson. During my visit to Kyiv last November, I heard some interesting reports from the EU mission that female police officers were stepping into those roles when male police officers had gone off to fight. The EU had been supplying them with appropriately fitted bullet-proof vests and other safety materials. Does the Minister know whether we have been giving any support along those lines? I entirely understand if she would like to write to me on that. That could be an obvious and positive way of encouraging the use of female police officers and female involvement in the justice system as a way forward.

I am pleased to see that the Statement contains a paragraph on the important and pressing issue of the safety of the Zaporizhzhia nuclear power plant. Reuters reported a couple of days ago that the IAEA chief was planning to take to the UN Security Council a proposed deal which it was hoped both Ukraine and Russia would sign, in an attempt to keep the largest nuclear power plant in Europe safe. Can the Minister tell me anything about that? Are the Government prepared to provide any support that might be useful, because the obvious problem will be how to monitor the situation and see what is happening on the ground? The Ukrainian atomic energy agency has expressed concern about the loss of staff. Are the Government prepared to offer any help they can in that area?

Baroness Goldie (Con): I thank the noble Baroness for her interesting observation following her visit to Ukraine. She illustrates a poignant example of the importance of Ukrainian women's contribution to the resistance to what is happening in their country. I was not aware of the situation she described. I will investigate whether any of the humanitarian aid we are providing can specifically assist women who are taking up these roles because their male counterparts are at the front fighting the Russian invasion.

On the Zaporizhzhia nuclear power plant, the situation is concerning. We have made it clear that Russia should withdraw its forces and return full control of the plant to Ukraine, so we support all efforts to reduce the risks to the plant and we commend the IAEA's work to ensure security there. If any progress can be made within the United Nations forum to achieve a safer environment for the power plant, that is certainly to be encouraged and commended.

Lord Brownlow of Shurlock Row (Con): My Lords, despite the subject, it is a rare pleasure to see such unity across your Lordships' House and in the other place on a goal. I thank the Minister for her ongoing transparency, to the best of her abilities, and for answering the questions from all sides of the House on this initiative. I urge the Government to do as much as they can to maintain information and transparency to the media and the public, in order to ensure that the public remain on side at this important time, after 16 months.

Baroness Goldie (Con): I thank my noble friend. There are probably two prisms through which to look at this. One is that, just as the MoD, for example, has been fastidious but helpful in disclosing intelligence—which has certainly countered a lot of Russian misinformation and propaganda—the evidence we are getting is that the conduit of social media that we use is now reaching a pretty large audience. I very much hope that this has altered the dynamic. There was a very unequal balance in which disinformation and misinformation were predominant. I hope that we are neutralising that now and that a much more honest impression is being gleaned, particularly by people in Russia, about what their Government are doing.

The mirror effect is that people in this country understand what is happening and that it is wrong. Consider the millions who watched the Eurovision Song Contest and then learned that, during the Ukrainian contribution, the hometown of the two Ukrainian singers was being bombarded by Russian onslaught. People will have found that absolutely nauseating. It is, frankly, indicative of the bullying brutalism of Putin's attack in Ukraine.

There is a clear understanding in the United Kingdom that something bad and wrong has happened, and we are doing everything we can with friends and allies to resist that and help Ukraine to defend itself. With a very popular medium such as the Eurovision Song Contest, members of the United Kingdom public will have got the message clearly: while two creative artists were doing what they do—singing and entertaining—Putin was arranging to bomb their hometown. They will be appalled by that and will say, "Anything you can do to counter and address that evil, do it".

8.12 pm

Sitting suspended.

Retained EU Law (Revocation and Reform) Bill

Report (1st Day) (Continued)

8.15 pm

Clause 16: Powers to revoke or replace

Amendment 40

Moved by ***Lord Hope of Craighead***

40: Clause 16, page 19, line 19, at end insert—

"(3A) The power of a relevant national authority to make regulations under subsections (1), (2) and (3) is subject to the provisions of Part 3 of Schedule 4."

Member's explanatory statement

The purpose of this amendment is to enable Parliament and the devolved legislatures to overrule the Executive and express their own view as to the contents of regulations that are to be made under this section.

Lord Hope of Craighead (CB): My Lords, this quite short group of amendments is concerned with Clause 16. It is a very worrying clause, for various reasons. My amendment seeks to tie the power of the relevant national authority to exercise the regulation-making power under this clause to the provisions of Part 3 of Schedule 4.

My Amendment 76, which we have already discussed, relates to Part 3 of Schedule 4. The point is to make sure that the regulation-making power is subject to parliamentary scrutiny. That is true not only of the UK Parliament; it applies also to the Senedd in Wales and the Northern Ireland Assembly. The Scottish decision has been that the power should remain with Ministers, and that is a matter that can be left to them.

The really important point is to make sure that the regulation power is subject to Amendment 76, which I am seeking to make on Wednesday. I do not think I need to say any more about this because the more important amendment is Clause 16 stand part. I am sure that the noble Baroness, Lady Chapman, will make clear the position regarding the defects in the clause that gave rise to her amendment. She will do that far better than me so I shall simply leave it at that. I beg to move.

Lord Lucas (Con): My Lords, I have Amendment 41A in this group. We discussed this issue in Committee. I said, "If the Government want to go down the route of keeping in Clause 16(5), why don't they promise the same about the environment?" After all, the Government made the same set of promises regarding environmental legislation—that they would not do anything to damage the protection that the current regulations offered—while here in Clause 16(5) they are saying they will not do anything to increase the regulatory burden.

The Government wisely said they did not want to put in the Bill the promise that they would not damage environmental regulation. I had rather hoped that meant they would take out Clause 16(5), because to my mind that subsection offers nothing but uncertainty. How is it to be interpreted by the courts if the Government propose to use the clause and someone challenges its use in the courts, saying, "This subsection says 'in relation to a particular subject area'. Has that been reasonably chosen and correctly defined? What is the overall effect of the changes?"? They will have to look at every piece of legislation that has passed in relation to that particular subject area. How are they to be weighed up? There is no mechanism here providing for them to be weighed.

The courts are going to be asked how one bit of legislation should be weighed against another with regard to the changes that it makes and the regulatory burden. How do you weigh one bit of regulatory burden against another if one bit of regulation imposes something on one group and the next regulation imposes something on another? How do you weigh those two things together? It seems to be asking the absolute impossible. It means that any bit of legislation passed under Clause 16 will be open to all sorts of challenges in the courts, and there will be no way of knowing what the outcome will be, because nothing in this subsection, or elsewhere in the clause, tells you how to parse it. So I hope the Government will see the good sense they had when they chose not to adopt my suggestion of doing this for environmental legislation and take Clause 16(5) and (6) out of the Bill.

Baroness Bennett of Manor Castle (GP): My Lords, I agree with the entirety of Amendment 41A from the noble Lord, Lord Lucas, while agreeing with only half his reasoning. I entirely agree that, as we discussed at length in Committee, this is essentially impossible to calculate and creates a great deal of legal uncertainty. Where I disagree with him is that I would very much like to have seen non-regression clauses for the environment, public health, workers' rights and a whole range of other things in the Bill.

Practically, what we are doing with the clause at the moment, if it is implemented, is creating a guaranteed regression of workers' rights, food standards and environmental standards. If we do not have regulation of business, we will certainly see at least some cowboy businesses taking advantage of a reduction in regulation. That of course will not be in the interests of businesses that want to do the right thing on the environment, public health or workers' rights.

I spent a great deal of time during the passage of the Environment Act and the Agriculture Act arguing for non-regression clauses. What the Government are currently giving us is a guaranteed regression clause, and that really should not be acceptable.

Lord Fox (LD): My Lords, as the proposer of Amendment 45, which is also in the names of the noble Baroness, Lady Chapman, and the noble Lord, Lord Hacking, I feel a terrible weight resting on my shoulders as a result of the preface from the noble and learned Lord, Lord Hope, because this is the amendment that seeks to remove Clause 16 and I fear that I am not going to reach the billing that he gave us.

[Lord Fox]

Over the course of this session, we have heard numerous arguments about the way in which the Bill more and more removes Parliament from the process of revocation and reform. I am not going to rehearse all those arguments again, because your Lordships have heard them both on Report and in Committee. Clause 16 is one of the key parts of the machinery in the Bill to govern how retained EU law can be reformed. There is an argument for removing the clause altogether, but I have bowed to the spirit of scrutiny rather than total oblivion and, as such, I do not intend to move the amendment.

As we have already heard in advance from the noble Lord, Lord Lucas, the provision that causes most concern is Clause 16(5), which mandates the nature of any reform of REUL to be deregulation—and deregulation only. The point the noble Lord made is about how we measure the sum of regulation. There was all sorts of debate in Committee. Is it the total of the changes across a group of amendments or a section of amendments? Is it each amendment by itself? These questions were never satisfactorily answered in Committee, so perhaps during Report the Minister can tell us how the amount of regulation will be measured. In other words, can one increase in regulation be balanced by two decreases in regulation through adjacent provisions, for example? We have not had answers to that.

Essentially, the spirit of the Bill is that there can be no increase in the "burden"—according to the Bill—caused by this reformed retained EU law. Clause 16(10) defines burden, with its paragraph (b) including "administrative inconvenience", but one person's administrative inconvenience is another's life-saving safety measure. It depends on which direction you look at it. Clause 16(10)(d) includes

"an obstacle to efficiency, productivity or profitability"

as a burden. Again, what may seem an obstacle to one group may be existentially important to another.

As I said, I am not aiming to push this amendment to a vote. We are seeing amendments that are putting some safeguards in place. The noble Lord mentioned Amendment 76, which we anticipate. I am anticipating Amendment 48 in the name of the noble Lord, Lord Krebs, where we will talk about non-regression, and Amendment 50, which will come up shortly. These are other important pieces to put in place to try to draw the majority of the sting from Clause 16.

Lord Hacking (Lab): Clause 16 has always been the most offensive clause in the Bill because it was giving excessive power to the Executive and no power to Parliament. But on the horse, if I may put it that way, of the amendments of the noble and learned Lord, Lord Hope, who really has provided enormous assistance to us during the passage of the Bill, and knowing therefore that the assimilated law to which we are now directed will also be subject to the provisions to which he has already succeeded—twice over now—in getting the acceptance of the House, we are protected. Because of our protection under the noble and learned Lord's amendments, I am happy with this amendment not being moved. I joined the noble Lord, Lord Fox, and my noble friend Lady Chapman of Darlington in signing it but, on the basis only of the work that the noble and learned Lord, Lord Hope, has provided, I am prepared to join the noble Lord, Lord Fox, in not moving this amendment.

The Minister of State, Cabinet Office (Baroness Neville-Rolfe) (Con): My Lords, I am grateful for the comments that have been made. It might make sense if I start with Amendment 45, tabled by the noble Lord, Lord Fox, which would remove this clause from the Bill altogether. I am very glad that he will not move it; I think that is the right approach.

The powers to revoke or replace are needed to enable the Government to overhaul EU laws in secondary legislation across different sectors of the economy. We know that some of them are outdated or unduly burdensome. Better and simpler regulation, perhaps with less complex bureaucracy, can increase productivity growth, which has been slow and a huge problem for our economy. It can also help enterprise and assist SMEs, which suffer more than anyone else from red tape.

We worked together in this House on the Procurement Bill, which was an important step in getting rid of retained EU law and helping small business. We can do so much more without losing necessary protections. I speak as someone who has worked in business; businesses are always being blamed for liking regulation, but there are changes that we can make.

The REUL dashboard has identified over 4,800 pieces of retained EU law across 16 departments. Some will be repealed by the revocation schedule, as we have heard today; others reflect—I think this is important—international obligations, which will remain in place. There are many areas where reform can be beneficial and bring about the post-Brexit boost that we have promised. However, the Government's retained EU law substance review in 2021 highlighted a distinct lack of subordinate legislation-making powers to remove retained EU law from the UK statute book, because in the past we have relied on Brussels for regulatory powers to drive change. It is now vital that we have a power capable of acting on wide-ranging retained EU law across different policy areas.

8.30 pm

Had the UK never been a member of the EU, many areas that the substance review identified would already have had similar powers, comparable to those that exist in non-EU policy areas. The lack of powers is an oddity resulting from our former EU membership, and it is essential that we take a power which plugs the gap. Without the necessary powers for retained EU law reform, this legislation risks becoming an immutable category of law on our statute book, adversely affecting the UK's economy and competitiveness. Removing Clause 16 from the Bill would be irresponsible. It would significantly damage the UK's legislative dynamism and potentially hinder the UK's ability to regulate adequately.

I move on to Amendment 40, tabled by the noble and learned Lord, Lord Hope of Craighead, who has, to add to comments made earlier, done so much to contribute to the debate on this Bill. This amendment would insert a new subsection into Clause 16, which, when read with the noble and learned Lord's other amendments, would require Clause 16(1), (2) and (3)

to be subject to novel scrutiny provisions under Part 3 of Schedule 4. These take the form, as we know, of an enhanced sifting procedure. That is not dissimilar to the super-affirmative procedure. We have already debated some of these issues in the first and third groups of amendments, but perhaps I could make a couple of brief points.

The sifting procedure has been drafted as a safeguarding measure for these powers. It allows for additional scrutiny of the exercise of the powers within Clause 16 while retaining the flexibility of using the negative procedure where there are good reasons for doing so. There are a lot of SIs that can be negative. To confirm, the sifting procedure will apply to instruments that Ministers propose to make under the negative procedure and the draft affirmative procedure where regulations confer a power to make subordinate legislation or create a criminal offence—for example, under Clause 16(2) —or where alternate provision is being made under Clause 16(3).

The sifting procedure, I would say from recent experience, is a tried and tested method of parliamentary scrutiny which delivers good results for everyone and draws on the expertise of our parliamentary committees. The procedure will correspond with the sifting procedure under the EU withdrawal Act and the European Union (Future Relationship) Act 2020. Requiring that all such legislation be subject to novel and onerous scrutiny would not be a good use of parliamentary time and would result in delaying departments delivering their REUL reform plans. My noble friend Lady Noakes made a good point when she said that, whatever we do, we need to be careful about embarking on novel procedures, bearing in mind the position of the two Houses of Parliament.

Amendment 41 in the name of my noble friend Lord Lucas seeks to remove subsections (5) and (6) from Clause 16 altogether. We have sought to ensure that the powers to revoke or replace are appropriately limited and cannot be used to add to the overall regulatory burden for that particular area. I was asked by the noble Lord, Lord Fox, how we define "regulatory burden", and we had a discussion about this in Committee. In practice, this means that the replacement legislation cannot add additional regulation over and above that which is already imposed by legislation in that particular subject area.

The Bill contains a non-exhaustive list of what a regulatory burden is, and therefore the factors the Minister should consider, or have regard to, in judging whether regulations add to the overall regulatory burden. They include financial costs and administrative inconveniences. It will be for the relevant Minister or devolved Government to decide whether they are satisfied that the use of the power does not increase the overall burden. It may therefore be possible for additional regulation and higher standards to be introduced through the powers to revoke or replace, as long as the package of reforms does not increase the overall regulatory burden—remember what I said at the beginning about the benefits of better, simpler regulation. I think that this is also easier to enforce; I say that as someone who has worked in a number of sectors where that is very important.

Although removing the regulations that are deemed unnecessary or unsuitable, or consolidating multiple regulations into one, will make life simpler for those affected, it will also be possible, as I said, to add new regulations which are more appropriate to the circumstances of the current time.

My noble friend Lord Lucas said that regulations made under Clause 16(5) and 16(6), which his amendment questions, could be challenged by the courts. That is of course correct, and, like any delegated legislation, I think that it is an entirely appropriate check. We recognise that it will not always be a scientific test to establish precisely what the value of regulatory burdens is or to balance one burden against another. That is why we sought to ensure an appropriate level of discretion for Ministers in the interpretation of Clause 16(5) and 16(6). When doing so, the Minister is required to act reasonably and to take into account relevant factors. That strikes the right balance between limiting the scope of the powers and providing Ministers with a pragmatic degree of discretion in deciding whether the regulatory burden test has been met.

As has been set out in Clause 16(6), the creation of a voluntary scheme, which my noble friend's amendment also queries, is not regarded as increasing the regulatory burden. The truth is that the restrictions to the powers to revoke or replace in subsections (5) and (6) will help the UK to establish a more nimble, innovative and UK-specific regulatory approach to get on and seize the opportunities of Brexit. Those of us, right across the House, who worked in Brussels were often frustrated; now is the time for us to look in a considered way at our legislative almanac, to make sure that we are moving forward sensibly. To get rid of those subsections would be to open us up to complex and burdensome changes, which might hamper growth and competitiveness and go against other comments that noble Lords have been making on Report. The whole debate has been good, but, for all those reasons, I ask that the amendments are not pressed.

Lord Hope of Craighead (CB): My Lords, I am grateful to the Minister, as I am sure are others who have spoken in this debate, for her careful reply to the points that have been made. There is no doubt that the wording of Clause 16 gives rise to concern, particularly the width of subsections (2) and (3), and, according to the points made by the noble Lord, Lord Lucas, subsection (5). One cannot rule out the possibility of judicial challenge because, while primary legislation is not justiciable, delegated legislation is. I find it difficult to predict what a court would make of subsection (5) for the reasons that the noble Lord, Lord Lucas, has given.

As for subsections (2) and (3), my Amendment 76 would remove much of the concerns. What I was offering was a package. In a way, Amendment 76 remains: it will still be there whatever happens to Amendment 40; the protection we are seeking to provide will be available there. Without taking up more of your Lordships' time, I thank the Minister for her reply and seek leave to withdraw Amendment 40.

Amendment 40 withdrawn.

Amendments 41 to 45 not moved.

Clause 17: Power to update

Amendment 46 not moved.

Amendment 47

Moved by ***The Earl of Caithness***

47: Clause 17, page 20, line 34, at end insert—

"(3) In subsection (1)(b), developments in scientific understanding must be identified based upon regular reviews of the scientific evidence.

(4) When undertaking a review of scientific evidence referred to in subsection (3), the relevant national authority must consider the methodological quality of the evidence, in terms of the extent to which all aspects of a study's design, data collection protocols and statistical analysis can be shown to protect against systematic bias, non-systematic bias, and inferential error.

(5) Where regulations under subsection (1) constitute environmental law, the review of scientific evidence must also consider whether the evidence takes a sufficiently wide view of the ecological impacts."

Member's explanatory statement

This amendment is to ensure that future regulations will be based on a proper assessment of the best science available.

The Earl of Caithness (Con): My Lords, we move from powers to revoke or replace to powers to update. I am very grateful for the support that I have got from the noble Baronesses, Lady Willis of Summertown and Lady Bennett of Manor Castle, on this amendment. I express the apologies of the noble Baroness, Lady Willis, who was in your Lordships' House earlier this afternoon but has had to go back to Oxford. She did very well to come up here for the time that she did, given the timetabling of the debate today.

There has been increasing concern that aspects of environmental policy have been and are being formulated based on evidence that is questionable in its methodology and therefore reliability. Our amendment seeks to remedy that by ensuring that future regulations will be based on a proper assessment of the best scientific evidence—and not only that, but the evidence needs to be assessed using standardised approaches to ensure robust outcomes.

Our proposed new subsection (3) would require regular reviews of the scientific evidence. There has been a lot of specious talk about the Government resiling on European standards on environmental laws, as if they were an unimprovable factor as enacted. Much more worrying, surely, is the automatic adherence to what is law without question, setting more concrete rules that damage the environment.

Back in 2004, a Cabinet Office paper stated that

"policy-makers need to understand the value of evidence, become more informed as to what evidence is available … and critically be able to appraise it".

Indeed, the noble Lord, Lord Krebs, who I am delighted to see in his place, in one of our debates on the Genetic Technology (Precision Breeding) Bill, stated that

"scientists do not absolutely agree on everything".

He went on to say that

"when there is a centre of gravity of opinion, there are always outliers. Sometimes those outliers turn out to be right and there are transformations".—[*Official Report*, 25/1/23; cols. 221-23.]

A good example of a recent transformation are the outcomes of interim results from a 20-year study by York University into moorland management, which the Government must take note of and study carefully. Policy must reflect broader approaches to conservation and be a living entity that can change as our knowledge of both ecological processes and individual contexts changes.

There is another point to make, which is that research must be allowed to continue. Recently, I read an example where the precautionary principle was being used as a reason to block research. The Game & Wildlife Conservation Trust wished to undertake research to provide more evidence but was refused permission to burn very tiny experimental plots on EU-designated sites because Natural England could not give consent, as the current habitat directive gives no exemption for experimental work or any sort of de minimis rules. In my view, the argument is both circular and not proportionate. Does my noble friend the Minister—I am delighted to see my noble friend Lord Benyon answering this debate—believe that there should be a presumption that scientific research is permitted? If not, how do we reduce the scientific uncertainty about sites or issues in question, and how can the Government legislate properly?

Proposed new subsection (4) asks that the quality of the scientific evidence is considered and based on standard principles. Not all scientific evidence is the same in quality or validity, and therefore reliability, which is important if directly impacting on decision-making. A standardised protocol would give confidence to all stakeholders involved, including the authors, and prevent unreliable evidence being given due weight, resulting in unintended impacts and wasted effort. For example, Natural England guidance on how to systematically review evidence recommends categorising the different types of study from 1, the strongest scientific studies based on meta-analysis and randomised control trials, to 4—the weakest, as based on expert opinion. This and its evidence standard underpin its approach of putting the best available science at the core of its decision-making. Will that approach be followed throughout government?

8.45 pm

The third part of our amendment is proposed new subsection (5), which requires that the review of scientific evidence takes a sufficiently wide view of ecological impacts. This will be frustrating for many well-meaning NGOs focused on one particular interest or objective, whose rationale for their relentless pursuit of that occasionally emotional objective risks upsetting the delicate balance in nature, with unintended consequences.

Research outcomes are rarely black and white. The complexity surrounding evidence-based conservation is emphasised by the Conservation Evidence database website, which states:

"We do not make recommendations. This is because it is difficult to give evidence-based conservation advice that is appropriate for every context".

Consequently, policy that legislates for binary outcomes is likely to result in unintended consequences. This is particularly so for the environment, where underlying

conditions can change within a few metres, if not centimetres. I ask noble Lords to think of when they last walked on moorland, woodland or farmland.

Wrapped up in our amendment is the well-recognised problem of keeping policymakers and their advisers up to date. It would be useful to have a mechanism that opened the influencing to a broader spectrum of research bodies. Would my noble friend consider whether there could be a process for academics or research institutions to provide, for example, synthesised papers rather than primary research, using a standard template to inform government? I appreciate that there are scientific advisory committees and external policy advisers, but, if you ask the same people, you get the same answers. That is an easy trap into which the Government and their advisers often fall.

These are three simple subsections to be added, hopefully, to Clause 17. I hope my noble friend will give them favourable consideration, because it is very important that we get any laws relating to the environment as right as possible. I beg to move.

The Deputy Speaker (Baroness Finlay of Llandaff) (CB): My Lords, I must inform that House that, if Amendment 48 is agreed to, I will not be able to call Amendment 49 due to pre-emption.

Lord Krebs (CB): My Lords, I will speak to the cross-party Amendment 48 in my name and those of the noble Baronesses, Lady Parminter and Lady Hayman of Ullock, and the noble Lord, Lord Duncan of Springbank. As always, it is a great pleasure to follow the noble Earl, Lord Caithness; he gave me a namecheck in his speech which I hope to add to my CV, so that for my next job application I can say, "As quoted by the noble Earl, Lord Caithness".

I support in large part what he said about the importance of rigorous scientific evidence to underpin policy—he referred to the environment, but I would say more broadly. I will add a note of caution from my personal experience. As many noble Lords will know, I was responsible for instigating the randomised badger culling trials, the so-called "Krebs trials", which were meant definitively to determine whether killing badgers was a good way of controlling bovine tuberculosis. The trial was probably the largest ecological experiment ever done in this country; it did produce results, but it did not settle the arguments or the policy. So science has an important role to play, and I support the noble Earl's amendment, but we must recognise that political decisions come in as well.

I turn now to Amendment 48. I want to keep it brief so I will say what it is not and what it is. It is not an attempt to block any change. It is also not an alternative to the earlier proposals that came from my noble and learned friend Lord Hope of Craighead to involve Parliament in future decisions. It is not either of those. It supports the Government in their declared ambitions for the environment and for food. In doing so, it also ensures that the Government make good decisions rather than bad decisions. The amendment is about protecting the environment and consumer interests in relation to food.

These two areas—food and environment—are crucial to the REUL Bill, as between them they account for approximately half of the 4,900 regulations that come under REUL according to the current dashboard. At its board meeting in December 2022, the Food Standards Agency noted 800 items related to food and feed. The REUL dashboard reports about 1,700 items related to Defra, most of which concern environmental protection. These two areas are also crucial because of public concern. You have to think only of sewage in rivers, outbreaks of food-borne illness or GM foods to realise that these areas—environment and food—resonate with the public. These two areas also attracted a great deal of debate from your Lordships in Committee.

The amendment that I have proposed has three elements: first, non-regression—which we have already heard about from the noble Lord, Lord Lucas, and the noble Baroness, Lady Bennett of Manor Castle. Any future changes, according to Amendment 48, should not reduce or water down current levels of environmental protection or food safety standards. Nor should they contravene any international agreements to which the UK has committed.

My second point is expert input. This resonates with the amendment in the name of the noble Earl, Lord Caithness. Regulations should not be changed without consulting the relevant experts. These should include the Office for Environmental Protection, the Food Standards Agency and their cognate bodies in Scotland.

The third element is transparency. The amendment would require the Government to publish a report showing how any changes do not reduce environmental or food protections and what advice was received from the experts consulted. As a further transparency measure, the amendment also requires the Food Standards Agency, together with Food Standards Scotland, to report on the impact of any changes resulting from the implementation of this Bill on food safety and other consumer interests in relation to food.

The proposals in these three areas—non-regression, expert advice and transparency—are totally in line with the Government's own commitments. They have said over and over again that they do not want to weaken environmental protection or compromise food safety and standards. The noble Lord, Lord Benyon, who I am delighted to see is going to respond to this grouping, has himself said that on more than one occasion in your Lordships' House. This amendment simply formalises these commitments in the Bill. As we heard earlier, Clauses 13, 14, 16 and 17 leave Ministers a great deal of discretionary power. While, of course, we totally trust current Ministers to keep their word, who knows who will be in charge in future? This amendment will ensure that, in the future, Governments will build on the good work that has been done up to now and the promises that have been made.

Outside this House, who supports this amendment? Let me give noble Lords some examples. I asked the Food and Drink Federation whether it supported the food parts of this amendment. The FDF, with more than 1,000 members ranging from global brands to innovative start-ups, represents the UK's largest manufacturing sector. It says in writing that it is happy to be quoted as supporting this amendment. If the Government wish to be business friendly—and I have

[Lord Krebs]
heard that said—here is a good place to start: accept an amendment that has the weight of nearly half a million jobs behind it.

Equally, non-regression of environmental protections is supported by the Government's statutory advisers, the Office for Environmental Protection and the Climate Change Committee, which both said in recent written statements that it is important that the REUL Bill includes a non-regression clause.

The amendment applies to the whole of the UK, and in that context it is noteworthy that the Scottish Government have also written to express their support for Amendment 48.

I hope that in this brief introduction I have said enough to convince your Lordships that this amendment is sensible, proportionate and fully supportive of the Government's declared commitments on the environment and food. Indeed, I cannot see why on earth the Government would not accept it, and I very much look forward to the Minister agreeing with me. However, if that agreement is not forthcoming, and recognising from Committee that there was widespread support from across the House for the areas of environmental and food protections, I will wish to test the opinion of the House.

Lord Whitty (Lab): My Lords, I have the third amendment in this group, Amendment 49. Colleagues will have detected that there is a considerable overlap with the amendment in the name of the noble Lord, Lord Krebs, and I was proposing to withdraw my amendment formally in favour of his. He has moved that very ably, and therefore I need not repeat most of the arguments he made.

It is very important, now we have the Joint Committee procedure and all the other changes that the amendments in the name of the noble and learned Lord, Lord Hope, have built into the Bill, that we give some guidance as to how they are to proceed. In relation to issues of the environment and food, the amendment in the name of the noble Lord, Lord Krebs, would make it clear how in part they are to receive guidance on carrying out that function.

I will add just one point to the considerations your Lordships have already heard from the noble Lord, Lord Krebs. These areas are very important for our trade agreements. Environmental standards increasingly appear in our trade agreements, particularly with the EU but with other countries as well. Therefore, any regression of those standards needs to be clear not just from an environmental but from a trade point of view. It is absolutely clear that this must be the case for food. We have an important food manufacturing and agricultural industry, which needs to ensure that the standards to which it produces are the same as or equivalent to those of our trading partners. If that is not the case, some of our best trade agreements will be precarious. The references to international standards and international bodies of advice are very important for the proposed Joint Committee to follow. I therefore hope that those considerations can be taken into account by the House and that the Government will accept the amendment in the name of the noble Lord, Lord Krebs.

Lord Lucas (Con): My Lords, I am very uncertain how the wording of this amendment works. Is a regulation the whole package of regulations that is submitted to this House or each individual regulation? If a regulation makes changes so that an old provision is swept away and the new one replaces it, that sweeping away of an old provision is a diminution, but there does not appear to be a mechanism for balancing it with the better regulation that follows. If a regulation benefits one species but hurts another, how is that dealt with here? If we protect badgers more so that there are fewer hedgehogs, I do not see how the wording works. Most of all, it seems that if the Government want to keep Clause 16(5) they must want this too, so I shall support the noble Lord, Lord Krebs.

Baroness Parminter (LD): It is a great pleasure to follow the noble Lord, Lord Lucas, because that is exactly the point I was going to begin on. If you are to keep Clause 16(5), you absolutely need to have this. As my noble friend Lord Fox says, the importance of this amendment is that it takes the sting out of Clause 16. If we want to protect the environment for the future, and our food standards, as was so well articulated by the noble Lord, Lord Krebs, this amendment is absolutely fundamental.

I do not want to add much more to what the noble Lord said, because he introduced it so expertly, but we on these Benches would add one other reason why we support it. It is critical that the public have confidence in environmental legislation, particularly at a time like now. If they see the Government not prepared to sign up to a non-regression clause—which is, as has been said, what the Minister says they want—they will be left with questions. We need them to be reassured that our environment is in the best possible hands, and the only way the Government can prove that in the Bill is to allow this non-regression clause.

9 pm

The point about consumer confidence is vital, and it plays into the point mentioned in the amendment, which is that we need to maintain our international obligations, including the Aarhus convention, which guarantees people a fundamental right to environmental justice, and others, such as the Berne convention, and I am sure that other noble Lords, such as the noble Baroness, Lady Young, will talk to those points. Keeping to our international agreements and reassuring the public that our environment is now in safe hands is more important than ever, and this amendment does that.

Lord Duncan of Springbank (Con): My Lords, I realise that the hour is late and I do not intend to detain your Lordships long. I speak to Amendment 48. It is a cross-party amendment and this morning, when I began to consider this, I typed up some notes, which I have—but I do not have my glasses and I typed in a font far too small. I feel I am now a speaking metaphor for what the amendment represents. We have to be careful that we are looking not just at the fuzziness of the whole issue but at the detail. The noble Lord, Lord Krebs, ably set out why it is important.

This is a non-regression amendment. We are where we are right now, and we are content with that—if anything, we should be going further, but let there be no step backwards. The important statements in this amendment are very clear: let us accept what we are able to achieve, look at the international standards by which we must be judged and consider how to do that correctly.

I am pleased to see the Minister before us. It is not my intention or desire to vote against the Government, but these things occasionally happen. I think he can give us some words of comfort this evening about how we might help us to be able to understand the non-regression element of each of the matters we have touched on so far.

I will speak no further, other than simply to say that the amendment establishes and stabilises what we are about. We are a nation with clear ambition in this area, and we have done good work. Let us not let that be lost; let us not regress.

Baroness Bennett of Manor Castle (GP): My Lords, having attached my name to Amendment 47 in the name of the noble Earl, Lord Caithness, and the noble Baroness, Lady Willis, I shall make just a couple of points on that. I stress Amendment 48, to which the Green group would have attached our names had there been space, and the point made by the noble Lord, Lord Krebs, that this is writing into the Bill what the Government tell us again and again, as they have for years, they want to achieve. It is simply delivering the Government's expressed desire.

I want to make just three points on Amendment 47. There is some important terminology, with which I suspect the noble Baroness, Lady Willis, may have had something to do. That refers to the methodological quality of the evidence. There is increasing awareness in the scientific community of the need to look at the problem of publication bias: the probability that a scientific study is published is not independent of its results. That is just one way in which we have real problems with the methodology of what has been published and the Government have considered in the past, to which the amendment is to some degree addressed.

Proposed new subsection (5) mentions

"a sufficiently wide view of the ecological impacts".

I will take a case study of this. Scientists are increasingly concerned about the combined cocktail impact of pesticides, plastics and pharmaceuticals together in the environment. I point the Minister to a European report by the CHEM Trust, *Chemical Cocktails: The Neglected Threat of Toxic Mixtures and How to Fix It* and, independently occurring, a launch this month in the UK of a report from the Wildlife and Countryside Link with the Rivers Trust and UK Youth for Nature, *Chemical Cocktails: How Can We Reduce the Toxic Burden on Our Rivers?* The scientific view taking that overall wide ecological view is increasingly being recognised as crucial, and massively understudied.

The final point I want to make is that Amendment 47 is reflective of something that I am increasingly finding: groups of scientists—including established scientists whom you might expect that have a very good route into the Government—are coming to me and saying, "Please advise us on how we can get through to the Government to make sure that our scientific advice and discoveries are acted on". There is real feeling in the scientific community that there has been a breakdown in communication and consideration from the Government in terms of the current science. This amendment seeks to address those issues.

Baroness Hayman of Ullock (Lab): My Lords, I shall be very brief. I just want to give particular support to Amendment 48, to which I have added my name. We cannot allow the Bill to weaken environmental and food safety standards. We know that Defra has by far the largest share of affected regulations of any department, so the Bill really will have significant implications for environment and food safety law-making unless it is done well.

I will not repeat the reasons why we need these amendments, but what has come across very clearly is the fact that there is widespread and strong support for the environmental non-regression principle.

Importantly, Amendment 48 would give transparency but also legal substance to the warm words of the Minister, as the noble Lord, Lord Krebs, mentioned. On day 2 of Committee, the Minister said that the Government are committed to maintaining high environmental standards and that he wanted

"to see … standards improve in future".—[*Official Report*, 28/2/23; col. 208.]

I absolutely believe that is the case but, as a matter of law, the Bill provides no assurances or protections and cannot bind the hands of future Ministers. It is absolutely critical that these assurances and protections are in place in the Bill because, without a non-regression principle in law, they simply are not there.

On that basis, if the noble Earl, Lord Caithness, wishes to test the opinion of the House, he will have our support.

The Minister of State, Department for Environment, Food and Rural Affairs (Lord Benyon) (Con): My Lords, I am grateful for a really interesting debate. Before I begin to address the amendments in this grouping, I say that I know that there was some discussion earlier today regarding Defra's plans for water quality, particularly the Bathing Water Regulations and the water framework directive. I take this opportunity to reassure noble Lords that neither of these pieces of REUL is on the schedule to this Bill and Defra has no intention of repealing either of these pieces of important legislation. The noble Baroness, Lady Bakewell of Hardington Mandeville, raised this issue, and I absolutely give them that assurance.

Under this Government, we have only strengthened our legislation on water quality. In April, we published our new integrated plan for water, which marks a step change in how we manage our waters. It looks at both water quality and water resources together. We completely understand people's concerns about our rivers, lakes and seas and the pressures that they face. This plan is our response. In the plan, we set out how we will streamline our water policy and legal framework; this includes the water framework directive 2017. We consider

[Lord Benyon]
that there are opportunities to improve the regulatory system through reviewing the implementation of the water environment regulations 2017 in order to improve water outcomes on the ground while retaining our goal to restore 75% of water bodies to good ecological status.

I turn to Amendment 47, moved by my noble friend Lord Caithness. This amendment would introduce specific statutory requirements on Ministers when deciding what updates may be appropriate under the power to update in Clause 17 in the light of scientific developments. The amendment would also require that, where Ministers intend to exercise the power on legislation relating to environmental law, the review of scientific evidence must consider whether the evidence accounts for the ecological impacts. I say this to my noble friend: the power has purposely been drafted in this way both to allow for broad technical updates and to ensure that it captures the wide range of REUL across a variety of policy areas. We cannot predict the nature of scientific developments or technological changes to which REUL may be subject, nor the changes that might be appropriate in those instances in future.

I totally agree with my noble friend's point about outliers. As he said, we had this debate during the passage of the Genetic Technology (Precision Breeding) Bill. I constantly challenge the scientific advice that I receive in Defra to make sure that we are not creating the opposite of diversity or a sort of monogamous view of scientific progress. Outliers are the best challenge to that occasional tendency to be too absorbed in one particular group of views. This has been very eloquently described by notable international conservationists such as Allan Savory. That ability to have only research that is peer-reviewed sometimes requires those commissioning science to look more broadly. That is what we try to do, and I assure my noble friend that his points are well received. However, I gently suggest that placing statutory requirements on Ministers in the use of this power, including the requirement for scientific updates to be based on the latest evidence, is simply not necessary.

First, public bodies are already under public law duties to act reasonably and to consider relevant factors in decision-making. Secondly, Ministers will need to be reasonable and consider the relevant scientific evidence when evaluating whether updates, and what updates, may be appropriate. Provided a Minister acts reasonably and considers the relevant factors, it is ultimately for them to decide what is considered an appropriate amendment in light of a change in technology or development in scientific understanding.

The UK is a world leader in environmental protection and, in reviewing our REUL, we want to ensure that environmental law is fit for purpose and able to drive improved environmental outcomes. Furthermore, this Government have been clear throughout the passage of the Bill that we will uphold our environmental protections. We remain committed to our ambitious plans set out in the net zero strategy, the Environment Act and the *Environmental Improvement Plan 2023*, which sets out the comprehensive action we will take to reverse the tragic decline in species abundance, achieve our net-zero goals and deliver cleaner air and water. The provisions in the Bill will not alter that. I therefore suggest that the requirements of this amendment are not necessary.

The proposed new clauses in Amendments 48 and 49, tabled by the noble Lords, Lord Krebs and Lord Whitty, respectively, establish a number of conditions relating to environmental protections and food standards that Ministers must meet when intending to use the powers under Clauses 13, 14, 16 and 17. They include satisfying a range of conditions in the amendments so that environmental and consumer protections relating to food safety and labelling will be maintained and that the proposed new regulations do not conflict with a specific list of existing international environmental agreements. They also introduce a new procedural requirement which Ministers must meet to be eligible to exercise the powers. This includes seeking advice from relevant stakeholders and publishing a report addressing specific points concerning environmental and consumer protections for the new regulations.

Amendment 48 seeks to insert a new subsection into Section 4 of the Food Standards Act 1999, introducing a requirement for the Food Standards Agency to include in its annual report an assessment of the impact of the delegated powers on areas of concern to consumers relating to food, under that section of that Act. These new and broad-ranging provisions would have a severe impact on the Government's ability to use the Bill to legislate and deliver on our environmental and food goals, due to the resource-intensive nature of the conditions proposed.

Moreover, the list of relevant international obligations set out in the amendment is far from comprehensive and would become rapidly outdated in the context of ever-evolving international legislation. The delegated powers in the Bill are not intended to undermine the UK's already high food standards, nor will they impact the UK's status as a world leader in environmental protection. Indeed, this Government are committed to promoting robust food standards nationally and internationally, so we can continue to protect consumer interests, facilitate international trade—a very good point made by the noble Lord, Lord Whitty—and ensure that consumers can have confidence in the food they buy. The UK has world-leading standards of food safety and quality, backed by a rigorous and effective legislative framework.

Under the Food Standards Act 1999, the FSA already has as its core statutory function the objective of protecting public health from risks that may arise in connection with the consumption of food, including risks caused by the way it is produced or supplied, and protecting the interests of consumers in relation to food. The Bill and the powers in it do not change that. Accordingly, the FSA would already have to consider the effect on public health of any legislation that it would ask the relevant Minister in its sponsor department, the Department of Health and Social Care, to make in relation to food before that legislation would have effect. Alongside this, Defra maintains a well-established set of relationships with the agrifood sector, broadly aimed at upholding the sustainability, productivity and resilience of the sector. This includes representation, from farm to fork, of around 150 major food and

drink companies and trade associations, as well as a range of industry CEOs and senior figures, to discuss strategic opportunities and challenges facing the agrifood chain.

We also want to ensure that, in reviewing our REUL, environment legislation is fit for purpose and able to drive our positive environmental outcomes. I take the point very eloquently made by the noble Baroness, Lady Hayman, but this is much more than warm words: we have written into law our environmental protections, our ambitions for reversing the decline of species and, in very strict food legislation, on the health of food.

The REUL that we are revoking as part of the schedule to the Bill is obsolete, expired, duplicated or no longer relevant to the UK. It is not required to uphold environmental protection. For example, around half of fisheries REUL can be removed as it is no longer relevant, has expired or relates to areas we do not fish in. For example, I am sure all noble Lords will agree that REUL setting fishing opportunities for anchovy in the Bay of Biscay for the 2011-12 fishing season, which has now expired and is no longer applicable in the UK, is pointless to have on our statute book. Therefore, the proposed conditions on food standards and environmental protections are simply unnecessary. The reforms these powers will enable are vital to allow the UK to drive genuine reform and seize the opportunities our new status allows.

I enjoyed being on the same side as the noble Lord, Lord Krebs, on previous legislation. I hope that my attempt at honeyed words might have got him onside, but we will have to see how that goes. There are two reasons, by and large, why Governments resist these kinds of amendments: first, they are not necessary—there is already law to provide for the measures the amendments seek—and secondly, they are too burdensome. For these two amendments, I submit, both those factors come into effect: they are not necessary and they are too burdensome, so I ask that they not be pressed.

The Earl of Caithness (Con): My Lords, I am extremely grateful to all noble Lords who took part on my amendment, and those from the noble Lords, Lord Krebs and Lord Whitty, because we have had a very useful debate. I strongly agree with the noble Baroness, Lady Parminter, that the public must have confidence in our environmental laws. That is the basis of how we should go forward, and I think the Minister tried hard to reassure us that that was the case. I need to read exactly what he said; he said some helpful things in reply to my amendment. I just wish that the other Ministers in Defra took exactly the same view as he did with regard not only to regulations but new legislation. However, I am grateful for what he said, and I beg leave to withdraw my amendment.

Amendment 47 withdrawn.

The Deputy Speaker (Baroness Morris of Bolton) (Con): My Lords, if Amendment 48 is agreed to, I cannot call Amendment 49 for reasons of pre-emption.

Amendment 48

Moved by ***Lord Krebs***

48: After Clause 17, insert the following new Clause—

"Environmental protection and food standards

(1) Regulations may not be made by a relevant national authority under section 13, 14, 16 or 17 unless the relevant national authority is satisfied that the regulations do not—

(a) reduce the level of environmental protection arising from the EU retained law to which the provision relates;

(b) reduce the level of protection of consumers in relation to the safety, composition or labelling of food arising from the EU retained law to which the provision relates;

(c) conflict with any relevant international environmental agreements to which the United Kingdom is party.

(2) Prior to making any provision to which this section applies, the relevant national authority must—

(a) seek advice from persons who are independent of the authority and have relevant expertise,

(b) seek advice from, as appropriate, the Office for Environmental Protection, Environmental Standards Scotland, a devolved environmental governance body or another person exercising similar functions, the Food Standards Agency and Food Standards Scotland, and

(c) publish a report setting out—

(i) how the provision does not reduce the level of environmental or consumer protection in accordance with subsection (1), and

(ii) how the authority has taken into account the advice from the persons referred to in paragraphs (a) and (b) of this subsection.

(3) In section 4 (annual and other reports) of the Food Standards Act 1999, after subsection (1) insert—

"(1A) The report prepared under subsection (1) must include a detailed assessment, drawn up after seeking advice from such other persons or bodies with relevant expertise as the Agency considers appropriate, of the impact of the implementation of sections 13, 14, 16 and 17 of the Retained EU Law (Revocation and Reform) Act 2023 in the areas of food safety, composition, and labelling and other relevant areas of concern to consumers related to food."

(4) In this section "relevant international environmental agreements" means—

(a) the UNECE Convention on access to information, public participation in decision-making and access to justice in environmental matters (Aarhus, 25 June 1998);

(b) the Council of Europe's Convention on the Conservation of European Wildlife and Natural Habitats (Bern, 1979);

(c) the UN Convention on Biodiversity (Rio, 1992);

(d) the Convention on the Conservation of Migratory Species of Wild Animals (Bonn, 1979);

(e) the Convention for the Protection of the Marine Environment of the North-East Atlantic (1992);

(f) the Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar, 1971)."

Member's explanatory statement

This new Clause creates additional conditions to be satisfied before the powers in Clauses 13, 14, 16 or 17 can be exercised where the subject matter of their exercise concerns law relating to environmental protection or food standards. It would also require

the Government to seek the advice of the relevant independent expert statutory bodies, and the Food Standards Agency to include in its annual report to Parliament an assessment of the impact of the implementation of these provisions in areas of concern to consumers related to food.

9.20 pm

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Amendment 48 agreed.

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9.31 pm

Amendment 49 not moved.

Amendment 50

Moved by ***Lord Collins of Highbury***

50: After Clause 17, insert the following new Clause—

"Workers' protection and employment rights

(1) Regulations may not be made by a relevant national authority under section 13, 14, 16 or 17 unless the relevant national authority is satisfied that the regulations do not—

(a) reduce the level of protection for workers arising from the EU retained law to which the provision relates;

(b) conflict with any relevant international labour agreements to which the United Kingdom is party.

(2) Prior to making any provision to which this section applies, the relevant national authority must—

(a) seek advice from persons who are independent of the authority and have relevant expertise,

(b) seek advice from, as appropriate, the Advisory, Conciliation and Arbitration Service and relevant trade unions, and

(c) publish a report setting out—

(i) how the provision does not reduce the level of protection for workers in accordance with subsection (1), and

(ii) how the authority has taken into account the advice from the persons referred to in paragraphs (a) and (b) of this subsection.

(3) In this section "relevant international labour agreements" means—

(a) the EU-UK Trade and Cooperation Agreement,

(b) any Convention of the International Labour Organization ratified by the United Kingdom, and

(c) any provision of the European Social Charter 1961 accepted by the United Kingdom."

Member's explanatory statement

This new Clause creates additional conditions to be satisfied before the powers in Clauses 13, 14, 16 or 17 can be exercised where the subject matter of their exercise concerns law relating to protection of workers. It would also require the Government to seek the advice of the relevant independent expert statutory bodies.

Lord Collins of Highbury (Lab): My Lords, I will not detain the House too long. In this amendment we have tried to reflect the structure that we have just agreed in relation to the environment. This is not about blocking change. The Minister said that we are in danger of creating immutable legislation. That is not the case. We are in a unique situation here in terms of regulations that are going to be changed in a way that does not have the same sort of parliamentary scrutiny as primary legislation. That is the difference. It is unique, and therefore it needs a proper, unique response to it in terms of the three elements on which the noble Lord, Lord Krebs, focused.

The first of course is non-regression. We should understand the ambitions of this Government in relation to workers' rights. I have heard from Ministers throughout this Bill and also in other debates that they are committed to defend and extend workers' rights. I think we need that ambition to be translated into proper processes and procedures in relation to the unique circumstances where regulations can be removed, revoked or revised simply by Ministers producing statutory instruments.

The other element, which again the noble Lord, Lord Krebs pointed out in relation to the environment, is proper consultation. If changes are envisaged, how do we consult the appropriate bodies? We have a government agency that has huge experience in terms of regulations and codes of practice that ought to be properly consulted in relation to any changes, and of course we have stakeholders in terms of employers and unions. And by the way, this is not a debate about whether one should support workers or employers. Everyone wants proper standards. Employers themselves want proper standards. When we come to the international agreements that this Government have signed up to, in particular trade agreements, that level playing field is going to be a really important element in maintaining those agreements and extending them, so there is a very strong economic case for supporting this amendment.

We also need to ensure that trust and confidence are put back into the system. We hear Ministers suggesting that somehow regulations are a burden on employers, but sometimes those burdens are the thing that can provide and guarantee the level playing field that we have argued for and supported.

We talk about the ambition of this Government but we are still waiting for the long-awaited employment Bill, which I hope at some stage we will see brought forward. This is about ensuring that we do not turn the clock back—that we maintain the proper standards. As a shadow spokesman for foreign affairs, I work with government Ministers in defending and advancing the rights of workers across the globe. We are the strongest advocate of that, so the one thing that we should not do is turn our backs on workers at this moment in time. If Brexit is to mean anything, it should be about putting rights back into this Parliament and making sure that workers are not at the end of the queue but very much at the front. I beg to move.

Lord Hendy (Lab): My Lords, I support Amendment 50, as well as Amendment 51, which bears my name. Amendment 51 is an elaboration of Amendment 50, so I will speak only to Amendment 50. I endorse everything that my noble friend Lord Collins has said. The object of Amendment 50 is, as it states in proposed new subsection (1)(a), to prevent the reduction of

"the level of protection for workers".

As my noble friend said, this is not simply to protect workers but to protect good employers from being undercut by bad employers. It speaks of the level of protection for workers, in respect not just of employment rights but of health and safety at work rights.

[Lord Hendy]

In spite of the warm words of the Government and the promises of an employment Bill over the last three or four years, there is a suspicion that the Government will try to take advantage of Brexit to undermine and water down workers' rights. That fear is not helped by the fact that, last week, on 10 May, as I mentioned earlier today, the Department for Business and Trade published its booklet, *Smarter Regulation to Grow the Economy*. This contains no less than four proposals to water down the Working Time Regulations and Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992, which guarantees the right of workers to be consulted when collective redundancies are proposed.

The proposals to water down those rights are not contained in the Bill, as they could have been among the 928 proposals in the schedule. They are yet to come, in the form of statutory instruments that we have not seen, cannot examine and, when it comes to it—notwithstanding the excellent amendments from the noble and learned Lord, Lord Hope, earlier on—may have difficulty in seeking to amend. The purpose of Amendment 50, and indeed Amendment 51, is to ensure that workers' rights are not watered down and that the obligations contained in Articles 387(2) and 399(5) of the trade and co-operation agreement, against regression, are honoured.

Lord Fox (LD): My Lords, my name is on both of these amendments and I am happy to support them both. The proposers will be pleased to know that I do not intend to speak for long, because I have heard two excellent speeches that set out the reasons why supporting these amendments is important.

The noble Lord, Lord Hendy, talked about the danger of back-door watering down of legislation. It may not be this Government; once this is in statute, it could be any Government going forward. We do not necessarily have to distrust the people we see before us—I personally do not—but we do not know who in future will be able to use these measures.

If the Government want to water down workers' conditions, that should be done through primary legislation, straight up, and negotiated and scrutinised properly. It should not be put through the backdoor, which could happen here. Throughout the process of the Bill, the noble Lord, Lord Callanan, has said over and over again that it is not the Government's intention to water down workers' rights. By supporting Amendment 50, the Government can make sure that they are absolutely as good as their word.

Lord Hannan of Kingsclere (Con): My Lords, one of the worst objections that I had when I was a Member of the European Parliament was to the doctrine of the occupied field—the idea that you could never withdraw from a field in which you had once legislated. So the acquis communautaire can only ever grow; it could go only in in one direction. You could call it a ratchet, a one-way street or, as its supporters did, a bicycle that has to go forward, but the objection was fundamentally the same: it lifted certain issues out of the democratic field and made them immune to the political process.

For what it is worth, I have never had much time for the idea that our workers' rights come from the EU—the EU did not travel back in time and pass Barbara Castle's Equal Pay Act 1970 or Neville Chamberlain's Holidays with Pay Act 1938—but, whatever view you take of it, these are precisely the sorts of issues that ought to be determined by our national democratic mechanisms and procedures. You can take the view, as the noble Lords, Lord Collins and Lord Hendy, did, that this is wonderful, helps employers and all the rest of it, which is a perfectly respectable position, or you can take the view that there comes a point where too many workers' rights means fewer workers—but surely that is a debate that ought to be had here and in another place, not something that is effectively made invulnerable to the ballot box.

Noble Lords: Then support the amendment!

A noble Lord: Minister!

Baroness Neville-Rolfe (Con): It is nice to be popular so that we can all go home. I thank the noble Lord, Lord Collins, for his Amendment 50, and I am glad to be debating with him again.

The amendment would place a number of conditions relating to workers' rights that UK Ministers or devolved authorities would have to meet when intending to use the powers under Clauses 13, 14, 16 and 17 on retained EU law. That includes satisfying themselves that workers' protections and employment rights would be maintained and that proposed new regulations would not conflict with existing international labour agreements.

The new clause would also introduce a new procedural requirement that Ministers would have to follow in order to be eligible to exercise the power. That includes seeking advice from relevant stakeholders, including ACAS and relevant trade unions, as well as publishing a report addressing specific points around workers' rights and employment protections for the new regulations. The new clause would significantly delay and impact opportunities to review and reform any retained EU law, which might have an impact on working regulations.

I should say straightaway, as my noble friend Lord Callanan already has, that this Government have no intention of abandoning our strong record on workers' rights, and nor are the delegated powers intended to undermine the UK's high standards on workers' rights.

Our high standards were never dependent on our membership of the EU. Indeed, the UK provides for stronger protections for workers. We have one of the highest minimum wages in Europe. Moreover, UK workers are entitled to 5.6 weeks of annual leave compared with the EU requirement of four weeks, and we provide a year of maternity leave while the EU minimum maternity leave is just 14 weeks. Furthermore, on 10 May the Secretary of State committed to strengthening employment law, saving businesses around £1 billion a year from the reform of certain EU labour laws while safeguarding the rights of workers. These proposals do not remove rights or change entitlements but instead remove unnecessary bureaucracy in the way that these rights or entitlements operate, allowing business to benefit from the additional freedoms that

we have through Brexit. The proposed conditions on workers' rights in the amendment are unnecessary, frankly, and would lead to a parallel call for provisions in other important regulatory areas to be excluded from vital reforms, thus undermining the whole purpose of Clause 16, which I stress is time limited.

9.45 pm

I turn to Amendment 51 in the name of the noble Lord, Lord Hendy. This amendment seeks to insert a new clause to exempt from the Bill any retained EU law which is within scope of the labour and social levels of protection commitments set out in the EU-UK Trade and Cooperation Agreement. It also seeks to exempt retained EU law which may implement other internationally recognised labour standards set out in the TCA, including any convention of the International Labour Organization and the European Social Charter of 1961. It was good to hear from my noble friend Lord Hannan about his view of how things happened in Brussels, and his confirmation that our standards are a British thing.

As I have said, this Government have no intention of abandoning our strong record on workers' rights, having raised domestic standards over recent years. That is why the UK remains a coveted destination for thousands of high-skilled workers across the world to come to live, work and do business, and we are committed to maintaining high levels of protection. That is why we made the commitments in the TCA and reaffirmed our commitment to the likes of the International Labour Organization. Nothing in the Bill undermines that.

Departments continue to undertake a thorough assessment of their retained EU law where it relates to TCA obligations. The TCA affirms the right of both the UK and EU to set their own policies and priorities for labour and social standards, as well as to determine the appropriate levels of protection. The Bill will enable us to do just that while continuing to comply with international law.

The noble Lord, Lord Hendy, raised some detailed points, as did the noble Baroness, Lady Finlay, earlier. I will not delay the House by replying to them now, but I will set out the response, which is a powerful one, in writing. However, I will just talk about consultation.

There was a mention of consultation requirements for redundancies in SMEs. I assume that this relates to the TUPE regulations of 2006, which protect employees' rights when the business or undertaking for which they work transfers to a new employer. Let me reassure the House that we will ensure that workers' rights continue to be protected. That is why, on 12 May, we launched a consultation seeking views on reforms. We want to use this consultation, as part of an ongoing dialogue with business and workers, to set out an employment rights framework that will retain our global position as a dynamic, vibrant and flexible economy.

These reforms will be consulted on, as appropriate, as will future regulatory reform plans, in the course of normal policy development in this whole area. This is open consultation: ACAS, trade unions and others are all able to comment. I know that issues of worker protection are important to noble Lords. They know of my own background at Tesco; I am proud that it was a good employer and that our success over many years was helped by the union USDAW.

However, we must not hamper sensible reform, particularly where, as with working time, there are a lot of complex recording and administrative requirements. The laws we may or may not reform—of course we will be selective—were all created in Brussels or Luxembourg and with very little scrutiny. I urge a constructive approach in this area. Noble Lords have heard our promises and I ask that this amendment is withdrawn.

Lord Collins of Highbury (Lab): My Lords, the simple fact is that we should legislate through this Parliament and not through the mechanism that this Bill provides for. That is why we need these guarantees. I beg to test the opinion of the House.

9.48 pm

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9.59 pm

Amendment 51 not moved.

House adjourned at 9.59 pm.

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