

**Friday
6 December 2024**

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**HOUSE OF COMMONS
OFFICIAL REPORT**

**PARLIAMENTARY
DEBATES
(HANSARD)**

Friday 6 December 2024

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The House met at half-past Nine o'clock

PRAYERS

The First Deputy Chairman of Ways and Means took the Chair as Deputy Speaker (Standing Order No. 3).

Alex McIntyre (Gloucester) (Lab): I beg to move, That the House sit in private.

Question put forthwith (Standing Order No. 163).

The House divided: Ayes 1, Noes 49.

Division No. 57]

[9.34 am

AYES

McIntyre, Alex

Tellers for the Ayes:

**Deirdre Costigan and
Andrew Lewin**

NOES

Ali, Rushanara
Allister, Jim
Anderson, Fleur
Arthur, Dr Scott
Bailey, Mr Calvin
Ballinger, Alex
Beales, Danny
Blake, Rachel
Bryant, Chris
Burghart, Alex
Campbell, Mr Gregory
Chope, Sir Christopher
Coleman, Ben
Creasy, Ms Stella
Crichton, Torcuil
Daby, Janet
Dakin, Sir Nicholas
Dixon, Samantha
Dowd, Peter
Easton, Alex
Elmore, Chris
Esterson, Bill
Fahnbulleh, Miatta
Farnsworth, Linsey
Gardner, Dr Allison
Gould, Georgia

Greenwood, Lilian
Hardy, Emma
Huq, Dr Rupa
Jones, Louise
Jones, Sarah
Kitchen, Gen
Lamb, Peter
Lockhart, Carla
Mohindra, Mr Gagan
Opher, Dr Simon
Paul, Rebecca
Powell, Joe
Robinson, rh Gavin
Shannon, Jim
Simmonds, David
Smith, Jeff
Stone, Will
Swann, Robin
Tice, Richard
Vickers, Matt
Wakeford, Christian
Wilson, rh Sammy

Tellers for the Noes:
**Keir Mather and
Martin McCluskey**

Question accordingly negated.

European Union (Withdrawal Arrangements) Bill

Second Reading

9.47 am

Jim Allister (North Antrim) (TUV): I beg to move, That the Bill be now read a Second time.

I begin by thanking my co-sponsors for their help and support with the Bill: the right hon. Members for Chingford and Woodford Green (Sir Iain Duncan Smith), for Belfast East (Gavin Robinson) and for East Antrim (Sammy Wilson), and the hon. Members for Blackley and Middleton South (Graham Stringer), for Clacton (Nigel Farage), for South Antrim (Robin Swann), for Boston and Skegness (Richard Tice), for Upper Bann (Carla Lockhart), for North Down (Alex Easton), for Strangford (Jim Shannon) and for East Londonderry (Mr Campbell). I also wish to thank my own staff for their assistance during recent weeks, particularly Dr Dan Boucher, who has worked tirelessly on these matters. I record my appreciation of international lawyer Mr Barney Reynolds for his help and guidance on many of the technical issues.

Since I came to this House in July, I have lost count of the number of times I have heard affirmations from the Government Benches about “fixing the foundations.” Well, there is one foundation that most assuredly needs fixed, and that is the foundation that flows from the inequitable post-Brexit arrangements as they affect my part of the United Kingdom: Northern Ireland. The foundations of this United Kingdom have been disturbed and dislodged by those arrangements. The primary purpose of this Bill is, yes, to fix those foundations—to restore equilibrium to Northern Ireland’s place within the United Kingdom and to our relationship as a nation with the EU.

In fixing the foundations, we need to reflect on the most basic tenet of democracy, namely that a people should be governed by laws made by those they elect to make those laws. That is so fundamental that we all presumably almost take it for granted, yet tragically and with great constitutional detriment, that is no longer the position in respect of Northern Ireland. There are 300 areas of law where the right to make laws is not exercised in this House or in the devolved Assembly, but has been surrendered to the European Parliament. That is such a momentous thing that it should cause anyone who values the fundamentals of democracy—who clings to the principle that a people are entitled to elect those who govern them and make their laws—to be ashamed that this situation has evolved. It is not just a democratic deficit, but undemocratic plundering of the Northern Ireland statute book by the EU.

These are not incidental matters or trifling issues. They are the laws that deal with customs, general trade, goods, motor vehicles, cosmetics, toys, electrical equipment, textiles, medical devices, pesticides, waste, and food hygiene, ingredients and marketing. They cover 13 different areas of law dealing with food alone. They are the laws that deal with disease and with animals—with the breeding, welfare and identification of animals. Thirty-four different diktats of the EU govern all of that.

Ms Stella Creasy (Walthamstow) (Lab/Co-op): I appreciate the hon. and learned Gentleman’s passion. He also needs to be honest with this Chamber that the

[Ms Stella Creasy]

laws he is talking about include human rights laws, and the basic, equal treatment of everybody in Northern Ireland. His legislation would rip up the very foundation of democracy, which is that everybody is equal. Does he not need to be honest with this Chamber that the 300 laws he is talking about include equal human rights?

Jim Allister: I will be absolutely honest with this Chamber, and to be absolutely honest with this Chamber, the hon. Lady is not addressing the issue as it emerges. I will deal with the impact of article 2 of the protocol. I want nothing more for my constituents than the same rights that the hon. Lady's constituents have, be they human rights, the right to make the laws of our land, or any other rights. I ask for no privilege, but I certainly do not accept any detriment. That is the point here.

Ms Creasy: The hon. and learned Gentleman and I share a common concern, then. My constituents in Walthamstow do benefit from the protection of their human rights, because we are still members of the European Court of Human Rights. Indeed, equal access to those human rights is what the Good Friday agreement was based on. The effect that his legislation would have on article 2 of the Windsor framework would breach those principles, so if it went through, would there not be less of a connection between constituents here in England and constituents in Northern Ireland?

Jim Allister: I respectfully and utterly disagree. As part of the United Kingdom, we are all subject to the Human Rights Act 1998. The Human Rights Act is what fundamentally gives the hon. Lady's constituents the rights that they have in that sphere, and she would lose nothing by losing the control of the foreign court of the European Court of Justice.

I am listing examples of the 300 areas of law that have been purloined by the EU in its sovereignty grab over Northern Ireland. I mentioned the 34 different diktats on animals. We have even reached the point in Northern Ireland where, under these arrangements, our cattle can no longer bear a UK ear tag. They now have to have a specified European Union ear tag. That is but an illustration of how absurd and utterly wrong and offensive it is that the right to make the laws in our own country has been surrendered to a foreign power.

All those 300 areas are set forth in annex 2 of the protocol or, as it is now more kindly called, the Windsor framework. Look at annex 2, look at the hundreds of laws—289 of them which now have been removed from the ambit of the lawmaking of this House or the lawmaking of the Northern Ireland Assembly.

Sammy Wilson (East Antrim) (DUP): It is amazing to look at the volume of law: there are 70 pages containing not the details of the law but simply the headings of the law. That shows the extent to which the EU has its foot in the door in Northern Ireland.

Jim Allister: Absolutely. I printed them off a couple of months ago and I was staggered by how voluminous just the titles are. It is not just 300 laws; it is 300 areas of law which have been surrendered.

I have a challenge for every Member of this House who comes from a different part of the United Kingdom from Northern Ireland—those who represent GB constituencies. My challenge to them today is: “How would you feel if in 300 areas of law affecting your constituents, you had no input—you couldn’t change, you couldn’t move an amendment—because those laws were made colonial-like in a foreign Parliament by those elected not by your constituents but by the constituents of 27 other countries?” How, I ask this House, could any democrat, any representative MP, say that is right and correct?

Alex Ballinger (Halesowen) (Lab): I thank the hon. and learned Gentleman for introducing this debate. He is talking about the democratic deficit; is it not right that the Northern Ireland Assembly will be debating consenting to the procedures on 10 December, and are we not pre-empting that debate by holding this debate here now?

Jim Allister: I will be dealing with that, but the hon. Member invites us to think that it is appropriate that those elected to the Northern Ireland Assembly should turn up on Tuesday of next week and vote to disenfranchise their own constituents—to say, “You, our constituents in Northern Ireland who sent us to the Northern Ireland Assembly, we are not worthy to make your laws. We must bow to the superiority of a foreign Parliament, and we must surrender to that foreign Parliament the right to make these laws in hundreds of areas of law.” The hon. Member might think that is admirable and is the very epitome of democracy, but I happen to think it is the very opposite.

Dr Allison Gardner (Stoke-on-Trent South) (Lab): The Bill would create a democratic deficit that the hon. and learned Member has already referred to, and the Windsor framework has addressed that with the Stormont brake, which allows the Northern Ireland Assembly to review all laws applied.

Jim Allister: I respectfully suggest that the hon. Member reads a little deeper. She will discover that the Stormont brake is farcical. The previous Member for North Antrim in this House aptly said it was like someone sitting in the back seat of a car and saying to the driver, “Would you ever be so kind as to pull the brake?” That is what the Stormont brake is: a request to the British Government to pause the imposition of an EU law. The British Government do not have to do it—there has been one request to date and nothing has happened about it—so it really is a fiction, and an insult to the democratic mandate of the people of Northern Ireland.

Richard Tice (Boston and Skegness) (Reform): To continue the analogy, the Stormont brake has been described to me as rusty and not attached to anything.

Jim Allister: And if we can pull it, nothing happens. That is the value of it. The most limp excuse that I hear for this plundering of the Northern Ireland statute book by the EU is, “Oh, international law requires this.” Sorry? What sort of international law says that a state must self-harm by disenfranchising its own voters? There is no such international law. I will deal later with the fundamental basics of international law and how they have been distorted in justification of these arrangements.

Jim Shannon (Strangford) (DUP): I commend the hon. and learned Gentleman for bringing forward the Bill. It is important for us in Northern Ireland and for this whole great United Kingdom to look at this. Our constituents must not lose their place in the United Kingdom of Great Britain and Northern Ireland without consent, by stealth, but that is what is happening. Brexit was a vote for all of us to leave Europe, not for Northern Ireland to leave the UK, and this outstanding matter is detrimental to our economy, peace and stability. Does he agree that the Bill must be supported by all in the House if there is to be justice for all in this great United Kingdom of Great Britain and Northern Ireland?

Jim Allister: The hon. Member touches on a fundamental. In June 2016, we all had the opportunity to vote on Brexit. Some liked it and some did not, but the question on the ballot paper was: “Do you want the United Kingdom to leave the EU?” The question was not: “Would you like GB to leave the EU, and leave Northern Ireland behind?” But that is what we got. That is a fundamental denial of Brexit to my constituents in Northern Ireland. That is the source of the disparity, and undemocratic consequences have flowed from that.

I mentioned the 300 areas of law. They are all recited in annex 2 of the protocol. It is no surprise that the first area of law covered in annex 2 is customs, and that the first law put on the people of Northern Ireland is the EU’s customs code: EU regulation 952/2013. What does the customs code do? It operates on the basis that GB—those who got Brexit—is no longer a part of the EU; it is, in the words of the customs code, a “third country”, or in common parlance a foreign country, whereas Northern Ireland is treated as EU territory. Therefore we have this absurd insult under the customs code that goods coming to Northern Ireland—a supposed part of the United Kingdom—from GB must be subject to all the rigour of declarations, checks and reporting of data recording. Why? Because GB is treated as a foreign country when it sends its goods, particularly its raw materials, to my part of the United Kingdom.

That is the iniquitous effect of the Union partitioning and dividing the customs code and protocol. Some Members seem to find that amusing. If hon. Members believe at all in the United Kingdom—maybe some do not—they should be as offended as I am by the fact that moving goods from one part of the United Kingdom to another involves an international customs border under the control of foreign law. How could any MP—amused or otherwise—think that is right and equitable?

Joe Powell (Kensington and Bayswater) (Lab): Perhaps the hon. and learned Member would like to reflect on a proposal that I support—a veterinary agreement with the EU to reduce the checks on goods moving between Great Britain and Northern Ireland. That would have to honour our commitments under the Windsor framework, if it was to come into effect.

Jim Allister: The hon. Member may wish to see the whole of the United Kingdom sucked back into the EU. I want to see my part of the United Kingdom enabled to follow the rest of the United Kingdom properly out of the EU.

All this is for an international border over which the trade flow is infinitesimally small. We have had diversion of trade since, but in 2020, 0.003% of all the goods

going into, and trade with, the EU passed from Northern Ireland to the Republic of Ireland. Yet for that, we are building border posts at the cost of tens of millions of pounds, in the constituency of the right hon. Member for East Antrim (Sammy Wilson), in Larne, Belfast and Warrenpoint. As I will set out, there is another way.

Dr Scott Arthur (Edinburgh South West) (Lab): The hon. and learned Gentleman is talking with great passion about an issue that is really important to him, and that he has raised many times in this House. He will accept that 2020 is not a representative year, because of the pandemic. Also, although it might be a small part of trade within the EU, that trade with the wider EU is probably very important to traders in Northern Ireland, including those in his constituency. Many businesses in my constituency are still struggling to come to terms with Brexit, and they envy the trading relationship that Northern Ireland has with the EU. He must recognise that.

Jim Allister: I will deal with that more fully, but for now I will say that the trade that matters the most to Northern Ireland is with our biggest partner, Great Britain. That is the source of the overwhelming majority of our raw materials that keep our manufacturing industry going, but as a result of this pernicious Irish sea border, that trade is fettered. All raw materials have to pass through the full ambit of an international customs border. If the hon. Member’s constituents envy the position of my constituents, they really need to reassess the situation, as does he. It is nothing to envy.

Robin Swann (South Antrim) (UUP): I thank the hon. and learned Member for introducing the Bill. At Prime Minister’s questions, I asked the Prime Minister about the general product safety regulation that will come into effect next Friday, which will force suppliers in constituencies across England, Scotland and Wales to increase bureaucracy and costs if they still want to supply Northern Ireland consumers and producers. Does he agree that it is absurd that we are putting additional costs on our internal UK market to facilitate the requirements of the European Union?

Jim Allister: I agree absolutely. We already see the consequences. [*Interruption.*] Again, this seems to be a matter of humour to some on the Government Benches. Increasingly, we see that GB suppliers simply stop supplying, because they will not put themselves through the rigours of the customs code, documentary declarations and everything else. It is very difficult for anyone trying to do business in Northern Ireland. In the main, small and medium-sized businesses do not have the resources to employ the extra 10 staff that a big business might to meet the requirements of crossing the Irish sea border. Small suppliers do not have the necessary resources, so they simply stop supplying Northern Ireland. That feeds the continuing diversion of trade.

Will Stone (Swindon North) (Lab): A report came out two days ago suggesting that Northern Ireland’s economy was going to be stronger than that of the rest of the UK. Does that not have something to do with the Windsor framework, which is allowing businesses to invest in Northern Ireland? Surely that is a good thing.

Jim Allister: The hon. Member might be interested to know that the growth area of the Northern Ireland economy is the services sector, which is the one sector not included by the protocol—it is outside all that. The one sector that is outside the protocol is increasing. There is a clear message in that.

Gavin Robinson (Belfast East) (DUP): I had not intended to intervene on the hon. and learned Gentleman, but on that point, Invest Northern Ireland, the body charged with encouraging foreign direct investment into Northern Ireland and with growing our economy, cannot point to one example of business investing in Northern Ireland as a direct result of the Windsor framework.

Jim Allister: Absolutely. I will return to that.

Alex Ballinger: Will the hon. and learned Gentleman give way?

Jim Allister: I will make some progress. I will be as generous as I can with interventions, because I know that Government Members want to talk this Bill out—and, because they are not shame-faced enough, some of them want to vote against the principles of the Bill, but there we go.

The right hon. Member for Belfast East (Gavin Robinson) makes an important point. The reason why that point has traction is found in EU regulation 625 from 2017. It determines that Northern Ireland is, according to our courts, for these purposes, EU territory. We have had several legal cases in Northern Ireland, such as the Rooney case. The judgment in that case established that the EU official controls on food and feed law, animal health, plant health and so on have to be in place because our High Court has ruled that under that applicable EU law, for regulatory and customs purposes, the entry point to the EU is the Northern Ireland ports. Could it be any more Union-dismantling than that? Under EU law, to which we are subject, the entry point to the EU is the ports of Northern Ireland.

Mr Justice Colton said that EU regulations must be interpreted according to EU law as a result of article 4.1 of the withdrawal agreement and article 13.2 of the protocol, which, he goes on to say, have domestic effect in the United Kingdom under section 7A the European Union (Withdrawal) Act 2018. He said that under the withdrawal agreement it is at Northern Ireland ports that EU territory is entered. He went on:

“The UK is not to be treated as a unitary state for the purposes of OCR checks coming from GB into NI.”

Could it be any more stark that Northern Ireland has been colonised by the EU?

What is a colony? It is a territory governed by someone else's laws from a foreign jurisdiction. When 300 areas of law—including customs, and including the very definition of Northern Ireland's territory in trading terms—are governed by foreign EU laws, we have created a situation in which, in that context, Northern Ireland is a veritable colony. There are many people in the House—the Government Benches opposite are populated by many of them—who boast of their anti-colonialism. They constantly pride themselves on their anti-colonial heritage. Yet here we have a part of this United Kingdom colonised

by EU law, to the point that we are told that when someone enters the ports of Northern Ireland, they enter EU territory.

Andrew Lewin (Welwyn Hatfield) (Lab): I believe the European Union is our ally—it is 27 democracies—and I am concerned about some of the language I am hearing. The hon. and learned Gentleman talks of colonisation and surrender; is that the message we want to send to our 27 friends and allies in the European Union?

Jim Allister: Maybe the hon. Member could help me. What would he call taking a territory and subjecting it to someone else's laws? What would he call it other than colonisation? Is that not the very essence of what he and his colleagues wear as a badge of pride in their anti-colonialism? Is that not what it is in name and in truth?

Sammy Wilson: Does the hon. and learned Gentleman remember that in the Brexit negotiations those so-called allies made it clear that the price of Brexit would be Northern Ireland's removal from the United Kingdom? Far from being allies, they declared themselves to want to be colonisers.

Jim Allister: Yes, that was the boast of Mr Barnier and his staff: that the price of Brexit would be Northern Ireland—and so it has proved to be. That may be something of indifference, or indeed pride, for some people in this House, but it should be a badge of shame that we allowed a part of the United Kingdom to be colonised by the EU, and that we have surrendered our rights to make our own laws.

Andrew Lewin: For the record, is it the hon. and learned Gentleman's view that the 27 member states of the European Union are not our allies? At least one Member has made that point, as has another next to him. It is important to have this on the record for the House: does the hon. and learned Gentleman believe the 27 member states of the European Union are allies of the United Kingdom, or not? I certainly do.

Jim Allister: The EU has behaved not as a friend to Northern Ireland. The EU has behaved as a sovereignty grabber in respect of Northern Ireland. That is where it caused, and continues to cause, the offence. If hon. Members think it is a good thing to back that up and endorse it, they obviously do not think very much of the territory of Northern Ireland.

Sir Iain Duncan Smith (Chingford and Woodford Green) (Con): We are moving slightly into the ridiculous; may I bring us back to the main point? The purpose of the Bill that the hon. and learned Gentleman has drafted is simply to provide a solution for what is currently an unworkable position. I say to Government Members that it is not about 27 nations hating the UK; ultimately, it is about function. Sir Jonathan Faull, who was the director general of the EU internal market service directorate, ended up as director general of the taskforce for strategic issues related to the UK referendum, and he and his team came to a simple conclusion: the only way to make the situation workable was to have, in essence, what is in the Bill. He has put out a statement

today to say exactly that. It is a practical issue, and those who knew and understood the difficulties at the time said there was a way to do this, but they were ignored.

Jim Allister: The right hon. Gentleman is absolutely right. Those of us who are looking for a solution are supporters of this Bill, because we cannot go on as we are. Those who think that it is okay to subjugate part of their own territory are opposed to this Bill. They are quite content with the colonisation of part of our territory. In constitutional terms, where we have ended up is that Northern Ireland is no longer a full part of the United Kingdom. Why? It is because we are not our own masters in 300 areas of law and that a foreign jurisdiction makes those laws. What does that create? It creates what is called, in constitutional terms, a condominium: Northern Ireland is ruled in part by UK laws and in part by foreign laws. *[Interruption.]* The hon. Member for Walthamstow (Ms Creasy) finds that hilarious—sorry, it is not hilarious to be subjected to that.

Ben Coleman (Chelsea and Fulham) (Lab): I find myself surprised to agree to an extent with the former leader of the Conservative party, the right hon. Member for Chingford and Woodford Green (Sir Iain Duncan Smith): we need to move away from some of the ridiculous, extreme language. There is no reason why the European Union would want to colonise Northern Ireland. Are we not talking about a sensible agreement that does not seek to impose sovereignty but instead seeks simply to avoid a hard border on the island of Ireland, to safeguard the Good Friday agreement in all its dimensions and, at the same time, protect Northern Ireland's place in the UK and in the UK internal market? Should we not recognise that and stop using extreme language that does nothing to take the debate sensibly forward?

Jim Allister: The whole purpose of this Bill is to restore equilibrium and to get us to a point at which we have a sensible relationship based upon mutual respect, not on the grabbing of the sovereignty, one from the other. That is where we have got to. The hon. Member may not like to face up to it, but a whole raft of jurisprudence and lawmaking has been removed from within the reach of this United Kingdom and placed within the control of a foreign body, and that is not the basis for a sustainable solution.

Ms Creasy: Will the hon. and learned Gentleman give way?

Jim Allister: I have given way quite often, so I am going to make some progress.

That is why what I regard as the two liberation clauses in my Bill, clauses five and two, exist. They are the clauses that will free the whole United Kingdom, and Northern Ireland in particular, from this malevolent situation in which a huge portion of our laws are made not by ourselves but by others. That is very important. I have spent a lot of time in this debate talking about the constitutional import of all this, and that is very important, because it is that which gives certainty and assurance to any part of this United Kingdom. However, before I leave that issue, I remind the House that, because of the protocol arrangements, our Supreme

Court had to rule that article VI of our Acts of Union, which guaranteed unfettered trade access between and within all parts of the United Kingdom, stand in suspension. There cannot be a higher authority than the Supreme Court to demonstrate that a key component of the very Acts of Union that makes this Union is in suspension, and if the cause of suspension is the protocol or the Windsor framework, then no one who believes in that Union should be sanguine or at ease with that.

There are also economic consequences. Before Brexit, Northern Ireland had an economy that was very integrated with the rest of the United Kingdom. It had the free, unfettered flow of goods one way and the other, as we had and would still have from Birmingham to London or Edinburgh. We had exactly that.

Deirdre Costigan (Ealing Southall) (Lab): The hon. and learned Member mentioned certainty, and he has just mentioned the impact on the economy of Northern Ireland. Does he agree that bringing in a Bill such as this, which would see regulations in Northern Ireland change in potentially just three months, would have a massive impact on businesses in Northern Ireland? It would have a huge impact on the economy of Northern Ireland, and it is not what businesses need right now.

Jim Allister: I can tell the hon. Member that it is exactly what businesses need. My constituency office is choked, from time to time, with businesses saying, "Why is it that I cannot get the goods I need without all this paperwork and bureaucracy?" There are many small businesses in my constituency and elsewhere, such as small engineering businesses, which rely for their raw materials not on huge containers coming in, but on parcels of bolts and everyday materials, six, seven, eight or 12 of which come a week. Come early next year, the Irish sea border is going to extend to a parcels border, and we are going to have a situation in which those businesses that rely on the daily arrival of a parcel of some raw materials from GB will be put through the red lane of this full-blown international customs border. The hon. Lady may think that that is good for business. It is a death knell for businesses. That is the problem that we have.

The economic consequences are severe. Even with the Windsor framework, all our raw materials that feed all our manufacturing industry and that come from GB now have to pass through the red lane in a full international customs border. Think of that—think of the effect on a business. That is what is stifling, not growing, business. In consequence, we have had trade diversion—of course we have. We have veterinary medicines. In the main, our veterinary medicines come from GB, and always have done, but now we face a cliff edge where, according to EU diktat, they can no longer come because we are subject to the veterinary requirements of the EU, not the United Kingdom. Medicines that we have used safely and with no problems for decades are suddenly to be stopped.

The Government say that they will get a deal—well, let us see it. Even the very thought that we have to go cap in hand to a foreign power to say, "Please could we have an arrangement where, from within our own country, we could bring our own medicines to another part of our own country? Please could we do that?", is so humiliating at a national level and so prejudicial to our farming community.

Dr Arthur: I thank the hon. and learned Member for giving way again; he continues to speak with passion. The issue about medicines is really interesting. I know that he has spoken at some length already, but it would be useful if he could outline some of the medicines that will be prohibited and what the alternatives to them will be.

Jim Allister: There are human medicines, and there are veterinary medicines. The vast swathe of veterinary medicines currently stand to be prohibited. As for human medicines, there are some for diabetics that are still subject to difficulties.

Robin Swann *rose—*

Jim Allister: The hon. Member was the Health Minister in Northern Ireland and knows all about that, so I will gladly give way to him.

Robin Swann: On that point—I see that Members are smiling; I am quite concerned about the attitude to the issue of some of those on the other Benches—a serious piece of work has been done with the European Union on the subject of continuing the supply of human medicines to Northern Ireland. The challenge is not in the legislation but in the fact that producers and suppliers must meet EU requirements for specific Northern Ireland labelling, which makes it not worth their while to supply items to Northern Ireland, with the result that some manufacturers are still not doing so.

Jim Allister: The hon. Member knows that from experience.

I want to make some progress, and to make one point very strongly: the economic consequences are dire for Northern Ireland. We have heard much talk about the fantasy of a dual-access bonanza. We have been told that Northern Ireland will become the Singapore of the west, that we now have unrivalled access to the UK market and to the EU market—consisting of 500 million people—and that everyone should be overwhelmed by the fantastic opportunity that this provides. How wrong that has turned out to be, and for one very simple reason, already alluded to by the right hon. Member for Belfast East.

We have heard the suggestion that inward investment will flow into Northern Ireland because of this dual market access, but it has not done so. Invest Northern Ireland has had to admit that there has been no upturn—and why is that? Because any benefit, if there is one, is countermanded by the fettering of the trade from Great Britain. A manufacturer wishing to set up a business in Northern Ireland in order to have access to the EU market is bound to say to himself—because investors are intelligent people—“Where will I get my raw materials? Oh, I will get them, as most do, from Great Britain.”

But then he will discover that those raw materials will have to pass through an international customs border, with all the regulation, all the delay and all the inspection, and the shine soon goes off that idea. Far from being a bonanza, this has turned out to be anything but.

I have already pointed out that the one sector that is flourishing is the service sector. That does not just happen to be the case; it is able to flourish because it is outside the protocol. And things will get worse: next

Friday, when the general product safety regulation comes into force, many small suppliers will simply stop supplying because of the bureaucratic burden that will be placed on them. Already, in so many cases, when someone wants to buy an item online, this will pop up: “Not available in Northern Ireland.” Why is that? Because the small suppliers from Great Britain find it impossible to handle the burden of bureaucracy, so they are simply saying, “We are not supplying to Northern Ireland.” That is hugely frustrating for so many people in Northern Ireland—including, I might say, Mrs Allister, who, like many a woman, wants to order things and then finds that they are not available in Northern Ireland. How would hon. Members from Great Britain feel if “not available in Scotland,” “not available in Wales” and “not available in England” constantly popped up? Would they not be asking why? And when they heard the answer, “It is something called the protocol,” why would they continue to be enthusiasts for the very thing that is blocking their consumers from getting the supplies they need? This is a practical issue.

Torcuil Crichton (Na h-Eileanan an Iar) (Lab): I commend the hon. and learned Gentleman’s passion, but his problems are not unique. Anywhere in the highlands and islands of Scotland, or even in peripheral parts of England, has the same delivery problems as he does.

Jim Allister: Ours is not a delivery problem; ours is a bar on sending. Ours is not just that it is too difficult; ours is that it is too difficult because of the international customs requirements. That is the difference between us and the highlands and islands. I am sure the highlands and islands do have that delivery problem, and I am sure that small businesses do shirk the desire to serve them, but in Northern Ireland it is for a more fundamental and compelling reason.

Linsey Farnsworth (Amber Valley) (Lab): The frustrations that the hon. and learned Member is talking about are surely a good argument for what the Government are trying to do in resetting the relationship between the UK and the EU. Therefore, this Bill would only undermine the UK’s credibility in doing that with our international partners. Does he agree that we need to remain focused on the issues going forward, rather than going over these points again?

Jim Allister: This Bill is prospective in its tone and purpose. It is about going forward. It is about solving the problem that has been put upon us. The hon. Member says, “Oh, let’s reset.” For some, of course, that means, “Let’s rejoin.” That is a matter for those who are advocating for it, but it is certainly not where I would like to see this United Kingdom go.

Yes, we need to reset, but we need to reset on the basis that Brexit is for all, not just for some. When we reset on that basis, the Government will not have me constantly raising these issues, because I will have the equal citizenship that has been denied to me and my constituents by these arrangements. Fundamentally, this is an equal citizenship issue. The thought that they are being treated differently, by being denied the equal citizenship of the rest of the United Kingdom, is quite appalling and insulting to many people in Northern Ireland.

Article 2 of the protocol has been mentioned in an intervention. The Government said a couple of nights ago that they will appeal the findings in one of the cases in Northern Ireland, although, listening to the Secretary of State for Northern Ireland, I think it is a pretty half-hearted appeal. Article 2 shows us that it is not just about trade. That was the initial selling point of the protocol, “Oh, it is only about trade,” but now we have discovered, through article 2, that it has a most pervasive effect on all sorts of things.

Legislation in the last Parliament has been overturned in its application in Northern Ireland. Why? Because of article 2. Now, whether we liked or disliked the Rwanda Bill is not the point. The point is that our High Court and Court of Appeal have ruled that the provisions of the Rwanda Bill cannot be operated in Northern Ireland. Why? Because of article 2.

Why is that? Because article 2 subjects Northern Ireland to the EU’s human rights provisions, not the UK’s human rights provisions. Protections that exist for asylum seekers under EU law therefore prevent the measures from operating. It is not about the debate of the merits or de-merits; it is about the constitutional fact that a Bill of this House, the sovereign will of that time of this supposedly sovereign Parliament, could not be implemented in a part of the United Kingdom because of the supremacy of EU law.

Ms Creasy: Will the hon. and learned Gentleman give way?

Jim Allister: No, I will finish my point. That is the fundamental issue here. We also had it on the legacy Bill. Again, it is not about the merits or the de-merits of the legacy Bill, much of which I abhorred; it is about the principle that our courts in this United Kingdom rule. The provisions of this Parliament—the sovereign will of this Parliament—are overridden by the laws of a foreign jurisdiction. That is the fundamental issue of sovereignty at stake here. That is why clause 2 will address the import of article 2 by making it something that cannot be given effect in domestic law.

Ms Creasy: I thank the hon. and learned Gentleman for giving way. I hope he will recognise that it is not laughter on the Government Benches, but bemusement at the inconsistency. He opines about his anger that a third party can make law in Northern Ireland. Many of us tried to untangle the inconsistencies in the Rwanda legislation. The right hon. Member for Belfast East (Gavin Robinson) and I tried in vain to raise it with the previous Government. The critical issue was the right to remedy and the rights it gave people in Northern Ireland to petition a third party if they thought their Government was overbearing on their own basic rights. The hon. and learned Gentleman has himself used those rights: he has chosen to go to the Supreme Court and that is why we are here today. He has not chosen to go to the Court in Strasbourg—that would be his right and I would support him in doing so—but why would he deny the right to remedy to the rest of his fellow residents of Northern Ireland, as the Bill would, when he says he thinks it was wrong for that right to be protected by the European Court of Human Rights in the first place?

Madam Deputy Speaker (Judith Cummins): Order. I remind Members that it is up to the Member who is on their feet whether they want to accept an intervention.

Jim Allister: I have been very generous in giving way. In a way I am not assisting my cause, because I know Government Members want to talk the Bill out. I would rather see them take a stand on whether they are for or against the subjugation of sovereignty within the United Kingdom. I am going to move on and deal with these issues.

The hon. Member for Walthamstow referred to my taking a case to the Supreme Court. Why would I not? It is the Supreme Court of my United Kingdom. Why would I not take a case to the Supreme Court and test the laws that relate? I remind the House again that what the Supreme Court had to hold is that, because of the protocol so enthusiastically supported by Labour Members, Northern Ireland’s place in the United Kingdom has been subjugated. The Supreme Court held that the fundamental building block of article 6 of the Acts of Union is in suspension because of the import of the protocol.

Some tell us, “Well, we don’t want to face these issues.” There is no option, we are told, because of the Belfast agreement. I have even read and heard people say, “The Belfast agreement prohibits a border on the island of Ireland.” I hold the agreement in my hand. I have read it many times. Perhaps someone could direct me: where in this document does it say that there cannot be a customs border on the island of Ireland? Where is it? It is not there! We already have a currency border, a VAT border, a tax border. Nowhere in the Belfast agreement does it say that you cannot have a customs border at the international boundary of the United Kingdom—nor should it. And then I am told, “This would breach international law if you did not have the protocol.” That is not correct either. A fundamental premise of international law is respect for territorial integrity. What have I been talking about for the last hour, if it has not been about respecting territorial integrity? That is the fundamental premise of international law.

It all goes back to the General Assembly of the United Nations declaration on principles of international law. What does it say? It says that territorial integrity is key, and that the declaration constitutes the basic principles of international law. It says:

“Every state shall refrain from any action aimed at...disruption of the national unity or territorial integrity of any other state.”

If only that had been adhered to. The declaration says:

“Where obligations under international agreements are in conflict with the obligations of this charter, the obligations of this charter shall prevail.”

So the fundamental principle is respect for territorial integrity. That is the governing principle of international law, so when an agreement comes into play that defies the fundamental requirement to respect territorial integrity, that agreement falls, not international law.

Ben Coleman: Will the hon. and learned Gentleman give way?

Jim Allister: No, I am going to make some progress.

I strongly refute the fallacy that to depart from the Windsor framework is to breach international law. On the contrary, to perpetuate the infringement of our territorial integrity is to breach international law itself and, indeed, the Belfast agreement, which was built on consent, of which there has been none in respect of the

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current arrangements. The correct application of international law is to the effect that agreements that contradict the regulating principles, including respect for territorial integrity, are themselves the villains of the piece.

Having set out everything that is wrong, let me come to the solution. The Government have always told us that we cannot conduct sanitary and phytosanitary checks away from the border. It cannot be done, so we must have a border—in our case, in the Irish sea. But this week a statutory instrument was laid before this House that does exactly that. It does it for goods that come from the EU, via Northern Ireland, to GB. It says that the goods can be checked wherever they arrive, such as at factories or other premises; they do not have to be checked at the border. If we can do that for goods coming through Northern Ireland to GB, why can we not do it in reverse? Of course we could check goods without tampering with sovereignty; we could do so anywhere within the territory of the United Kingdom. It is not the impracticability of carrying out the necessary checks that is the problem; it is the fact that under the surrender of sovereignty it has been insisted that they are carried out in the Irish sea border.

That brings me to clauses 16 to 18 and the concept they would permit of mutual enforcement. I readily accept that the clauses draw heavily on the Northern Ireland Protocol Bill 2022—which found the approval of the previous Parliament—but they are none the worse for that. What they do is simple: they say that two respecting neighbours—that is what I hope the United Kingdom and the EU are—with the necessary trust between each other can operate a system where they mutually check the goods flowing through their territory to ensure they meet the standards of the recipient territory. That is a fundamental tenet of much of international trade. It is something that can be built upon in respect of this matter that the United Kingdom says, “Yes, we know the EU wants to protect, it tells us, its single market and, yes, we want to protect our single market, so we will undertake, by virtue of criminal sanction for those who do not, to check that goods flowing from our factories to your consumers, from our territory to your territory, meet the standards you set, and we expect you to do the same.” That can be done without any of the paraphernalia that we presently have.

Sir Iain Duncan Smith: On this particular point, it is worth pointing out that the EU already does it. In its agreements with New Zealand, for example, it trusts that specific veterinary practices to check lamb and other products arriving in the EU are done at the point of departure. By the time they get to Rotterdam, they are cleared straight through on the basis that they respect the checks done by those veterinary companies. They already did it for 40 years with UK companies where any subsequent checks had to be done. All this is already being done. The question is: why is it not being done for the arrangement we have at the moment?

Jim Allister: I absolutely agree. The fascinating point is the very concept was articulated from and originated within the EU itself.

During the early stages of the negotiations, Sir Jonathan Faull and academics Daniel Sarmiento and Joseph Weiler came up with that proposition. It is not my proposition. It is not a United Kingdom proposition. It was an EU proposition. They said the answer is mutual enforcement. Today we have a statement from those three gentlemen, which has been made public. It says, “On Friday of this week, the House of Commons will be debating a Bill which attempts to address some of the difficulties resulting from the Brexit divorce agreements between the EU and the UK, which might be of interest to readers. In 2019, we proposed a solution which would have obviated any need for these complicated and divisive legal manoeuvres. The UK and the EU could have respected each other’s positions and saved everyone a great deal of time and effort. The *Financial Times* characterised the proposal as a ‘win-win solution’. Regrettably, it was not followed.” I echo that: regrettably, it was not followed. Why was it not followed? Because the politics took over. Instead of looking for a workable, practical border solution, the politics of making the United Kingdom pay for leaving the EU took over. That is how we got into this morass of a pernicious imposition through the border.

Sammy Wilson: During the early stages of the negotiations, the permanent secretary of the then Brexit Department told the Select Committee that the Irish Government, before Leo Varadkar took over, were actually exploring those kinds of solutions. The politics of the changeover in the Irish Republic and the willingness of Leo Varadkar to become the puppet of the EU in these negotiations stopped that method of looking at the border.

Jim Allister: I fear that there is a lot of truth in that. As I say, the politics took over. A further truth is that for some—not all, but some—enthusiasts of the protocol arrangement of a nationalist or Irish republican persuasion, there is a political gain that subsumes all doubts that they might have as democrats. For 30 years and more, the IRA terrorised through bomb and bullet to try to push the border to the Irish sea: “Brits out—push the border to the Irish sea!” That is precisely what the protocol has done: it has pushed the border to the Irish sea.

Claire Hanna (Belfast South and Mid Down) (SDLP): Shame on you!

Jim Allister: The hon. Member may object from a sedentary position, but the challenge for her is whether her nationalism is more important to her than her democratic credentials.

Claire Hanna *rose*—

Jim Allister: I will give way to the hon. Member in a moment, because I have mentioned her.

How can the hon. Member, who calls herself a Social Democratic and Labour Member, look her constituents in the eye and say, “I believe you are not worthy to have your laws made by those you elect: I would rather they were made by those you don’t elect”? Is it because the nationalist reach of the protocol is more important than the democratic detriment of the protocol?

Claire Hanna: If the hon. and learned Member wants to talk about constitutional change, perhaps he might set out for the Chamber the numbers and the level of support for the Union before and after he began his Brexit adventures. He will know that I, as a democrat, constitutionally compromise every single day, because I am a democrat, I am an adult and I live in a constitutional reality that is not of my choosing. I am an Irish person living, working and upholding democracy in the United Kingdom.

The hon. and learned Member will also know that none of his arguments about democratic deficit stand in any way, when his campaign suppressed the Northern Ireland Assembly, the legitimate expression and place of primary lawmaking for Northern Ireland, and when he created an enormous health sea border in the Irish sea. His adventures—his hobby horses—have created a scenario in which one third of the population of Northern Ireland is on a health waiting list.

I and others who do not like exactly the way our constitutional arrangements are made stand up every day and work to solve those problems; all he wants to do is create them. It is his actions, in fact, that are inserting the dynamism in the question about constitutional change. Every time he pulls a stunt like this, he drives more people to seek to get out of the control of men like him. I, as a democrat, uphold democracy. I accept the constitutional reality; I accept that we are members of the United Kingdom. I am seeking to change that democratically, so he will never again question my commitment to democracy in Northern Ireland.

Jim Allister: I acknowledge the hon. Member's speech, but let me say this: it is no stunt to ask, on behalf of my constituents, for what every other part of this United Kingdom has—the right to be ruled by laws we makes ourselves. It is no stunt to ask for equal citizenship; it is no stunt to say that this United Kingdom—the clue is in the title—should not be partitioned by an international customs border.

Deirdre Costigan: Will the hon. and learned Member give way?

Jim Allister: I will when I have dealt with some other points.

That is an assault upon the sincerity and efficacy of those who dare to say, "If we are part of the United Kingdom, we need to be treated as part of the United Kingdom." The hon. Member for Belfast South and Mid Down (Claire Hanna) did not explain why she thinks it right to disenfranchise her constituents and to reject a workable and practical solution. Those who reject a workable and practical solution are those who do not want such a solution in respect of the Irish border. That was very clear from her intervention.

The Parliamentary Under-Secretary of State for Northern Ireland (Fleur Anderson): Several years ago, former Prime Minister Boris Johnson told us that there was an oven-ready deal. That was clearly not the case, because we are still discussing this. The hon. and learned Member has mentioned mutual enforcement, but nowhere in the world does mutual enforcement happen wholesale under trading regulations between countries. The only workable deal that has been struck was reached not by politics, but

through a pragmatic working out, and that is the Windsor framework. Is he selling something that cannot actually work? The mutual enforcement idea has been described by the EU Commission as magical thinking.

Jim Allister: I remind the Minister that the magical thinking came from the EU itself, through Jonathan Faull and his colleagues, who made that very suggestion. And why would what I suggest not work? If the EU is our friend—if we trust it and it trusts us—why would it not trust us to keep our word on imposing its standards on our goods entering its territory? If that does not work, then it is time to talk about alternatives, but that proposal should be the starting point. There was the whimsical dismissal that it would not work, even though it has never been tried. The really chilling thing about the Minister's intervention is its subtext: "Suck it up, Northern Ireland. You're no longer a full part of the United Kingdom. You will just live like a colony of the EU, under its laws in 300 areas. We have no empathy and no desire to fix it; we will just leave you in that position." That is the chilling import of her intervention.

Richard Tice: It may be helpful to remind the Minister that the EU's own expert, Mr Lars Karlsson, said in his "Smart Border 2.0" report that with technology and good will, all these issues could be overcome. However, the politics of Mr Varadkar and the EU overrode that.

Jim Allister: That is absolutely right, and in Northern Ireland we suffer the consequences of those aggressive political agendas every day.

If the Government are saying, "This is fine; there is nothing to see here. We don't need to fix anything," then they are not just insulting the intelligence of those of us who introduced the Bill, but saying to my constituents, "You can carry on being second-class citizens." The Government cannot say to my constituents, "You are equal citizens, but you will not be governed by British laws." That is what the Government are saying to my constituents in North Antrim and to people across Northern Ireland. "You have equal citizenship, but some are more equal than others. Some will be ruled by the laws that this Parliament makes, or by those that the devolved Assemblies make, but you will be ruled by laws that someone else makes for you, and be grateful for it." That is where we have got to on this issue. It is not just insulting but frankly unacceptable for the people of Northern Ireland to be treated in this way.

Given the Government's enthusiasm to maintain the unworkable status quo, they should reflect on the fact that there is about to be a new President of the United States who has made it very plain that he is in tariff mode. If he carries through his tariffs, this United Kingdom Government will need a trade deal. Why would a President of the United States do a trade deal with the United Kingdom if the UK has a back door that is open to the EU? That is the consequence of this protocol. We do not have a secure international trade border; the border with the EU is porous, and by all reports, Mr Trump is pretty adverse to the EU. Why would he ever do a deal with the United Kingdom with that back door open?

Should this Government not take the opportunity presented by this Bill to say, "We will fix this arrangement, and then we can convince the Americans that we are a

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safe and secure partner in a trade deal”? So long as the protocol exists, we cannot give the United States of America that certainty. It is in the national interest, the Government’s interest and our trading interest to fix this arrangement, so that we can pursue a trade deal with the Americans—who, at the end of the day, are our best friends in all this—on the best possible terms.

Peter Lamb (Crawley) (Lab): The hon. and learned Gentleman has already outlined that there are 300 tightly bound areas where the EU influences Northern Irish legislation, but it sounds very much as if he is now suggesting that the United Kingdom should operate under whatever remit the President-elect of the United States chooses to set for us. Policy is made here in Parliament, not in DC.

Jim Allister: I only wish that the laws for Northern Ireland were made in this Parliament, or in our devolved institutions. If the hon. Member has been listening at all, surely he has understood that there are 300 vast areas—they are not self-contained; they are expanding, and have already been expanded—on which laws are made in a foreign Parliament. That is the fundamental point. If we want a trade deal with the United States, we have to show that it will be a bona fide trade deal with the United Kingdom, not with a surrogate of the EU through a back door that is wide open.

Deirdre Costigan: I note that the hon. and learned Gentleman failed to answer the question from my hon. Friend the Member for Belfast South and Mid Down (Claire Hanna). He talks about doing a deal with the United States of America on trade. How could we possibly be taken seriously as a trade partner by any country in the world in future if we broke the deals that we already have on the table?

Jim Allister: If the deal was reached under false pretences—if it was reached in breach of international law, because it breached respect for territorial integrity—yes, the first thing this Government should do is reverse that arrangement. They should not continue with a deal that does not respect the territorial integrity of this United Kingdom. That is the fundamental principle of international law, and if international law has been disregarded to get this arrangement, the arrangement is disreputable and not worthy of continuation. That would be of more interest to our American friends than our saying, “We will make a deal that will sell out some of our own people—that will create circumstances where any trade deal we do will benefit the EU through the back door—but please, Mr President, make a deal with us.” That will not happen, and the Government need to realise that.

Let me try to draw my remarks to a conclusion by turning to clause 19. It seeks to reinstate the fundamental operating principle of the Belfast agreement, which is that every key decision in Northern Ireland, because of our divided and troubled past, should and must be made on a cross-community basis. It is there in black and white in the agreement, yet next Tuesday, the most key decision that the Northern Ireland Assembly has ever taken will come before it without a need for it to have cross-community consent. That decision will be on whether Northern Ireland should continue, in 300 areas

of law, to surrender its lawmaking powers to a foreign Parliament. There is nothing more fundamental, either to Northern Ireland’s constitutional status or to the governance of the people of Northern Ireland, than that. However, to ensure the desired outcome of that vote, a move was made to remove, especially for that vote, the cross-community requirement, so that for the first time in over 50 years we will have a majoritarian decision of considerable import taken in Northern Ireland. That is a rigging of the arrangements of the Belfast agreement.

Strange as it might be, through this Bill, I am the one championing the requirements of the Belfast agreement by asking: if the *modus operandi* is to ensure cross-community support, why has the vote been rigged to remove cross-community support? One might have thought that the hon. Member for Belfast South and Mid Down would be the champion of the Belfast agreement, and would want to ensure that its fundamental operating principle of cross-community support was respected, but no: she and her party are cheerleading for the vote. They brought the matter to the Assembly when the Executive failed to.

It is an important point—a point that cuts to the heart of the operation and stability of the Belfast agreement—that for the first time, a key decision is to be taken not on the prescribed cross-community basis, but on a majoritarian basis. What does that say to me and my community? It says, “You don’t really matter. It is more important that we get this vote through. Cross-community? Ah, that was about protecting nationalism. It was never about protecting Unionism.” Well, sorry, but we are calling that in today. We say, if it is good enough for nationalism, it should be good enough for Unionism. Why are this Government and this House trying to say to Unionism in Northern Ireland, “You don’t matter on this issue. We will railroad you”? That is the fundamental point.

Claire Hanna: Is it not the hon. and learned Member’s position that Brexit does not require cross-community consent? In the eight elections since Brexit, the people of Northern Ireland have rejected Brexit. However, he says that the protections require cross-community consent. It is a case of consent for thee, but not for me. Will he confirm that the inclusion of this provision means that he now supports the Good Friday agreement, 26 years after repudiating the will of 71% of the people?

Jim Allister: Brexit was a national vote, decided for better or for worse on a national basis. The people of London did not vote for Brexit, but no one is saying they should now be ruled by laws from Brussels. The People of Northern Ireland by a small majority did not vote for Brexit, but Members are saying that we should be ruled by laws from Brussels. That does not stack up. I am simply calling in aid what the Belfast agreement says: the Belfast agreement says key decisions are cross-community. Is anyone denying this is a key decision? If so, why is it not a cross-community vote?

Robin Swann: I thank the hon. and learned Gentleman for introducing this Bill, and I acknowledge his recognition of the strengths of those protections in the Belfast agreement, which were built in by my party and especially by Lord Trimble, the former leader of the Ulster Unionist party and the crafter and political deliverer of unionism in support of the Belfast agreement at that time. He said:

“I feel betrayed personally by the Northern Ireland Protocol, and it is also why the unionist population is so incensed at its imposition.

The protocol rips the very heart out of the agreement, which I and they believed safeguarded Northern Ireland as part of the United Kingdom and ensured that democracy not violence, threat of violence or outside interference, would or could ever change that.

Make no mistake about it, the protocol does not safeguard the Good Friday Agreement. It demolishes its central premise by removing the assurance that democratic consent is needed to make any change to the status of Northern Ireland. It embodies a number of constitutional changes that relate to Northern Ireland.”

Jim Allister: The late Lord Trimble was absolutely right about that. What is happening on Tuesday is an invitation to the Assembly, courtesy of the Government’s directive, to tear up the key central portion of the Belfast agreement on cross-community consent. There is another point.

Alex Ballinger: The hon. and learned Member talks about the Good Friday agreement. Why does his Bill not guarantee that the institutions of the agreement have powers, and why is he happy to put those with UK Government Ministers, unlike the existing arrangements under the Windsor framework?

Jim Allister: My Bill is about seeking to restore democracy to the arrangements. That is why I want to take back from Brussels control over our laws. My Bill is a charter for democratic progress. The present arrangements are the antithesis of democratic operation.

Danny Kruger (East Wiltshire) (Con): The hon. and learned Member might not have supported the Good Friday agreement but does he not acknowledge that the agreement recognised the sovereignty of the United Kingdom in Northern Ireland? It involved a changing of the constitution in the Republic to recognise the sovereignty of the UK in Northern Ireland for the first time. It also recognised the reality and the existence of a border on the island of Ireland. What he is doing is reinforcing the principles of the Good Friday agreement, which he himself might have opposed back in the day.

Jim Allister: The core operating principle of the devolved institutions of Northern Ireland was that key issues have cross-community consent. That is what has been ripped out for Tuesday. I have yet to hear a rational, convincing explanation for that. Maybe the Minister has one. Why have we ripped out of the heart of the Belfast agreement the very thing that was supposed to give comfort to both sides—that neither side would get one over on them? Why have we ripped that out of this agreement? If the Minister wishes to tell me, I will gladly give way on that point.

There is even a further point about this vote on Tuesday. Article 18.2 of the protocol says that the consent vote was to be

“reached strictly in accordance with the unilateral declaration made by the United Kingdom”

Government of October 2019. I repeat: “strictly in accordance with”. That unilateral declaration of October ’19 promised a public consultation before this vote. It is there in black and white in the words of the declaration. There has been no consultation. So why are the Government inviting the Assembly to conduct a vote which breaches

the guidelines laid down by the protocol itself—that the consent vote should be strictly in accordance with that declaration? That declaration included the promise of a public consultation, of which there has been none. That is another question—

Alex McIntyre (Gloucester) (Lab): Will the hon. and learned Member give way?

Jim Allister: I would rather give way to the Minister on that issue, but I hear no answer.

The House has been patient as I have laid out the arguments for the Bill. I see the Bill as an opportunity to restore the equilibrium, which I hope to have demonstrated has been destroyed in these arrangements. That is the democratic equilibrium, the equilibrium of equal citizenship, the equilibrium of Northern Ireland’s place in the United Kingdom and the equilibrium of our relations with the EU. All those are positives, all those are in the national interest, and all those are that which I believe should recommend themselves to the House. I trust that the House will give favour to the Bill.

11.21 am

Peter Dowd (Bootle) (Lab): May I say that it is a delight to see you in the Chair, Madam Deputy Speaker? I thank the hon. and learned Member for North Antrim (Jim Allister) for giving the House the opportunity to debate the contents of his Bill, as set out in its 25 clauses, and the issues that surround it, which have clearly been the subject of consternation, to say the least, in some quarters.

I listened carefully to the many points and assertions that the hon. and learned Gentleman made; no doubt everybody in the Chamber listened to them. I do not underestimate the significance of the concerns—perceived, real or otherwise—that he and many others have in relation to the operation of the Windsor framework, which in effect was a successfully negotiated recalibration of the Northern Ireland protocol. There is no doubt that all sides worked hard to achieve an agreement, given the obvious complexities, nuances and tensions that were bound to arise when the implementation of the decision to leave the European Union was made in the light of the 2016 referendum.

The detailed statement made by the most recent former Prime Minister, the response to it and the questions about it on 27 February 2023 set the tone, in my view—I think that is also the view of many other hon. Members—for a genuine attempt on all sides of the negotiation to be as flexible as possible, given the circumstances.

I want to quote a few points from that debate. The Prime Minister at the time said:

“Today’s agreement has three equally important objectives: first, allowing trade to flow freely within our UK internal market; secondly, protecting Northern Ireland’s place in our Union”—

we all agree with and recognise that—

“and thirdly, safeguarding sovereignty and closing the democratic deficit.”—[*Official Report*, 27 February 2023; Vol. 728, c. 570.]

He went on to take each of those in turn in more detail. He later said:

“Today’s agreement scraps 1,700 pages of EU law.”—[*Official Report*, 27 February 2023; Vol. 728, c. 571.]

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That has been referred to in the debate; I will return to that in due course. He went on to say:

“The EU has also explicitly accepted an important principle in the political declaration. It is there in black and white that the treaty is subject to the Vienna convention. This means that, unequivocally, the legal basis for the Windsor framework is in international law.”—[*Official Report*, 27 February 2023; Vol. 728, c. 574.]

It is important to move on to the current Prime Minister, who was then the Leader of the Opposition. He said:

“This agreement will allow us to move forward as a country, rather than being locked in endless disputes with our allies.”—[*Official Report*, 27 February 2023; Vol. 728, c. 577.]

Who would not agree with that statement? We do not want to continue to be locked in endless battles and arguments with our allies.

It is worthwhile referring to the hon. Member for North Dorset (Simon Hoare), who said at the time:

“My right hon. Friend the Prime Minister and his ministerial colleagues have strained every sinew these last weeks and months to arrive at today’s position. They are to be congratulated.”—[*Official Report*, 27 February 2023; Vol. 728, c. 582.]

That is important from the Conservative Benches. The current Secretary of State for Northern Ireland said:

“I congratulate the negotiators on this very significant achievement”, and it was an achievement. Even the right hon. Member for Goole and Pocklington (David Davis) said:

“I start by unreservedly congratulating my right hon. Friend on what seems to be a spectacular negotiating success.”—[*Official Report*, 27 February 2023; Vol. 728, c. 584.]

Louise Jones (North East Derbyshire) (Lab): I am listening to my hon. Friend’s speech with interest. Does he agree that his contribution shows that there is space for fulsome debate and important democratic scrutiny of these things that affect our family of nations?

Peter Dowd: My hon. Friend is right. Many of us here today want to discuss this issue because it is crucial to our constituents not just in the short term, but in the longer term. The former Member for Clwyd West said:

“The Command Paper tells us that the framework, ‘narrows the range of EU rules applicable in Northern Ireland—to less than 3% overall by the EU’s own calculations’.”—[*Official Report*, 27 February 2023; Vol. 728, c. 605.]

Jim Allister: The hon. Member has recited what some might have thought were erudite contributions in support of these arrangements, apparently with the insinuation towards the end that we have considered this whole matter. Have his friends not spent since July trying to undo the very things that the previous Government did on so many other matters, because they thought that they were wrong? They were wrong on this, so should they not be trying to undo it?

Peter Dowd: I do not quite understand the hon. and learned Member’s point. Today, we are trying to tease out many of the issues and concerns that he, quite understandably, has raised, to try to understand them and maybe to reflect on them and, in future, give consideration to them through the process. It is important that we are all here today listening to what he and other Members have to say.

Ms Creasy: Importantly, this House was charged, along with the Irish Government, to uphold the Good Friday agreement. In any legislation that comes along, it is right and proper that we ask how to do that, alongside our colleagues across in Ireland. This legislation touches on so many elements of that agreement, so today’s debate is also about us doing the important job that we pledged to do all those years ago, to improve and maintain peace and stability in Northern Ireland.

Peter Dowd: My hon. Friend is absolutely right. I would be the first to admit that we do not always get these things right—whoever does? What we have to do is try, try and try again, and attempt to do our best in good faith. I will come back to that in a moment.

Sammy Wilson: The hon. Member has quoted some of the comments that were made in this House, but does he accept that of the two people who negotiated the very things that he is referring to, and to whom those comments refer, one thought that he had signed up to an agreement for no paperwork? He said that if there was any paperwork, people should simply tear it up, as it does not matter. Does he accept that the other one negotiated an agreement whose EU version was totally different from the version that he gave to this House and the people of Northern Ireland? Let us not fall back too much on the comments made about either of the two agreements of the time, because many were made either with a lack of knowledge or with hope that was not fully founded.

Peter Dowd: I understand the right hon. Gentleman’s comments, and I am not going to challenge the integrity of the people who were part of that negotiation. It is not for me to challenge their integrity: they are hon. Members, and I believe that they did what they did with the best intention. During the statement on 27 February, I believe that, on the whole, most comments were supportive, but I acknowledge and accept that some were not, such as those from the right hon. Gentleman himself. He made his views known, as did others.

I acknowledge that some of the Members who spoke during that statement are in the Chamber today and express disquiet. I welcome the fact that they have taken their places on the Benches, but their disquiet and the disquiet of others must be set in the context of the following—namely, that the agreement, according to the Command Paper, which is important and which I referred to earlier,

“narrows the range of EU rules applicable in Northern Ireland—to less than 3% overall by the EU’s own calculations.”

In any negotiation in the circumstances, coming away with that figure is not necessarily unreasonable. Would a figure of 100% be the acid test? Maybe it would, but I do not think so, given the circumstances—in practical terms, that is unlikely. That is the nature of negotiation: otherwise, it would be called imposition. We must recognise that those on the other side, who have their views, passions and commitment to their communities as well as their histories, have also been fraught with other people.

I will finish with this. I do not accept the idea that some of our partners in the European Union—some of those eastern bloc European countries that were under the yoke of the Soviet Union as a coloniser—would

take the different view that they, in turn, were part of a group or cabal trying to impose a colonialist approach to another country.

Jim Allister: How else would the hon. Member describe a scenario in which a huge quota of laws are made in a foreign jurisdiction? How else would he classify that than as colonialism?

Peter Dowd: I will touch on that a little later.

Ms Creasy: I wish I could understand—perhaps my hon. Friend can help me out with this. If, on the one hand, the European Union is a source of colonisation that has this disrespect towards the United Kingdom and Northern Ireland, but, on the other hand, as part of a trade agreement we would simply trust each other to mutually enforce each other's rules without any level of oversight, at what point do we start trusting these colonisers, as opposed to recognising that as part of an international trade treaty, we both have to stick to the same set of rules and see them upheld?

Peter Dowd: My hon. Friend makes a good point. At the end of the day, whether the hon. and learned Member for North Antrim and I like it or not, and I do, they are allies in virtually the biggest trading area—in fact, it is the largest—in the world, but I accept that Members have concerns. I am not trying to deny that, and I am not trying to demean them or push them under the carpet.

I also do not want to revisit the pre-referendum process. It is unavailing at this stage to rehash or regurgitate the arguments, warnings, finger pointing, claims, vilifications, passions and tensions that at times dominated the debate in the lead-up to and during the last weeks of the referendum campaign, but the situation we face is a direct result and consequence of that decision—of that, in my view, there is no doubt. I believe it is fair to say that personalities, rather than policies, often dominated the discussions and debates at the time. I also believe that, at times, high-politics issues around sovereignty, self-determination and other factors came into play. However, such matters are really symmetrical. That is the nature of the democratic debate and of the democratic debate that we have in this country, for better or worse.

Sir Christopher Chope (Christchurch) (Con): Does the hon. Gentleman accept that one consequence is that we have a United Kingdom in part of which people have a second-class citizenship compared with the rest of the United Kingdom? Does he have any solutions, other than the solution put forward by the hon. and learned Member for North Antrim (Jim Allister) in his brilliant Bill, as he brings intellectual rigour to try to address this intractable problem?

Peter Dowd: I think the fact that the hon. Gentleman used the word “intractable” gives us a clue about how challenging it actually is. When a country decides, for better or for worse, to withdraw from a treaty to which it has been a signatory for more than 50 years, issues are bound to arise.

Mr Calvin Bailey (Leyton and Wanstead) (Lab): Does my hon. Friend agree that the Bill undermines not only the UK's adherence to the Windsor framework, but the

security architecture that the Belfast agreement underpins? The Belfast agreement is not just a peace settlement, but a cornerstone of our national security strategy. By jeopardising our reputation as a trustworthy international partner, the Bill would weaken our ability to collaborate with allies on global security challenges. Does he not agree that by maintaining the integrity of the agreement, we are safeguarding our national security and international standing?

Peter Dowd: My hon. Friend makes an excellent point. We have to be very careful of the law of unintended consequences when we go down a particular path.

Issues are bound to arise that either no one thought about or thought would have significance outside of an abstract environment but subsequently became significant, or that were parked so that we could come back to them at a later date. The reality, as we found throughout the whole post-referendum period—oven-ready this and oven-ready that—is that lots of things that were parked are coming back to bite. The problem with that, as I said, is the law of unseen and ignored consequences—those things are waiting around the corner, and turn up like an uninvited and unwelcome guest in our house.

Please bear with me, Madam Deputy Speaker, on the potential unintended consequences of coming out of a treaty. Imagine what would happen if we decided to abrogate the North Atlantic treaty—which, of course, no one would dream of doing. We know there would certainly be huge consequences to such an action. I suspect Members understand there would be pretty immediate and most probably predictable consequences to that. However, it is sometimes the unpredictability of taking actions that comes back to haunt us.

The same could be said for other treaties, which may appear to be of little significance and consequence in the short term, but which might take on a whole new persona down the line. I am not sure that many people would initially grasp the consequences of, say, breaching the Antarctic treaty, but there would be consequences in due course. If we abrogate a treaty, or part of a treaty, it is unlikely that we can then somehow revisit it, change domestic law and expect other countries to accept that.

I will finish on this point, because it is important. There are other treaties that we have to look to—I could go into detail on them, but I will not. What about—*[Interruption.]* Well, if Members insist. How about the 1963 nuclear test ban treaty? What would happen if we decided to tweak that a little bit through domestic law?

Fleur Anderson: It would be dangerous.

Peter Dowd: Precisely—my hon. Friend on the Front Bench says it would be dangerous, and it would be. What about the key provisions of the outer space treaty? What about the agreement establishing the European Bank for Reconstruction and Redevelopment? On and on it goes.

Jim Allister: Is the Belfast agreement not an international treaty subject to international law? Is it okay to breach that agreement when it comes to its provision of every key decision being taken on a cross-community basis? I suppose that is okay because it affects only Unionists.

Peter Dowd: The bottom line, in my view and that of many other people, is that it has not been breached. I completely accept that the hon. and learned Gentleman takes a different view, but I do not believe that it has been breached, and there are better legal brains than me who agree.

The Windsor framework was in turn realigned through the “Safeguarding the Union” paper of January 2024, which the hon. and learned Gentleman referred to, and the Stormont brake mechanism and the provisions contained therein for the Northern Ireland Assembly to approach the UK Government in relation to the application of EU laws. I read the Windsor framework time and time and time again, as I suspect all Members in this Chamber did.

Joe Powell: North-south co-operation between institutions in Northern Ireland was a vital component of the Good Friday agreement, so I thank my hon. Friend for making his point about treaties, because the Bill, which I have read, in clause 14 makes it possible to disapply protections in the Windsor framework for north-south co-operation. Would my hon. Friend reflect on why disapplying the role of north-south co-operation would be consistent with the intent of upholding the Good Friday agreement? That is a relevant point for him to reflect on.

Peter Dowd: That is a really good point, and I am pleased we are having this debate, because these are the points we need to consider carefully when we look at these issues and figure them out. It is an excellent point; I think we will all reflect on that, and I hope the hon. and learned Member for North Antrim and hon. Gentleman across the Chamber reflect on it. It is important to note that the protection of the Belfast agreement was paramount and that was there to reassure the communities of Northern Ireland. I hope that this debate continues, notwithstanding some of the points that the hon. and learned Member for North Antrim made, so that people understand that we are here to reassure as much as we can.

Alex Easton (North Down) (Ind): Will the hon. Gentleman give way?

Peter Dowd: I will, but I first want to make a point about the hon. and learned Member for North Antrim. I know that he holds views that are born out of real belief in, and commitment to, his constituents and the wider communities across the United Kingdom of Great Britain and Northern Ireland, and that is exactly the view that I take. I hold views born out of a real belief in, and commitment to, my constituents, and every Member in this Chamber takes that approach. Who am I to challenge their integrity on that? I am not in any way going to attempt that, either from my side or to cast aspersions on the other side.

Alex Easton: The hon. Gentleman mentioned the 3% of EU laws that we have to obey. Would the hon. Member like his constituents to be unable to get drugs for attention deficit hyperactivity disorder and diabetes, as is the case in Northern Ireland? Would his constituents like that? The hon. Gentleman can get veterinary drugs in his constituency that we cannot get. Would he like that situation for his constituency? Let us say that the

hon. Gentleman had a dog and wanted to take it to his neighbouring constituency—would he like it if he needed to get a passport to come back? Does he not think that this situation is unfair on us in Northern Ireland, as we are meant to be part of the United Kingdom?

Peter Dowd: The framework attempts to do that, and there is nothing, I suspect, that prevents those issues being teased out in more detail as time goes by, but at the end of the day, I do not live in a perfect world—I do not know about anybody else. I have constituents, for example, who have been unable to get access to drugs, and that is nothing to do with this issue; it is to do with a whole range of matters that have developed over the past 14 years in relation to Government policy, but I do not want to go there. I and other hon. Members are trying to do the best we possibly can, given the circumstances we have inherited. I know that might be cold comfort for some Members across the Chamber, but it is said with the best intent and with sincerity. It is not to brush this matter aside; it is a recognition that there are challenges, but those challenges were bound to crop up given some of the points I raised earlier.

Robin Swann *rose*—

Jim Shannon *rose*—

Peter Dowd: I will give way first to the hon. Member for South Antrim (Robin Swann) and then to the hon. Member for Strangford (Jim Shannon).

Robin Swann: I thank the hon. Member for making that point. It looks like I will not get to make a speech, but I want to put on the record that the Ulster Unionist party actually campaigned to remain in the European Union. We thought it best at that point, because we foresaw exactly what is happening now. We respect the referendum of this United Kingdom, but we are now seeing the enabling of what we were concerned about because of the lack of interest in this House with regard to some of the regulations that are coming through and how they are applied to Northern Ireland. The hon. Member mentioned medicines. Yes, we have supply issues, which are global issues, but we also have additional supply issues because of regulation from the European Union.

Peter Dowd: As far as I am aware, the framework attempts to tackle some of those issues. I completely accept that the hon. Member maybe does not accept that or does not want to accept it; I do not know. I am not casting aspersions at all on the integrity or beliefs of Members. At no time do I say anything that denies the right of people to hold the views that they hold, which are clearly, deeply and obviously felt. In a way, I actually celebrate those differences.

Jim Shannon: I thank the hon. Member for his contribution. I want to give the point of view of my constituent, who runs a business. She says, “I currently supply materials to a lady in Devon, who then produces goods for sale within the United Kingdom, only I’m at a complete loss as to what to do regarding the GPSR rules coming in. The United Kingdom voted to leave the EU. Successive Parliaments have done what they can to make this nation as dysfunctional as possible and

return us to EU subjugation.” What would the hon. Member tell my constituent’s business, which must close as part of the price to pay to further the aim of having an all-Ireland Irish Republic? That is what my constituent says, and it is very much contrary to what the hon. Gentleman said.

Peter Dowd: As I understand it, that issue is being negotiated. I understand what the hon. Gentleman says, but I do not accept the point he made about subjugation. I do not think it is subjugation, and I will come to that. I understand what the hon. Gentleman is saying. I respect the point he made, and I respect the views of his constituents, just as I respect the views of my constituents. But it does not alter the fact that the negotiation is taking place. As I said before—I will repeat it again—these things are never, ever symmetrical.

Sammy Wilson: I know that the hon. Member and others on the Government Benches have tried to make light of the use of the words “subjugation”, “colonisation” and everything else, but almost every week in this place, Members complain that Ministers do not come to this House to explain and elucidate on their policies, and that they are not prepared to be questioned on those policies, and quite rightly so. If Ministers were able to do that continuously in this place, would Labour Members not be claiming that we did not have accountable Government, that we did not have a Government who respected democracy, and that they were subjugating the people who are affected by those laws? I guarantee that no Members present would accept that from Ministers in this place, but they accept it in Northern Ireland.

Peter Dowd: In this place, we are enabled to ask these questions in a whole variety of different ways, including oral questions, written questions and meetings with Ministers. They are still available right across the piece, and the right hon. Gentleman knows that. Over a number years in this place, I have sometimes felt that I have not been listened to by the Government of the day. That is what I believed. *[Interruption.]* I was often listened to by the hon. Member for Brentwood and Ongar (Alex Burghart), who is on the Opposition Front Bench, and I completely accept that there were honourable exceptions. But at the end of the day, we live in a democracy in which we can challenge time after time, and we have to be persistent. I repeat that there are differences of opinion, but I respect them. I hope that today’s debate is being conducted in an as open and transparent way as possible.

This is not the end of the matter. Even if the Bill does not go through, the matter is not over. Nobody is going to pretend that somehow we are all going to go our separate ways and no one is ever going to ask a question or challenge a Minister in the future. This issue will come back time after time. I know emotion has its place, but so do hard facts, statistics and evidence, and they have to be balanced against one another. However, passion can sometimes lead to a febrile atmosphere that dominates, and we have to guard against that.

Andrew Lewin: My hon. Friend is making a powerful speech, especially on the language we use. In my maiden speech, I said that when I agree with a Member on the other side, I would say so in this House. I call out the right hon. Member for Richmond and Northallerton

(Rishi Sunak), who I believe did a good thing with the Windsor framework. After nearly 10 years of moving away from the European Union, he took a practical step that led to a serious improvement. I want to put that on the record, because I think it is important.

Peter Dowd: This House often debates the most challenging and sensitive matters. In this Chamber last Friday, we saw how a sensitive and intense debate based on conviction rather than dogma brings out the best in the House. That is why I have been looking forward to this debate and to listening to the views of colleagues of all political persuasions, and I hope I have done that.

The hon. and learned Member for North Antrim gave the House a heads-up on this Bill with his previous actions. For example, the putative incompatibility of article 6 of the Acts of Union with the Belfast agreement was ruled out on all counts by the Supreme Court, as far as I am aware. I am sure Members on both sides of the Chamber will recognise that engagement with this debate is done in good faith, even where there are differences of opinion.

I thank the hon. and learned Gentleman for his explanatory notes on the Bill. I read them with interest, particularly paragraph 11:

“The purpose of the Bill is to provide Ministers with the power to make changes to the operation of the Windsor Framework in domestic law, restore the cross-community imperative of the Belfast (Good Friday) Agreement in respect of continuance of the Windsor Framework and to safeguard democracy, peace and stability in Northern Ireland.”

In my view, this is effectively a reincarnation of the Northern Ireland Protocol Bill 2022, which caused concern in so many quarters, domains and jurisdictions. The Government of the time acknowledged that there would be non-performance of their international obligations out of necessity. They said that they sought to reach a negotiated settlement with the European Union to forestall the need to invoke the concept of necessity.

The previous Government subsequently withdrew the Bill, because they believed they had secured the necessary conditions they sought, as set out in the UK-EU withdrawal agreement. Therefore, the assertion on the use of the concept of necessity was never put to the test. I, for one, am pleased that it was not. If it had been, in my view and in the view of many others, we would have been on the road to perdition—there is no doubt about that.

As I have said, this Bill is another iteration of the Northern Ireland Protocol Bill that would take us back to June 2022 and, once again, put the country in danger of breaching its obligations under international law, notwithstanding what the hon. and learned Member for North Antrim said. The idea that the Bill can invoke the concept of necessity as a reason for a breach is beguiling, but illusory.

Jim Allister: Does the hon. Member not accept that a fundamental element of the jurisprudence of international law in this area is the requirement that any such agreement must not infringe the territorial integrity of either state? That, patently, has happened. Is this not the fundamental flaw in the international law argument? It falls at the first prerequisite: that the territorial integrity of the state with which the agreement is being made must not be infringed.

Peter Dowd: I do not want to go down that particular rabbit hole, but I will say this. We have the sovereign base in Akrotiri, in Cyprus. We negotiated that. Is it a breach of the sovereign territory of Cyprus? Is it somehow wrong? We negotiated it, we agreed it, it exists and it is used, so I do not believe that it is a breach. It is possible to negotiate a range of matters. It could be said that an element of sovereignty is given away for a better, or a more comprehensive, capacity in another area.

Jim Allister: What the hon. Member seems to be saying is that if the United Kingdom decides to acquiesce in—indeed, support—the infringement of its own territorial integrity, that is all right. If that is the basis, is it not all the more reason why the Government—a new Government—of the United Kingdom ought to address this humiliating concession?

Peter Dowd: I do not think it is a humiliating concession, but if it is a concession at all, I think it is an attempt, given the circumstances that we faced, to reach an agreement with trading partners in the light of the decision of the British people. We live in a world where we do not get everything we want. We live in a world where there is a little bit of give and a little bit of take, and sometimes we are able to give more than we take, and vice versa. As I have said, however, I do not want to go down that rabbit hole, because I do not think it is necessarily the subject of today's debate. We touch on it, and it is pertinent, but I do not think it should dominate the whole debate.

There is no doubt that the subject is fraught with all the concerns and anxieties and consternation to which I referred earlier, and we have to operate in the wider political environment and milieu in which countries have to operate all the time. I think it only fair to point out that the law of unintended consequences may decide to poke its head around the door, and perhaps even to walk into the Chamber, and there will be nothing that we can do. That is the very nature of the issue that confronts us. There are no easy solutions. There are no easy answers to difficult questions. There are no off-the-cuff responses that will sort out the issue. That is a statement of the obvious.

Ben Coleman: I very much like the image of the law of unintended consequences poking its head around the door. One thing that has occurred to me during this debate is that we need, in Northern Ireland and Great Britain and the whole of our United Kingdom, to try to reduce the red tape that Brexit has introduced. One of the most important steps that we could take is to enter into a sanitary and phytosanitary agreement with the European Union, but if we are to do that, we will need the EU to trust us, and to accept that if we negotiate with it and reach an agreement, we will stick by that agreement. Is not the challenge, in the context of this particular Bill, that one of the laws of unintended consequences might be that the EU simply will not engage in the discussion and negotiation that we need in order to proceed with those red-tape-reducing measures?

Peter Dowd: That is a perfectly valid point. Clearly, the hon. Gentleman has had a sneak preview of the points that I will raise later on. I will take up that matter with my staff.

It is important to recognise that those views are considered. I am sure that those views have been informed by many events, circumstances and long-held political opinions, and by culturally held views, which, in turn, have been informed by many personal and political experiences—some constructive and positive, and others negative and traumatic. In justice to the debate, I am sure that Members have attempted to bring if not a fresh perspective to it, then at least a perspective that takes into account the views of others from across the Chamber.

In this debate, the word “irrelevant” may itself become irrelevant, because we must face up to the fact that many of the points being made are not irrelevant, given the wide-ranging impact that any change to the law would have on internal and external relationships, both in a formal legal sense and informally, as my hon. Friend the Member for Chelsea and Fulham (Ben Coleman) said.

On trust, the Bill asks the House to abrogate our treaty obligations under the withdrawal agreement. That is worrying. Having given this some thought, I decided to look at the treaty landscape and the issue of necessity, which has been raised. That then sets off the justified claim about the potential for abrogation, so it is a good place to start. The ecosystem around treaties goes to the heart of the efficacy of partnerships, relationships and—dare I use the word—trust between those who sign a treaty.

This issue really goes to the heart of the question of trust, belief or faith in what we say as a nation. I look to our finest playwright to set the scene—in fact, I go to scene four from Shakespeare's *Henry VI*, part 3:

“For trust not him that hath once broken faith”.

The concept of oaths and promises was explored by William Kerrigan in his book, “Shakespeare's Promises”. It is important to quote this, because it goes to the heart of the matter. He writes:

“It is impossible to imagine any kind of moral life without obligations, and impossible to imagine obligations without types of promises. We are always up against them. Before we ever reflect on what a promise is, we have made them and are expected to make more of them. We are born into nations that enter into treaties and agreements. Promises are with us like gravity. Man is a promising animal.”

Mr Bailey: I take my hon. Friend back to his point about abrogating treaties, which is the *modus operandi* of the next United States President. Such behaviour creates instability in our international order, yet those supporting the Bill ask that we disestablish an agreement that provides stability, and that seeks to address intractable issues, and asks that we fix those problems through relationships with such persons.

Peter Dowd: It is a fair point. The question we have to ask ourselves is this: if we agree to the Bill, are we in breach of faith and trust? I think so. I do not say that lightly, or to be offensive or provocative.

Jim Allister: Does the hon. Member think that there is such a thing as breach of trust when it comes to relations within the United Kingdom? Are the citizens of this United Kingdom entitled to expect equal citizenship, and to be governed by laws that their nation makes, or are those things secondary to tipping our cap to the EU? Is that his stance?

Peter Dowd: My stance is that if a person does not trust me in a democratic environment, they are perfectly entitled to go down to the ballot box and put an X against my opponent's name, and I will respect them for doing so. That is the way we do it in this country.

Ms Creasy: Many of us are passionate about equal rights; that is why we have concerns about this legislation. The hon. and learned Member for North Antrim (Jim Allister) would not engage on the subject of the impact that the Bill would have on human rights in Northern Ireland. We all know about our democratic rights. When we talk about equal citizenship, we are talking about the ability to be represented, about rights being upheld, and about a right of remedy. Does my hon. Friend agree that the Bill would rip up those rights in Northern Ireland by ripping up article 2 of the Windsor framework? The Bill would deny people in Northern Ireland rights that his constituents and mine have, because we have recourse to the European Court of Human Rights if we feel that an overbearing Government are breaching our rights. When it comes to equal citizenship in the Union, we must reject the Bill to uphold the rights of all.

Peter Dowd: My hon. Friend is right. I reject the Bill as respectfully as I can. Countries have to operate in an international rules-based system. That is the position that this country has taken on many occasions, even when the consequences for us have been dire. The hon. and learned Member for North Antrim talked about foundations. I do not want to undermine the foundation of the rules-based system, trust and good faith. That is what I do not want to breach.

Sammy Wilson: Does the hon. Member not accept that trust in the United Kingdom is important? The Belfast agreement makes it clear that a promise was made to the people of Northern Ireland that there would be no change of any sort to our constitutional position unless they expressed a wish for it. The people of Northern Ireland have continually voted to be part of the Union. I know that the hon. Member is a Unionist. The Labour party fought hard to maintain the Union when Scottish nationalists tried to break away. Does he accept that he has an equal obligation to Unionist people in Northern Ireland—an obligation to stand by the promises that were made to them in an internationally agreed settlement? *[Interruption.]*

Peter Dowd: As my hon. Friend the Member for Putney (Fleur Anderson) says from a sedentary position, the framework strengthens the Union. That is exactly the point that I would have made. I know that some people do not accept that, but I believe that it strengthens the Union. Like a curate's egg, any treaty will have good and bad parts for both sides. We would not need treaties or agreements if we all agreed about everything. The reality is that dissonance comes with the territory.

Alex McIntyre: Members on the Opposition Benches have talked a lot about cross-community support. The hon. and learned Member for North Antrim (Jim Allister) mentioned a lack of consultation. Is my hon. Friend aware of whether there has been any cross-community consultation on the Bill?

Peter Dowd: My hon. Friend may be in a much better position to say, but I suspect that this is the place where that consultation happens. We listen to the views of people, and we can reflect them in our observations.

I want to continue on the theme of trust. Dictators and autocrats consider treaties a sign of weakness, to be dispensed with as soon as is practicable. In this country, we tend not to take that transactional and cynical approach. I am forever thankful for that. Keeping faith with a treaty or agreement that we have signed without duress says a good detail about our moral compass as a nation.

Having started on the issue of the importance of treaties, I want to look at one or two examples of the 14,000 treaties to which this country is a signatory. *[Interruption.]* No, I will not go into the treaty issue again, but I refer Members to the Foreign, Commonwealth and Development Office's online treaties database if they wish to look up the treaties that this country has signed over the years—and yes, I do have a life.

This country has had a good deal of experience in writing, agreeing, monitoring, enforcing and advising on treaties. There is little that this country does not know about the history, implementation, negotiation, monitoring and abrogation of treaties. We may even be the place to go to get that advice. Over the decades, this country has decided in good faith and with good intentions to put its name, credibility and integrity up front by signing treaties to ensure that its national interests can be secured as far as is practically possible. We have centuries of experience of the pitfalls, implications and consequences of a unilateral breach of a treaty. I ask colleagues to hold that thought during the deliberations on this Bill.

It goes without saying that serious, sometimes convoluted, diplomatic manoeuvres and mental gymnastics are involved in agreeing the terms of a treaty. That will come as no surprise at all to Members—if it did, that would be surprising to me. One has to be careful before signing a treaty. That does not mean that one does not sign it, but once an agreement is reached, signed and ratified, it remains duly constituted until the treaty is renegotiated through the proper channels. Do we really want to feel, as Sophocles said, that

“No treaty is ever an impediment to a cheat”?

I do not believe we are cheats. Sophocles also said:

“All men make mistakes, but a good man yields when he knows his course is wrong, and repairs the evil. The only crime is pride.” I hope that the hon. and learned Member for North Antrim does not have too much pride. Call me old-fashioned, but I am afraid that whether we like it or not, we have to negotiate a treaty or an agreement through the proper channels.

Dr Arthur: I am impressed by my hon. Friend's knowledge of the classics. He makes an important point, because it is almost as if we were being presented with a false choice between ripping up the Windsor agreement and setting it in stone. It has already been shown that the agreement can adapt and evolve, and it will continue to do so.

Peter Dowd: My hon. Friend makes an excellent point: treaties are renegotiated all the time. Yes, that can be messy—as I have said, we have a great deal of experience of how messy it is—but that has never stopped us from doing it, or attempting to do it, in good faith.

Jim Shannon: Will the hon. Gentleman give way?

Peter Dowd: The question we have to ask ourselves is whether the Bill before us is a breach of a treaty or agreement. I will leave that question in the air while I let the hon. Gentleman intervene.

Jim Shannon: Everyone in this House respects the hon. Gentleman for his honesty, and for the way he has stood up for justice. In all the debates we have been in, in Westminster Hall or this Chamber, he has epitomised those who seek justice and honesty. However, in his contribution today, the rights of the people of Northern Ireland, of Unionists and of all those who wish to have their rights restored through this Bill have not been referred to. I ask the hon. Gentleman I know to take that on board, and to speak up for the people of Northern Ireland; unfortunately, he has not done that so far.

Peter Dowd: I regret that the hon. Gentleman takes that view of what I am saying. I would not say it is not fair, but I am genuinely trying to be as conciliatory as I can be given the circumstances in relation to the question of trust. The question is this: is this Bill a breach of an agreement or a treaty? In my view it is, and I think most people are not denying that assertion. There may be some people who do so, but as a House of Commons paper of 4 December says on page 17:

“No rule of a state’s domestic law can be used to justify a breach of its existing international obligations. This principle is set out in Article 27 of the Vienna Convention on the Law of Treaties.”

I genuinely believe that I am bound by that. We can caveat any breach of international law until the cows come home; it can be claimed that it is out of the concept of necessity as referred to before in terms of international law. However, although we can claim whatever we want, it does not wash with other countries with which we have negotiated, and that in a sense is all there is to that particular point.

Jim Allister: In pursuit of the hon. Member’s filibuster, he tells us how much he adheres to international law. Why does he not adhere to the declaration and the principles of international law from the United Nations of 24 October 1970, which says in very emphatic terms that there is a duty in treaties

“not to intervene in matters within domestic jurisdiction of any State”

and that the principles of international law require respect for territorial integrity? If those are the principles and the Windsor framework infringes on those principles, is it not the Windsor framework that is flawed, and not the declaration of fundamental principles?

Peter Dowd: No, I disagree. If I am being honest, I think that view is predicated on a fallacy. I do not want to use those words, as I am trying to be as temperate as I possibly can be, but I believe the hon. and learned Gentleman is using that reference somewhat inappropriately. As I said, we can caveat any breach of international law that we like, but it comes back to the question of what our partners or co-signatories think.

It is worthwhile exploring that concept in a little more detail, because it goes to the heart of our responsibilities as a custodian—I choose that word with care, for that is what we are—of international law, and not just in relation to any particular treaty, but in general terms.

Ms Creasy: My hon. Friend is making a powerful speech and it is one that he and I have lived and breathed as Members elected prior to 2024 and indeed prior to 2019, when the legislation at the heart of this matter was constructed in this place. We were on the Opposition Benches at the time and we all had to look at the concept of international relations and what would happen because of the Brexit votes. It was striking that the hon. and learned Member for North Antrim (Jim Allister) promoting this legislation talked as if that had never happened. We have been there before in all of this. There are no perfect solutions; that is part of the challenge that Brexit created for all of us. But in looking at what we do next, understanding that breaching international protocols has consequences is as important as thinking about what we do when we breach those international protocols, as we did with Brexit.

Peter Dowd: My hon. Friend makes a really important and fair point. We have to be very careful in this area when we have international obligations, and we have to be even more cautious when we are dealing with the situation that we found ourselves in given the context of the Belfast agreement.

I am drawing to a close, Members will be pleased to know, but it is worthwhile exploring the concept in a little more detail, because as I said, it goes to our position as a custodian. The circumstances in which we can depart from obligations are fairly clear: for instance, by mutual agreement—that is unsurprising—or implied right to withdraw. Neither of those is the case in this situation. Perhaps the hon. and learned Gentleman thinks they should be, but I do not believe that they are.

Can we say that the treaty or agreement is no longer in place due to agreed time limits or sunset clauses? The answer to that question is no. Has the other side materially breached the treaty or the agreement, which would in turn absolve us of our obligations? Well, I do not think that applies either. What about our ability to carry out the agreement because of the “disappearance or destruction” of an object crucial to the operation of the treaty? That get-out clause does not exist, either; well, not that I am aware. In fact, the Windsor framework is protected by the Vienna convention on treaties, as was brought out during the statement that I referred to.

Sammy Wilson: The hon. Member mentions whether the other side has ever broken the treaty. Of course it did: the EU did so in a fit of pique, rage and vengeance against the United Kingdom during the covid crisis. It caught itself quickly, because it realised exactly what it had done, but the fact of the matter is, in the mind of the EU, the treaty is not as sacrosanct as he is trying to make it out to be for the UK. He suggests that we should not even think about breaking the Windsor framework and the protocol. The EU, when it is convenient, has shown that it will.

Peter Dowd: I understand the right hon. Gentleman’s position, but again, I disagree with his assertion.

Robin Swann: Will the hon. Member give way?

Peter Dowd: Just a moment. If the right hon. Gentleman wishes to call a Westminster Hall debate in relation to a whole series of breaches of treaties—[Interruption.]

I know that the hon. Member for Strangford (Jim Shannon) will be in his place for a Westminster Hall debate whoever secures it. If anyone wants to secure a Westminster Hall debate to tease out those matters in a little bit more detail and in an atmosphere that is a little less fraught, I would be more than happy to be there either as the Chair or as a participating Member.

Robin Swann: Will the hon. Member give way?

Peter Dowd: I am coming to a close, but I will give way. I have found this subject to be crucial to the wider constitutional and democratic process of which we are all supportive. There are times when people are unhappy with decisions, and I suspect that the hon. Gentleman will continue to be unhappy, so I will let him speak.

Robin Swann: It is not that I am unhappy, and I applaud the hon. Member for the tone he has brought to the debate in opposition to the Bill; it is that we want to see a resolution to these things. He talks about breaking agreements and when trust is removed, which brings me back to my intervention about the Belfast agreement and how Lord Trimble said that the protocol “demolishes the agreement’s central premise by removing the assurance that democratic consent is required to change Northern Ireland’s status.”

I gently remind the hon. Member of that persuasion.

I am also reminded of the contribution that Lady Sylvia Hermon made when she was in this place in challenging the former Deputy Prime Minister about the Belfast agreement. When he started to talk about it, she simply asked whether he had read it. I simply encourage any hon. Members in opposition to the Bill to ensure that they have actually read the Belfast agreement before quoting it.

Peter Dowd: I am grateful for the hon. Gentleman’s intervention. I was going to quote from the Belfast agreement in detail, but I decided not to do so. I did read it, and I remember it at the time as well. I implore him not to push me on that matter.

There are times when I have been unhappy with the decisions made. I have been perplexed when, during the Parliaments I have been part of, conventions and understandings that had been in operation for decades were pushed aside for short-term political expediency. It is one thing to go down that path in the operation of the workings of this House, but it is another to invoke that type of approach when dealing with agreements and treaties, especially when those are with trading partners and neighbours.

I was tempted to explore the Bill clause by clause—all 25 of them—in this contribution, but I resisted—*[Interruption.]* I did, and it was born out of discipline and willpower. I decided not to test the patience of the Chair and hon. Members on both sides of the House. I will draw my contribution to a close, and hope that hon. Members across the House take what I have said in good faith and without any rancour.

12.26 pm

Gavin Robinson (Belfast East) (DUP): I will respond in, hopefully, the same tone and say that it is a pleasure to follow the hon. Member for Bootle (Peter Dowd).

I suspect there is a big prize for him waiting in the Government Whips Office after this debate. He welcomed every intervention going. I do not besmirch his character at all, but since he suggested that there is interest in the concerns being raised by the Unionist community, I reflect that with almost two hours left of a five-hour debate, I am the third speaker. Scores of Members from Northern Ireland on both sides of the Chamber will probably not get the opportunity to make their point and represent their constituents, because of a quest to make sure that the Bill is talked out. I say, respectfully, that the hon. Member did exactly what he was asked to do, but when considering these issues, I am not sure just how constructive that will prove to be.

The hon. Gentleman said in his remarks that we will be able to deal with issues as time goes by. I have watched “As Time Goes By” on repeat on UKTV Gold, and I have watched people in this Chamber say that we will deal with these issues “as time go by”. Here is an opportunity to engage in the concerns that the hon. and learned Member for North Antrim (Jim Allister) raised, having received support from across the Unionist spectrum in Northern Ireland to raise them. Yet, as time goes by, though it is said that we shall not be dismissed or demeaned in the position that we are putting forward, that is exactly what is happening.

I stand not only as leader of my party and my colleagues, but as a co-sponsor of the hon. Member’s Bill. I commend him on the position that he has outlined to the Chamber today and on his success in the private Member’s Bill ballot. He is not a gambler—anyone who listens to him will know that he will put forward his principled position without fear or favour—but he took a chance and he has this opportunity. I commend him on doing so in a collective and cohesive way that has allowed for greater co-operation not just from those in Northern Ireland, but from across the country. He should be commended for that.

The hon. Member and I embarked on this journey in the same position as we approached the 2016 vote. Although over the intervening years there have been a few crossed paths, a few cross words and the odd crossed sword, I suspect that it is good, fitting and encouraging for people at home that today we are speaking with one voice about these issues.

I say to the Minister and to the hon. Member for Bootle that one of the best ways to deal with the issues raised by the hon. and learned Member for North Antrim and me, and supported by colleagues in their own remarks, is to honour agreements that have been reached. When the hon. and learned Member said in his remarks that it seemed as if the people of Northern Ireland were being asked to “suck it up,” the Minister said from a sedentary position—I hope she will not fall out with me for sharing this—“No, we fight to maintain the Union.” *[Interruption.]* She is agreeing.

However, whenever agreement was reached earlier this year, the “Safeguarding the Union” paper outlined a number of stepping stones to a better place. The Minister and her colleagues present voted in favour of that agreement. They recognised the recurring issues in Northern Ireland, and the harm that those issues were causing the people of Northern Ireland and consumers, no matter the constitutional outlook. If constitutional principles are not shared, it harms ordinary people in

[Gavin Robinson]

Northern Ireland. They voted for solutions on an interim basis—a stepping-stone approach—to move these issues forward. Where are we on that today? What is the Government's position on eradicating routine checks within the UK's internal market system? They voted for it in this House back in February, and they did so because they recognised the constitutional implications that checks were having and the practical frustrations they were causing consumers in Northern Ireland.

Sir Iain Duncan Smith: The right hon. Gentleman is addressing an important part of the Bill's purpose—from all the rhetorical issues right down to hard tacks. The previous Government went into the negotiations on the Windsor framework because it had dawned on, and been agreed by, the European Union that the protocol was not working. It recognised that nothing is fixed; these things are about experience, and then tempering that experience and changing. Labour Members keep saying, "You've reached an agreement and you will breach it," but the real principle behind that is to recognise that there are still fundamental flaws, and that we could agree a better way to harmonise everybody in that respect.

Gavin Robinson: I agree with the right hon. Gentleman, and I am grateful to him for co-sponsoring the Bill and being present today. He is right: the people who say in this or other debates that we cannot change what is written in tablets of stone are of the very party that was, from 1998, part of securing the Good Friday agreement, which was worked on in a political way, with parties in Northern Ireland, including my own, and changed time and again through processes at Leeds castle, the St Andrews agreement and the Northern Ireland (St Andrews Agreement) Act 2006. The very arguments that they are deploying against change ignore the fact that they have a history of doing exactly the same thing—particularly on the Belfast agreement, which they often suggest is written in tablets of stone.

Jim Shannon: Let me quote someone from a small business that relies on supplies from Etsy. They say:

"I simply cannot continue without this supply. My suppliers have said that they can't understand the system and can't afford to look into this any further. Therefore, I am cut off. I am having to give notice to my landlord. I was barely making ends meet as it was - another business lost."

The Bill is an opportunity to retrieve that and every other business, which would help the economy in Northern Ireland to thrive and create jobs. The Government need to do something.

Gavin Robinson: That is a fair point, and illustrates the requirement to honour the agreement—supported by the Minister and her Labour colleagues back in February—to eradicate routine checks within the UK internal market system. Does that deal with all the issues? No, it does not. Does it deal with what is in the red lane? No, it does not. Does it deal with the constitutional impurity of the overarching framework? No, it does not. But is it a step forward? Does it remove the frustration of my constituents and those of the hon. Member for Belfast South and Mid Down (Claire Hanna), who does not share my constitutional outlook? Yes, it does, and it should have been delivered in October.

The hon. and learned Member for North Antrim has also included in the Bill aspects on customs and parcels—another commitment made back in February and supported by the Labour Government. It was to be implemented in October this year, but they delayed it. The Minister and Members should know that we did not get overly exercised by the delay, because we recognise that it will be implemented by the end of the financial year. However, owing to the practicalities, the fact that attention was diverted because of the general election and all the rest, it did not happen in October. It is happening, which is good, but it is being done in a way that recognises the overarching imposition that we have from relationships that are totally unnecessary.

If the business run by the constituent of my hon. Friend the Member for Strangford (Jim Shannon) is bringing in thread, wool and felt from Etsy to make craft, I defy any Member to stand up and indicate how that will have a material impact on the integrity of the single market. I defy any Member to stand up and give me an example—other than from "The Lord of the Rings"—of where a tree has come from GB to NI and been planted, and has then got up and walked across the border. It does not happen, yet we are told that sending a tree from Stranraer to Belfast would destroy the sanitary and phytosanitary integrity of the single market. It is a nonsense.

We are having to live with, and try to work through, the practical solutions to the overarching imposition that this Parliament agreed to, in spite of the concerns raised by people like me who were here during the Brexit years, as the hon. Member for Walthamstow (Ms Creasy) was. We raised concerns, but we were ignored. So when people stand up in 2024 and say, "Why are we still talking about an issue that started in 2016?", it is because Members on both sides of the House did not listen to the warnings, the concerns, and the opportunities for compromise and agreement. Moreover, in repeating the same approach today, we are storing up greater potential for frustration in the future.

Ms Creasy *rose*—

Dr Gardner: Will the right hon. Gentleman give way?

Gavin Robinson: I will not give way to the hon. Member for Stoke-on-Trent South (Dr Gardner), because I am giving way to the hon. Member for Walthamstow (Ms Creasy).

Ms Creasy: The right hon. Gentleman actually knows that I have a lot of sympathy for his frustrations, because none of us should ever say there is a perfect solution to the challenges that he presents. That was always why many of us were concerned about the idea of Brexit, but we know that Brexit has happened. Once it happened, it created a series of problems. Does he recognise that there is more than one way to skin the proverbial cat that he is setting out, and that this legislation actually takes us back to those old arguments?

By working together in this United Kingdom Parliament, we could look at how we get a better SPS deal, and at how we deal with the problems that the border operating model has created, so that all our constituents can benefit. We cannot go backwards; Brexit has happened and created all these problems. Those who advocated for it may wish to reflect on that, but we can go forward

by trying to tease out better solutions. They will not be perfect, but they could be better. This legislation is not the solution, but I will offer a hand of friendship across the Chamber to find better solutions, if he is game.

Gavin Robinson: I will not respond to the hon. Lady's last line; I will leave it to others to determine. She and I have engaged with each other—sometimes helpfully, and sometimes crossly—for years. When there are opportunities to work together to benefit my constituency or anybody else's in the United Kingdom, I will do it. What I am actually doing at the moment is sharing agreements that were reached. She and her colleagues voted for them, yet we are still waiting for their implementation.

Let me give another one: an agreement outlined in "Safeguarding the Union" required a labelling regime across the United Kingdom. The reason for that was that there were no cost implications or benefits for businesses in Scotland, England and Wales if they simply chose not to supply our market in Northern Ireland. We have heard every hue and cry from drinks manufacturers and food manufacturers across the United Kingdom, who have said that this is costly and will cause them difficulty, yet Asda, Sainsbury's and Tesco simply put it on their best-before date line. It costs them nothing, but what does it ensure? No divergence of trade within our own country. What does it ensure? Access to the Northern Ireland market and the removal of a disincentive.

What have we heard? The Department for Environment, Food and Rural Affairs has no interest in honouring the very aspect of the agreement that Labour supported back in February. It is now saying, "Yes, we will take the power, but we will not use it, unless—". Unless what? It is repudiating a commitment from an agreement that it supported, but it will not say what is the trigger point. At what point is it OK for it to step in? At what point should Northern Ireland be disenfranchised before our sovereign Government and our sovereign Parliament will take steps to protect the consumer interests of the people of Northern Ireland? We do not know, but what we do know is that even when they have been prepared to engage in discussions that are of practical benefit to the people of Northern Ireland to resolve these issues—and Labour supported those—there has not been full and faithful implementation. It is not governed by the Vienna convention, but we are not seeing that full and faithful implementation.

Sammy Wilson: My right hon. Friend says that even when solutions are found, they are not implemented. We have heard examples of things that people never imagined would be problems becoming problems. The fact is that every time a solution is found, because we in Northern Ireland are subject to laws that are different from those in the UK, new problems arise. Unless we deal with the fundamental issue, namely what is causing the problems, we will be continually looking for solutions and continually fighting to get them implemented, and that is not good either for business in Northern Ireland or for confidence in the Union.

Gavin Robinson: My right hon. Friend is entirely correct. What have we achieved over the last five years? A game, and not a very enjoyable game, of whack-a-mole,

for it is about as strategic as whack-a-mole. An issue comes up involving the VAT margin schemes for second-car salesmen; we find a solution. Then another issue pops up, and another, and another. Whack-a-mole! That is the best strategic approach that this Government, and the previous Government, have adopted to deal with issues that are affecting us because of the decision taken back in 2019.

I remember the parliamentary discourse about the quest for agreement, but I know this. When the previous Prime Minister, Boris Johnson—[*Interruption.*] Just let me finish. No need for your wee quips. When Boris Johnson engaged with this issue, in respect of the protocol, he went to the Wirral for a walkabout in a wedding venue with Leo Varadkar, and became smitten with Leo. He ditched the democratic consent principles in section 4(5) of the Northern Ireland Act 1998 to which the hon. and learned Gentleman has referred. It was always part of the preceding arrangements that a consent vote in Northern Ireland would adhere to the consent principles in the Belfast agreement, and Boris Johnson ditched them.

In "Safeguarding the Union", there was a commitment to remove and repeal a legacy provision in section 10(1)(b) of the European Union (Withdrawal) Act 2018, on having due regard to an all-island economy—a commitment that Labour supported, but now repudiate because it is in "Safeguarding the Union". Let me remind the House that it is only in "Safeguarding the Union" because it features in the Windsor framework. Much of the approach from the Government Benches seems to amount to "We cannot achieve anything with the European Union unless we demonstrate our trust and our integrity—or our servitude!—to the European Union." Paragraph 53 of the Windsor framework indicates very clearly that there is no need to have a legal due regard to an all-island economy that does not exist. Anyone who stands up here today and talks about their full-throated support for the Windsor framework should read what paragraph 53 has to say about the all-island economy. It is a matter of fact that we do not have an all-island economy; we have strands within our economy that operate on a cross-border basis in the context of two legal jurisdictions, two tax jurisdictions, two currency jurisdictions, two VAT jurisdictions and two regulatory jurisdictions, unless covered under annex 2 of the protocol. We do not have an all-island economy. It is a superfluous piece of legislation that is drawn out of the joint report from 2017, and it should go. It should go because I say so; it should go because it was agreed under the Windsor framework, which is quickly forgotten and ignored.

We have talked about article 2 in this debate. No one on this side of the Chamber is indicating that we should leave, through this argument, the European convention on human rights, nor that we should replace the Human Rights Act 1998, which embeds those commitments in our domestic legislation. The argument being raised on article 2 of the Windsor framework is that what has been presented as an international treaty, an agreement and a resolution on trade is impacting and frustrating the ability of this sovereign Parliament because of how the courts in Northern Ireland are interpreting the provisions on myriad areas outside trade.

Immigration is a classic example. The hon. Member for Walthamstow was right that we worked on this and we talked about this, but let me be very clear: whenever

[Gavin Robinson]

I stood up in this Chamber on behalf of my colleagues as our spokesman on home affairs to say that I would not vote for the Illegal Migration Act 2023, it was not because I did not think there was an issue with immigration. I do. It was not because I was ill-prepared to support Government in their endeavours. I was prepared to do so. I said this in this Chamber and my colleagues supported me: it was because, though the Government said that the provisions would apply in Northern Ireland, we were indicating that they would not.

The very same people who told me that the immigration legislation would apply in Northern Ireland launched a leadership campaign on the back of the arguments I was making afterward. We were right, but it is wrong that a trading agreement should have any impact whatever on the ability of this sovereign Parliament to set a uniform immigration policy across the whole United Kingdom. It was wrong then, and I am glad that the Secretary of State on Wednesday night indicated that that is a ground of appeal that the Government are bringing forward, because it is wrong.

Ms Creasy *rose*—

Gavin Robinson: I hope, if I agree to allow the hon. Member for Walthamstow to intervene once more, and once more only, that she will agree that it is right to sort that issue, too.

Ms Creasy: The right hon. Gentleman is right. He and I may disagree about how to resolve it though, which is what I want to ask him about so that I do not misunderstand him. That disagreement was about the right to remedy being removed from people in Northern Ireland seeking asylum; in other words, it was the right to petition to an external court to uphold your rights. This Bill removes the domestic legal effect of article 2 of the Windsor framework and breaches paragraphs 1 and 2 of article 4 of the EU-UK withdrawal agreement, which require that individuals be enabled “to rely directly” on the provisions of that treaty.

Does the right hon. Gentleman think that is right? Many of us believe that there is a libertarian argument for a third-party court to uphold the rights of citizens, whether that relates to contract law and what they are sold or to their basic human rights. Is he saying that his resolution is that the right for citizens to petition a third party to protect themselves against the Government should be removed from the people of Northern Ireland?

Gavin Robinson: Our judiciary are independent from the Government as well, as she knows. At first instance, in the High Court in Northern Ireland, citizens can draw upon legal jurisprudence within the European system without needing to go to the final arbitrary appeal of a third party. She knows that. The hon. Lady and I have parsed the course on many occasions. Despite all the suggestions made by Members, when challenged, that they are prepared to engage in the debate on this legislation or on the wider issues affecting Northern Ireland seriously, earnestly and with a willingness to resolve problems, there have been an awful lot of giggling Gerties and Cyril Sneers across the Chamber. There has been an awful lot of dismissal of concerns that have not been raised for the first time today—they have been raised on many, many occasions.

It is not just immigration that has been encroached because of article 2 of the Windsor framework, but legacy, which was the basis on which the Secretary of State raised this issue on Wednesday night. The legacy of our troubled past is an important issue, and it has absolutely nothing to do with international trade or trade within our own country—yet here is a case predicated on article 2 of the Windsor framework, which is frustrating this Parliament’s ability to legislate on that issue. That cannot be right. *[Interruption.]* Is the hon. Member for Belfast South and Mid Down seeking to intervene, or is she just waving supportively?

Claire Hanna: I was agreeing with the right hon. Member that the trade rules have nothing to do with the past. I was also hoping to remind him that the hon. and learned Member for North Antrim (Jim Allister), who spoke before him and tried to equate the murderous campaign of the IRA with the protocol, degrades everybody in this Chamber, and degrades every victim of that campaign. I respect the right hon. Gentleman, and he knows that. I am sure he agrees with me, and that he was as mortified as everybody I know hearing that.

Gavin Robinson: I regard the hon. Lady as well, as she knows. She has made that point now on two occasions, and she is free to do so.

I want to come back to the SPS point that has been raised on a number of occasions. Here I stand as a Unionist Member of Parliament from Northern Ireland, having engaged on these issues for the past eight years, as have my colleagues in this place, whether recently or over the same period of time—nobody sitting behind me has a shorter political career than I do; in fact, almost all have a much longer political career. We have engaged on these issues because we have been trying to find solutions that work for the people of Northern Ireland. Sometimes that causes discord among us. Sometimes the best tactical way of achieving that does not meet unanimity or agreement. I am sharing with Members present that when we make progress and make achievements, we want to see them implemented, and there is no trust or honour earned when those agreements are breached or not fulfilled.

We are invited to wait for an SPS agreement. I just want to be very clear that in a debate such as today’s, on the Windsor framework and the EU withdrawal Bill that the hon. and learned Member has presented, the Paymaster General should be here. The Paymaster General, who has been charged by the Prime Minister to engage with the European Union and resolve these issues, should be in this Chamber. I greatly respect the Minister present, but some of the issues being raised are for the Paymaster General. It is he who intends to go and secure this SPS agreement.

Let me say very clearly to Government Members who think that such an agreement is the answer to all of our problems: it is not. There is a world in which that process could provide solutions and get equilibrium across the United Kingdom on SPS issues alone. However, nobody has yet said that that will see the removal of the overarching framework that is causing the imposition; nobody has once suggested that once reached, all the legislative requirements and the constitutional and practical impositions would dissolve. Nobody has suggested that,

and that is problematic. The fact that the agreement would be a single solution for SPS and would not touch on any of the other areas of law is problematic.

However, what is most fundamental? The Paymaster General knows as well as I do that the European Union does not see this process concluding within the next two or three years. I do not think it is appropriate or acceptable for the people of Northern Ireland to wait so long.

The Paymaster General has not indicated what the content of his agreement should look like, nor the content he would like to achieve. I understand that this week—only this week, some six months into government—he has written to the devolved Administrations asking for ideas as to what that process would look like; only this week, six months in, for a key plank of the Government's approach to resetting their relationship with the EU. That is simply not acceptable.

Rachel Blake (Cities of London and Westminster) (Lab/Co-op): I have been listening carefully to the right hon. Member. I came here today because of the harm that the botched Brexit deal has done to my communities, and because of my fear for what this Bill would do to those communities and the economies in the centre of London. He talks about the frustrating delays in implementing some of the solutions that he believes could make a difference, but I am confused about why he and the Bill's supporters think that going back so many years, as the Bill proposes, would actually help to make progress on the many issues that I think all Members—even on the Labour Benches—still believe need to be fixed.

The right hon. Gentleman supports the Bill, so will he explain why going back might help us to move forward on some of the areas where we think there needs to be progress?

Gavin Robinson: This Bill does not take us back. If we are interested in building trust and resetting our relationship with the European Union, why is it not conceivable that we could get to a place where we respect one another, acknowledge one another's purity of legal services and legal systems, and recognise the importance of the rule of law and the ability to mutually enforce standards with one another? Why is that so inconceivable?

Why is it possible for the European Union to outline a system that allows goods to move from the Republic of Ireland through Northern Ireland and into GB without any border checks, but not the other way around? Why? Will anyone stand back and ask themselves whether all of this, with the attendant hassle and constitutional impairment, is necessary or worth it? It cannot be sustained, neither practically nor pragmatically.

The impositions are not required. We started this journey in a place of equilibrium on standards. When we left the European Union, our standards and theirs were exactly the same. Mutual enforcement was not mythical then, and it is not magical now. There is no reason why I cannot conceive a solution based on a reset of relations, if necessary, and a rebuilding of trust so that mutual enforcement is the better answer.

Mr Gregory Campbell (East Londonderry) (DUP): If the Bill is talked out, as seems almost inevitable given the attitude of Labour Members, the Prime Minister

has indicated that he will speak with representatives of Northern Ireland and the Republic of Ireland in the next few days. If the Labour Government are saying, "Yes, there is an opportunity to make progress and, yes, there are difficulties to be resolved," does my right hon. Friend agree that there is an opportunity in the next few days for the Prime Minister to tell us exactly what he is going to do if Labour Members do not support the Bill?

Gavin Robinson: I agree wholeheartedly with my hon. Friend.

I want to give the hon. Member for Cities of London and Westminster (Rachel Blake) another example. She will have heard colleagues in interventions, she will have heard the hon. Member for South Antrim (Robin Swann) at Prime Minister's questions and she will have heard me at Northern Ireland questions raise the issue of the general product safety regulations that come into force next Friday. What is the best answer we had from the Secretary of State for Northern Ireland? "We are in discussions." What do we hear from Labour Members? "It's in train."

Information should have been given to businesses long before next Friday, but have I ever heard a Labour Member say, "Actually, in January 2024, the Conservative Government extended the February 2023 agreement to adhere to the requirements and standards of EU safety markings—the CE markings on goods—and general product safety"? Why are we in a situation where our Government—the last Government, but still our Government—agreed to adhere to EU standards on general product safety, only to find that, come next Friday, it will all be too problematic for GB businesses to trade with a part of the United Kingdom? It is wrong. It should not be the case, and it is not at all satisfactory that we are talking today about the aspiration to have a solution when this comes in on Friday. Businesses should already have the information.

Sammy Wilson: Does my right hon. Friend not find it even stranger that for products moving from the Republic of Ireland into GB, the Government rushed to find an accommodation? Only last week, the Minister told us that she was totally satisfied that checks away from the border would be perfectly suitable because producers in the Republic of Ireland were getting concerned about access to the GB market, yet our Government cannot find any urgency for facilitating the movement of products from GB to Northern Ireland.

Gavin Robinson: My right hon. Friend is right. That is where it becomes thoroughly obnoxious for people in Northern Ireland. They say, "Whatever the constitutional views are, and whatever the Labour position on this and the Conservative position on that, why am I being impinged on? Why am I being treated differently? If a workaround is available that allows goods from the Republic of Ireland into the GB market, why is there not one for me?"

When we talk about market access and the UK internal market system, we are in principle talking about a marketplace—somewhere to both buy and sell, where trade flows in both directions. However, when Government Members talk about market access, they all too often consider one direction only, and not the implications for businesses in Northern Ireland.

[Gavin Robinson]

I will conclude with a point about the democratic scrutiny mechanism and the vote that is due on Tuesday. The arrangements are a complete inversion of the commitments that were given in the Belfast agreement. They were brought forward following Boris Johnson's bedazzlement with Leo Varadkar in the Wirral. The protections that were offered to the people of Northern Ireland were stripped away in haste as a result of that political union. It has left us in a position where, even though cross-community support will not be attained, articles 5 to 10 of the Windsor framework will continue.

There is a strong argument, which others have made, that we should not countenance that process with our presence, but as I said at our party conference in September and since, we will be there on Tuesday. If the vote proceeds, we will vote against the continued application of the Windsor framework, in the knowledge that if we demonstrate our opposition, we will not leave anybody on other Benches or in the European Union with the chance credibly to argue, "They weren't even interested enough to vote—they didn't even turn up." With our vote and our voice, we will demonstrate our opposition to the continued application of the framework.

Carla Lockhart (Upper Bann) (DUP): I commend the hon. and learned Member for North Antrim (Jim Allister) for his Bill. It is disappointing that I will not get to make a speech on it; I trust that you will show me a little leniency, Madam Deputy Speaker, in my intervention as I have deliberately not jumped up and down during others' speeches.

Does my right hon. Friend the Member for Belfast East (Gavin Robinson) agree that those in this House underestimate at their peril the damage caused by the current arrangements? Unionism is reeling at the fact that our mother Parliament has sacrificed and continues to sacrifice Northern Ireland on the altar of political expediency. Unionism has had enough. Businesses and consumers have had enough. They cannot get plants, seeds or trees from GB. They cannot bring in farm machinery, just because it may have British soil on its wheels. They cannot bring seed potatoes from Scotland. All traditions in Northern Ireland—

Madam Deputy Speaker (Caroline Nokes): Order. I think the hon. Lady has made her point. I call Gavin Robinson.

Gavin Robinson: I acknowledge the position that my hon. Friend outlines in her contribution. I wish it was not the case that so few Members will get to contribute. Indeed, I arranged for my right hon. Friend the Member for East Antrim (Sammy Wilson) to lead for my party on the Bill—but he decided that I should—because I want to ensure that people get the opportunity to contribute.

Just as we make our point today, we will make it on Tuesday. I encourage other Unionists to vote with us. It will trigger a review that I think will be important; I hope that it will not be dismissed in the way that the concerns being raised today or in the past are being dismissed by Members here. The review will take evidence and suggest how the arrangements may change. The purpose of Intertrade UK and the independent monitoring

panel was to provide an evidence base for us to draw on when the review was triggered, but another aspect of the Government's inability to honour the commitments they entered into back in January and February is that their reluctance and lethargy means that that information will not be available. That is a shame. It is a complete shame that the work was put in to make sure that we could have these discussions in a robust, evidence-based and honourable way, but the information simply will not be available.

I wish the hon. and learned Member for North Antrim well with his Bill. He knows the frailties of the private Member's Bill process, and we do not know where the Bill will end up, but the issues raised and the principles engaged, and the imperative to keep working at this properly, to the benefit of the people of Northern Ireland in our United Kingdom, will not be diminished today, and they will not go away.

1.6 pm

Claire Hanna (Belfast South and Mid Down) (SDLP): I do not intend to speak long; that will allow others to get in, but it is primarily because we have spoken about this issue morning, noon and night for much of the past eight years and because Northern Ireland in general wants to move on. The hearts of people at home are sinking at the prospect of going back in time, of our heading like a demented moth towards the hard Brexit flame, and of our reopening debates from a time that was so destructive to our public services and our economy. That was a time when our economy, our jobs and our crumbling health service were put on the back burner while we indulged in years of discussions about sausages and smoky bacon crisps. We remember the menacing rallies that accompanied those discussions, and the way the Northern Ireland Assembly was held down. The people I represent do not recognise the "Mad Max" scenario that Members continue to paint in which there is a lack of food and other products on our shelves. That is not the reality that people are living in.

I do not want to relitigate all that has happened since 2016, but it is fair to say that Brexit sharpened all the lines that the Good Friday agreement was designed to soften around identity, sovereignty and borders. It is a fact that has not really been mentioned—I am not a majoritarian person—but Northern Ireland very clearly rejected Brexit in 2016. In the eight subsequent elections, in increasing numbers, it has supported parties and candidates who have sought to put mitigations in place. My party and I will stand by every decision we took in those years. In this Chamber, the other Chamber and the media, we begged Unionist Members not to make this a winner-takes-all scenario, not to follow Boris Johnson down yet another blind alley, not to take the assurances that they were being given. In all those times, there was not a whisper about consent, consensus or cross-community affairs.

Many of the people I deal with see the implementation difficulties. Brexit was entirely a project about trade friction, and it has created friction for many people. Those people, including small businesses and the people I represent, absolutely want to address those issues. They want to streamline processes and to use the framework provided to solve problems. They do not want to tear down the edifice of the solutions, as the Bill would do. In fact, last week, the Northern Ireland Assembly, as

Unionist Members will know, endorsed my party's proposals for moving forward—proposals not to rejoin the European Union, not to cancel Brexit, not to reopen all those wounds, but to look to the future, so that our voices are heard in decision making, and to try to grab every single economic opportunity that comes our way, east and west, and north and south.

My party and the people who opposed Brexit have never tried to make people choose between trade and possibility in either direction. We believe that we have been handed some lemons by Brexit, but we are ready to make lemonade. The lengthy opening speech by the hon. and learned Member for North Antrim will do nothing to allay the fears of many of my constituents that at its heart, this is about repudiating rights and hardening the rules on movement of people and goods, north and south. It feels to many people that that is what he is attempting to do, as well as to bring in the legacy of the past.

Jim Allister: It appears that the hon. Member has not been listening. The whole focus of my speech was on how we give back rights to the people of Northern Ireland and sort out our trade across the border, not the opposite. She has a rich heritage of advocating for cross-community issues. I have two questions, if she will address them. First, does she think that the decision on Tuesday in the Assembly is key, in that the Assembly will say for the next four years, “We are prepared to accept whatever laws from Brussels, even laws we do not even know about yet”? Secondly, if it is a key decision, why should it not be taken on a cross-community basis?

Claire Hanna: Of course I was listening. I do listen, and as the hon. and learned Member said, I try to find consensus, but people were forced to listen, because—for whatever reason—large parts of the media have indulged this argument for many years. He knows that he has had an outsized platform in the media. We have listened and tried to resolve this issue. As I have stated very clearly numerous times over the past eight years and in the past few minutes, unfortunately, no consent for Brexit was sought or given. That decision was not afforded the luxury of being cross-community, so we have to protect the mitigations through a majority vote as well. As I say, everybody wants to solve the problems, but I do not hear any solutions. We get more of the magical sovereignty dust, the Henry VIII powers, and suggestions that some future Minister will come up with some solution that has not appeared in the past eight years. This is about solving problems, Jim; that is what people elect us to do.

Madam Deputy Speaker (Caroline Nokes): Order.

Claire Hanna: I will tell the hon. and learned Member for North Antrim that our constituents elect us not to mine grievances, or to use the protocol as a receptacle for every bit of frustration about progress and the modern world, but to solve the problems that are before them. That is all that is left for us to do, calmly as leaders and as neighbours—to work through the challenges, streamline the processes, find workarounds and accept the honour of compromise. We got Brexit, which a lot of us did not want, but we are also getting the protections to help mitigate it and reconcile it with our politics and our geography.

I said this earlier, and will say it again: hundreds of thousands of us constitutionally compromise every day, because we are democrats and because we accept the principle of consent and the framework that most people in Northern Ireland want. There was, if not rejoicing, certainly respect for the fact that the Democratic Unionist party appeared to accept that in February, when it brought back the Assembly and agreed to work through these solutions, but it continues to rankle with people that constitutional compromise is expected of those of us who are not Unionists, but will not be tolerated by those who are. Let us move forward—that is what the people have consistently asked us to do in eight elections, and it is what the Assembly asked us to do last week. Let us grab the opportunities. Yes, dual market access is not perfect, but we have heard from businesses time and again that the first thing they want from us is stability. I am begging Members opposite to ensure that stability, and not to tear down the structures that it has taken eight years for us to create. I do not believe the electorate will forgive you if you do that.

Madam Deputy Speaker (Caroline Nokes): “Him”, not “you”. I call Sir Iain Duncan Smith.

1.14 pm

Sir Iain Duncan Smith (Chingford and Woodford Green) (Con): I will try to be as brief as possible, to allow others to speak.

I wish to come to what the Bill is actually about, rather than what people say it is about, but first I want to dispel the idea that it would mean going backwards. The idea of mutual enforcement in fact originated, as others have said, in the EU itself at the time. It came from those who were tasked, as senior officials—British and others—to come forward with a solution, before the end of the Brexit debates and so on, with an alternative way to make the borders work and to take the heat out of what later became really quite powerful and ended up with a Government literally unable to move any motion at all and have it succeed.

I have personal experience of this issue because, when there was a break in the negotiations between the UK Government—who handled it pretty badly at the time, by the way—and the Commission, I managed somehow to get a team of people together to go and see Monsieur Barnier directly. We sat at a table with all his negotiators, and a few of ours who were there, and we talked through the principles. This was before mutual enforcement became a concept, but we talked about what already existed in the EU with others from outside the EU and inside the EU, and how they traded. We ended up reaching very much the same conclusion as originally reached by Sir Jonathan Faull and others: that mutual enforcement was the better deal. Monsieur Barnier agreed with us. At the end of that agreement—I can see him following me out as I put my coat on—he said, “The principle behind any chance of this being agreed is that we must have trust. Without trust, we cannot have an agreement.”

The sad part about it was that when I came back to the UK to speak to my Government, they did not want to take any interest in that as a departure. They had already got bogged down in other areas. Sadly, two weeks later, what actually happened was that the Government went back in and carried on with their

[Sir Iain Duncan Smith]

complicated and hopeless negotiation, without first setting out the principle of what they wanted. I think Monsieur Barnier was open to that and I think the EU wanted mutual enforcement. At that stage, there was no question about weaponising the border; it was about how we could reach an agreement. We could have done much more then, and I still today think that this idea is it.

The Bill, then, is not about going backwards in the sense that it destroys what we have done; it actually says something about what we have done so far in two stages. The protocol, it seems to me, could only ever have been temporary, and the Windsor agreement, which I did not support, opened up the negotiation again, which was good, but the ask was so limited, and in some ways rather restrictive, that we have ended up with the principle being there, but the practical bit does not work. That was the moment when we should have used the opportunity to go back into mutual enforcement. What is so wrong about that? The EU already uses the principle in its dealings with other countries.

As I said in an intervention earlier, the classic example is New Zealand. The EU trusts the New Zealand veterinary officers—particular key ones, but they trust them all once they are registered—to say whether certain foodstuffs are, under SPS rules, packaged properly and agreeable under the EU rules. They are trusted to say that EU rules are met. That is a critical component. When those foodstuffs are shipped and arrive at Rotterdam, most often it comes up on the computer and they are waved through. Any checks that have to take place in Rotterdam for non-EU countries take place 30 km behind the border, and they are spot checks just in case something has happened en route or something else has changed on the way. In other words, things move smoothly through. But such arrangements were not agreed in the various agreements here.

Eventually, in trying to draft this idea together, I sat down with others to try to figure out how we could make mutual enforcement work. I give credit to the hon. and learned Member for North Antrim (Jim Allister) for having brought forward the Bill, because it gives us a chance to debate the matter. I know very well what goes on in this Chamber and I know only too well how Fridays work, and the sad part is that if the Government do not want to have any further debate on something, they arrange for it to be talked out. It has happened on both sides; cynicism exists on all sides. I understand that. Lots of people will have come in, particularly from London because they are closer, and they will do what they have to do to talk this out. The Bill is not going to get through; I never expected it to. [Interruption.] Honestly, do not object; Government Members know very well that that is exactly what happens. Some will be here because they believe in something—I look across at my constituency neighbour, the hon. Member for Walthamstow (Ms Creasy)—but the majority are not. Therefore, let us just understand fundamentally what we could have been discussing and what the current Government could now be engaged in; they could be talking to the EU about changing these arrangements.

The current arrangements are damaging relationships and causing issues around Northern Ireland. We know that; nobody is arguing that that is not the case. If we have such problems that affect the constitution and the

smooth running of businesses both in Northern Ireland and the wider United Kingdom, then surely any Government would want to make sure those are settled. It is not a polemic, it is not a right or left wing thing to do; it is called practical governance to try to figure out how this works.

I did not agree with my Government when they brought forward the Windsor agreement in its final stages, and I voted against it. I voted against it because I thought they had lost a real opportunity. The EU had accepted that its imposition earlier on did not work and it had to change it, but what we ended up with was a de minimis change which did not solve the problems; in fact some of them have got worse.

When we strip out all the politics, the key component is that mutual enforcement requires each side to make reciprocal legal commitments to each other and to enforce the rules of the other with respect to trade across the border. In other words, we would accept that where our exporters export to the EU, we are responsible if they breach EU regulations. So if the EU says a company or individual is exporting goods in breach of the terms of its trade, the UK Government will take the responsibility to proceed against them, and vice versa for the EU.

That does not require no border, because there has always been a border in Northern Ireland; we just do not want a hard border. That was always the issue. People talk about borders, but they mean a hard border. I had some experience of that when I had to man one of the checkpoints there when I was sent to Northern Ireland. I hated doing it, but that was a hard border. We do not want a hard border and mutual enforcement obviates the need for a hard border. Borders will exist, and we talked about that in terms of currency and VAT.

Mr Gregory Campbell: On this mythical hard border, does the right hon. Gentleman agree that it would be impossible to implement such a thing for any land border of 300 miles with 280 crossing points, and that the process we are embarked upon is trying to get a two-way flow of trade that obviates the need for any of those checks anywhere on the border?

Sir Iain Duncan Smith: The real point is getting rid of the Irish sea checks; it is anathema that one part of the United Kingdom is now treated separately from the rest of the UK. That is surely a reasonable idea and if it is in this Bill then the Government should want to take it through to the next stage and debate it. This is what the Bill does. Mutual enforcement does not of itself remove customs duties; neither does it harmonise or require mutual recognition of standards. It works by inverting the usual approach to customs enforcement; duties may, for example, be imposed for anti-dumping reasons or due to subsidies that one party claims are injurious to itself or to companies as a result of goods failing to qualify for zero duty under rules of origin. That is what the Bill does. All the rest that has been talked about is not in this Bill; it is very simple and very practical. The trade and co-operation agreement between the EU and the UK already has an agreed mechanism, which is very important for identifying and addressing these distortions. If we are able to allow that and make changes, that is how it will work.

There are other areas, too, which I will speed through as quickly as possible. Mutual enforcement can also under these terms accommodate the collection of customs duty. The detailed procedures are obviously beyond the scope of briefing papers and the Bill, but the reality is that we could have a system whereby an order of goods from the UK to the Republic of Ireland triggers a UK export declaration and an EU import declaration such that in terms of the EU's customs data any sums owed are put into the goods invoice and paid by the importer to the exporter. There are many other ways ahead that can be facilitated, particularly now that almost all of this is done using modern technology, not large sheaves of paper and with a man standing at the border with a ladle to check whether the brandy being imported or exported tastes like brandy. That does not happen any longer, but from some of the debates it would seem somehow we have not moved on from 17th-century customs requirements.

To ensure compliance with this regime, a penalty in this arrangement would apply to those parties who failed to follow the procedure. The penalty would apply to both exporters and hauliers, therefore incentivising all parties involved in the carriage of goods to ensure that appropriate EU customs duties are paid. By the way, the same would be required in the Republic for its importers. It should be noted—this is the important bit that has gone missing—that an analogous system would in any event be required for the red and green lane approach prescribed in the Windsor framework.

Is this going back? No. It is using what we have and ultimately making it better. That seems to me the practical principle behind this idea of mutual enforcement. We should have started in this place, but we now have an opportunity to look at this issue and decide if there is a better way to do it that will take some of the good stuff already there and improve it by saying to the EU that we want a smooth process between the EU and the UK, because everything else then follows. Many EU members already agree; I have heard their discussions.

I cannot remember who it was, but somebody got up and said, “Did we not think they were allies? Did we not think they were friends?” It is because we think they are allies and friends that we want to get rid of the things that make us have rows and arguments about the most practical issues that could be dealt with. That is the point of this mutual enforcement process: to get rid of the ludicrous arguments about who we are and who they are. We can then be very good allies and friends, which we are and will need to be over the next few years, as we enter arguably the most dangerous time that I can remember.

I have a point for the Government. Given that almost identical rules apply in the EU and the UK, the EU could, and arguably should, negotiate an SPS equivalence agreement with the UK, as it has done for countries as far away as Canada and New Zealand, as I have said before.

Jim Allister: Given the right hon. Member's experience of international affairs, what does he think are the prospects for the present arrangements? Are they an incentive or a disincentive to securing a trade deal with the United States of America?

Sir Iain Duncan Smith: I thought the hon. and learned Member might tempt me down that road. Whether we have a trade deal with the United States of America is way beyond my paygrade. No Government I could ever join would ever have me, so on that basis I will answer from my own perspective. Yes, there is a change in Administration in America. I understand one thing, because I negotiated a trade deal with the incoming President of the United States, about which I have never quite told the full story. It became very clear to me in those discussions that he wanted a trade deal, more than anything else, with the United Kingdom, and he said so.

How we go about that is a complicated issue. There is an easy way to do it, through what are called sector-by-sector trade arrangements, which are agreed before moving on to the next area. That is made more difficult by the arrangement in which, somehow, part of the United Kingdom now seems to be partly inside the EU. That makes it difficult for them to understand whether any goods and so on would slip through into the EU. That will cause a problem—it is not my place to say whether it is insurmountable, but these are unnecessary difficulties. However, if we had mutual enforcement, that would not be the case. It would be very clear at that point that that would actually be a very good basis for a trade deal with the United States to smooth our arrangements with them. They are our biggest trading partner and, ironically, unlike the EU, one that we have a surplus with and not a deficit of some significant degree.

I end on this point. In terms of what has happened over the last 30 or 40 years, there are big, deep gulfs and divides over anything that touches on Northern Ireland and its relationships with the UK and the rest of Ireland. I came here to look at the practicalities of a better way to sort out the trading relationships that leaves Northern Ireland as a solid part of the United Kingdom. Yes, it has a special place, because it is the one land border that we have with the EU, but that does not mean to say that we should treat it differently in terms of its arrangements with us here in Parliament. My worry is that we set those insurmountable problems ahead first and, at the end, we then do nothing. We could achieve this change. If the Government had their way, they would take all the bits from the agreement and try to discuss and implement them with the EU. The EU knows that that would not work. It is time to make some changes. Just talking out the Bill helps no one.

1.30 pm

Deirdre Costigan (Ealing Southall) (Lab): Thank you, Madam Deputy Speaker, for allowing me to speak in this debate. I also thank the hon. and learned Member for North Antrim (Jim Allister) for introducing the Bill. I listened with interest to some of the points made by Opposition Members, particularly the words of the right hon. Members for Belfast East (Gavin Robinson) and for Chingford and Woodford Green (Sir Iain Duncan Smith), who suggested that there are attempts to talk the Bill out. The only people who appeared to be attempting to talk the Bill out were the hon. and learned Member for North Antrim and the right hon. Member for Belfast East, and they did a very good job of it.

[Deirdre Costigan]

It has become increasingly clear in this debate that the hon. and learned Member for North Antrim has no interest in progressing the Bill. He knows that it is unworkable and has no intention of its ever becoming law. What he is doing today is purely and simply political posturing for nakedly electoral reasons.

I was interested and slightly amused to hear the hon. and learned Member for North Antrim refer to his interest in ensuring equality and equal access to citizenship for all the citizens of Northern Ireland. I wonder if he felt the same way about extending access to equality and citizenship when it came to reproductive rights for the women of Northern Ireland and the right to equal marriage for people in Northern Ireland. I do not recall him being as vociferous at that time.

I was interested to hear from the Member from South Acton—I mean South Antrim. Apologies—I represent an area very close to Acton, as my hon. Friend the Member for Ealing Central and Acton (Dr Hug) knows. The hon. Member for South Antrim (Robin Swann) asked whether Labour Members had read the Good Friday agreement. Back in 1998, as a very young woman, I recall vividly buying the newspaper that printed the full Good Friday agreement, laying it out on the floor of my bedroom at the time and reading through it clause by clause. For me, and for the people of Northern Ireland, the Republic of Ireland and all the United Kingdom, it was such an important and joyous occasion to see that agreement come to fruition.

That joy is properly experienced if one watches the final episode of “Derry Girls”, when Orla dances through the streets of Derry on her way to register to vote in favour of peace in Northern Ireland. What a contrast that moment of joy is to some of the words that we have heard from Opposition Members today, which have been less about forging a prosperous future for Northern Ireland and more about raking up the arguments of the past. Today we found ourselves revisiting old grievances rather than pushing for progress. The Bill drags us back into the quagmire of disputes that were settled through the Good Friday agreement and the Windsor framework—painstakingly negotiated and endorsed as a solution that works for Northern Ireland and the United Kingdom.

Jim Allister: Will the hon. Lady give way?

Deirdre Costigan: I am afraid that the hon. and learned Member has had sufficient time to speak today.

The Bill is an attempt to undermine the very foundations and underpinnings of the Good Friday agreement. It risks creating far more issues than it claims to solve. Given the hon. and learned Member for North Antrim’s electoral pact with Reform UK, I would have thought he would be happy to get Brexit done, yet here we are renegotiating 2019, stuck in an endless “Groundhog Day” of Brexit debates. While the hon. and learned Member looks backwards, this Government are looking forwards to a stable, prosperous and peaceful Northern Ireland.

Let me look at the most fundamental concern about the Bill. At the heart of it lies a blatant disregard for the United Kingdom’s obligations under international law. Clause 3 shows that the legislation seeks to disapply key elements of the Windsor framework. This is not a matter

of abstract legal principles; it strikes at the very core of the UK’s credibility as a nation that honours its commitments. The Windsor framework was the result of years of painstaking negotiation designed to balance Northern Ireland’s unique position post Brexit. For the UK unilaterally to disregard its provisions would be not only a breach of trust with our European partners but a dangerous precedent that could have profound consequences for our future trade agreements and alliances. It would be not just a technical breach but a move that would erode trust in the UK’s ability to uphold our agreements, and international partners are watching closely.

The message that the Bill would send if passed is clear. How can we expect to secure future trade agreements or maintain our standing on the global stage when Members of this House seek so readily to abandon the commitments we have made? Instead, the Government have grounded themselves in respect for international law. Only by sticking to our word can we rebuild this country’s reputation, which was trashed by the previous Government’s shocking decision to break international law in “specific and limited” ways. Let us be clear: we either abide by international law or we do not. It is not an à la carte menu where we can pick or choose. The Government understand that, and that is why we will be sticking to our agreements.

The economic implications of the Bill are just as troubling. Under the Windsor framework, the at-risk, not at-risk test provides a clear and workable solution allowing for the smooth movement of goods between Great Britain and Northern Ireland while protecting access to the EU single market. By removing that mechanism and replacing it with undefined alternative models, the Bill would introduce huge uncertainty. Such a lack of clarity would create significant operational challenges, leaving businesses without a road map for compliance. The small and medium-sized enterprises that drive Northern Ireland’s economy would be particularly damaged as the Bill would disproportionately burden them.

Joe Powell: My hon. Friend is making a powerful point about trade. Does she agree that the ripple effects from disapplying the Windsor framework would hit all of us, including constituencies such as mine that are looking forward to the Government’s priority of resetting our relationship with the EU and finding practical solutions on, for example, a veterinary agreement, which would help deal with some of the problems that Opposition Members have raised and on which we have had some degree of consensus in the House today?

Deirdre Costigan: My hon. Friend makes a good point. I am focusing on businesses in Northern Ireland, many of which lack the resources to implement the dual tracking system for goods destined for different jurisdictions. They would be placed at a significant competitive disadvantage.

The Windsor framework has provided Northern Ireland with dual market access. That is a unique and valuable advantage that no other part of the UK enjoys. It has enabled Northern Ireland’s economy to remain one of the strongest performing post-Brexit. Businesses have adapted to the framework’s provisions, and over 9,000 firms are now registered with the UK internal market scheme. The Bill, however, would throw all of that progress to

the wind. It would deter investment and create further trade barriers, undermining Northern Ireland's status as an attractive place to do business. For small and medium-sized enterprises already operating on tight margins, the additional costs and administrative burdens could be devastating. After years of decline under the Tories, these businesses need certainty, stability and support, not a chaotic and fragmented regulatory landscape that would leave them scrambling to comply with conflicting rules. The people and businesses of Northern Ireland deserve better than what the Bill proposes.

I turn to the critical issue at the heart of the Bill in clause 19, which would alter the consent mechanism for articles 5 to 10 of the Windsor framework, replacing the current system of simple majority voting with a requirement for cross-community support, as laid out by the hon. and learned Member for North Antrim. While such a measure may appear on the surface to strengthen democratic buy-in, in reality it would risk paralysing decision making and undermining the delicate political equilibrium established by the Good Friday agreement.

Jim Allister: The hon. Member talks about undermining the delicate political balance. We were told that that was solved by the Belfast agreement. It was the Belfast agreement that decreed that, for every key decision, there should be a cross-community vote, yet this is a key decision and the cross-community vote is to be abrogated. Where is the respect in what she is saying in terms of the efficacy of the Belfast agreement or of this vote?

Deirdre Costigan: Let us look at the intent behind the existing democratic consent mechanism. The Windsor framework carefully designed the process to ensure that the people of Northern Ireland, through their elected representatives in the Assembly, have a say in whether the key provisions of the framework continue to apply. By allowing a simple majority vote, the framework ensured that the democratic will of the Assembly could be expressed efficiently and effectively. That system reflects the realities of a power sharing arrangement, where decision making can already be complex and contentious.

Clause 19 proposes a significant and disruptive shift. By requiring cross-community consent in the Northern Ireland Assembly—a majority of Unionist and nationalist representation—the Bill introduces a mechanism that grants de facto veto power to either community, and Opposition Members know that. That risks creating scenarios where no decision can be reached at all, with no explanation in the Bill for whether the Windsor framework would continue under such circumstances. Such provisions invite obstruction and brinkmanship on a critical issue.

Robin Swann: The hon. Member is countering what she said earlier about having read the Good Friday agreement. Obviously she has not understood it, because that cross-community consent has been central to the protections that were applied in the Belfast agreement at the start to ensure minority concerns are protected. That was the purpose of it. What she is saying in regard to the change from five to 10 on removing cross-community support and consent undermines the principles of the Belfast agreement, which my party paid so much for.

Deirdre Costigan: We disagree on that point, but I reiterate that I have read the Good Friday agreement from cover to cover.

The introduction of a cross-community requirement would only place enormous burdens on the Assembly, which has already struggled to function effectively in recent years. Adding another layer of complexity to the Assembly's decision-making process risks further entrenching the situation, making it even harder to deliver for the people of Northern Ireland.

We must also consider the message that the provision sends to the people of Northern Ireland. By imposing additional barriers to democratic decision making, the Bill risks fostering a sense of disenfranchisement and disillusionment among the electorate. How can we expect the people of Northern Ireland to place their faith in the Windsor framework if institutions are being deliberately hamstrung by measures designed to perpetuate stagnation rather than to promote co-operation on this vital issue? The Windsor framework was carefully designed to strike a balance between competing interests. This Bill, by contrast, undermines that delicate balance, replacing pragmatic solutions with political posturing that serves no one.

There is an absence in the Bill of a clearly articulated framework to replace the existing regulatory mechanisms established by the framework. Under the current system, Northern Ireland operates within a dual regulatory sphere, giving it unique access, as I said. That arrangement, while complex, has provided a measure of certainty for businesses. They know which rules apply, how to comply with them and the benefits of adherence. The Bill removes critical aspects of the existing framework. That would create a vacuum, leaving businesses and regulators alike with more questions than answers, and the resulting uncertainty would of course threaten Northern Ireland's prosperity.

That is before I get on to the fact that there is no clear timeline for the implementation of the Bill. It provides no road map, no phased implementation plan and no transitional support for affected parties. The Bill would therefore only create a chaotic environment in which businesses must prepare for the unknown, potentially leading to disruption, delays and financial losses. For small and medium-sized businesses that lack the resources to navigate complex regulatory shifts, the consequences would be devastating.

The regulatory uncertainty created by the Bill is not a minor oversight; it is a fundamental flaw that undermines its viability. Far from being a technical adjustment, the Bill is a destabilising force. At its core, it flagrantly disregards the principles of international law and the commitments that the United Kingdom solemnly made under the Windsor agreement. But perhaps the most frustrating aspect is that the Bill represents a colossal missed opportunity. Northern Ireland is uniquely positioned to thrive as a bridge between the UK and the EU, leveraging its dual market access to attract investment and drive growth. The Windsor framework, while not perfect, is a pragmatic solution that provides the stability and predictability necessary for that unique position.

Instead of building on that foundation, the Bill tries to tear it down, replacing a functioning system with chaos and division. It prioritises short-term calculations over long-term economic and social stability. Northern

[Deirdre Costigan]

Ireland deserves better than this. Its people, businesses and institutions deserve a Government who legislate responsibly, with foresight and care, rather than rushing forward with reckless and ill-conceived measures.

This House has a duty to legislate responsibly, to weigh the long-term consequences of our actions, and to uphold the principles that underpin our democracy and our international commitments. This Bill fails on all counts. It is not simply flawed; it is fundamentally unfit for purpose.

I urge colleagues to reject this legislation and demand a more thoughtful, inclusive and workable approach to addressing the challenges facing Northern Ireland. Let us act not out of political expediency but out of genuine commitment to the people, businesses and institutions that rely on us to get this right.

Madam Deputy Speaker (Judith Cummins): I call the shadow Minister.

1.45 pm

Alex Burghart (Brentwood and Ongar) (Con): It is a pleasure to be called in this debate—and nice to have an opportunity to stand up. It is also nice to see such enthusiasm for this subject from Labour Members, and I can see how disappointed many of them are not to have been called in this debate.

There are so many things that one might say about the extremely interesting Bill introduced by the hon. and learned Member for North Antrim (Jim Allister). We know that it will not progress, as Labour Members intend to talk it out, but I want to talk about some of the ideas and principles that have been raised today, and indeed some of the ideas and principles that are contained within this interesting Bill.

Many new and enthusiastic Labour Members were not here during the difficult days of 2016, 2017, 2018, 2019 and 2020, although some senior and experienced Members were. When looking at that densely packed history, there is a temptation to step back. We perhaps do not need to go back quite as far as Sophocles, although the hon. Member for Bootle (Peter Dowd) always peppers his interesting remarks with cultural references. I was reminded of something else that Sophocles said: “There is a point at which even justice does injury.” There is something in these conflicting ideas of law, international law, obligation and principle that rings with Sophocles.

In those Brexit days, mistakes were made by hon. Members on both sides of the House. Indeed, my right hon. Friend the Member for Chingford and Woodford Green (Sir Iain Duncan Smith) has referred to mistakes made by the then Administration. They created a starting position that some of us did not want and that has had long consequences. But we are, as has often been said, where we are. From those starting points there has been progress of a type.

The initial proposals for the backstop were unquestionably bettered by the protocol. The Windsor framework, I believe, is better than the protocol. “Safeguarding the Union” is better than the Windsor framework, but that does not mean that further progress is not possible.

As the Windsor framework approaches its second birthday, it is worth taking stock of what has emerged from it. Obviously it made some improvements and achieved some of what it set out to do, but there is still the problem that Opposition Members have raised with the flow of certain goods between Great Britain and Northern Ireland. That is not a frivolous concern; it is a serious concern. The promised investment—we were going to see Northern Ireland becoming a Singapore of the west—has not happened. I have asked about it in my conversations and in my visits to Northern Ireland, and I have heard that it has certainly not yet materialised.

On Wednesday night, the House debated the Secretary of State’s statement on legacy and on the challenges that he is bringing to judgments made at the Court of Appeal in Belfast. The interpretation of the Windsor framework is a very live issue that could have profound and long-reaching consequences for how law operates in this country. Even then, it must be acknowledged that popular opinion in Northern Ireland is shifting slowly. Queen’s University Belfast carries out regular polls on how people feel about it. It is becoming less popular over time. That may change, but it is an issue. These are all practical issues, even before we reach the serious issues, which must never be discarded, about sovereignty.

If this is where we are right now with the framework, we have to ask what will happen next. The Labour Government were elected not six months ago, with a considerable majority, on a manifesto that committed to

“implementing the Windsor Framework in good faith and protecting the UK internal market”.

They must be sure to do both. Both elements of that promise to the British people are extremely significant.

Opposition Members have raised many issues that have arisen with particular goods in particular sectors. Nowhere are those issues more pressing than in the SPS arrangements and the veterinary medicine arrangements. I talked to farmers in Belfast a few days ago, and they said that they were concerned that the Government do not appreciate that time is of the essence. The right hon. Member for Belfast East (Gavin Robinson) mentioned the need for haste in the Paymaster General’s work. It is indeed pressing, because the timescale that the EU is briefing out is the next two to three years, and the grace period is due to end at the end of 2025. More than 50% of Northern Ireland’s medicines will not be sourceable from the UK. That has a huge implication for farming and agriculture, which is a major part of the economy in Northern Ireland, as I do not need to remind Members of the House.

Ben Coleman: Does the hon. Gentleman think that the Bill would make it easier or more difficult for the Government to enter into successful negotiations on a sanitary and phytosanitary agreement?

Alex Burghart: As the hon. and learned Member for North Antrim says, if the Bill were to pass—as we know it will not, because it is being talked out—there would not be the same need for that sort of deal, because goods would be flowing freely from GB to Northern Ireland, so the question is at best academic.

Ben Coleman: Will the hon. Gentleman give way?

Alex Burghart: I will not, actually. I have points to make and I want to leave the Minister time to make her speech and take interventions from Members in all parts of the House.

One thing that strengthened the Windsor framework was “Safeguarding the Union”, which is critical to where we are now. Hon. Members will remember that the Northern Ireland Assembly came back together only because of “Safeguarding the Union”. If elements of it are removed, it is possible that that agreement will fall away, although we hope that it will not. If it does, it will risk the stability of our institutions in Northern Ireland.

There are many points that one could raise—I have asked a lot of parliamentary questions on this—but there are some specifics on which we are now owed some detail. The first is about the independent monitoring panel. The internal market system is supported by the UK internal market guarantee, which is overseen by the independent monitoring panel, but when will the panel first report? Secondly, we have Intertrade UK, which could be an important body. We were all pleased to see Baroness Foster appointed in September, but as far as I am aware, Intertrade UK’s terms of reference have still not been published. That is unacceptable. We are now three months on from appointing a chair, and many months on from the publication of “Safeguarding the Union”. Intertrade UK must have its terms of reference, and they must be shared with Members of this House.

Similarly, we must have regular updates from the Government on business preparedness for the internal market system. It is not enough for us to depend on Members of the Opposition to ask questions proactively; the Government should report regularly on that.

Dr Arthur: I thank the shadow Minister for giving way—I am sure that he will be grateful for the chance to sit down briefly. He has been very constructive, and I welcome that, but in reality the Government have largely inherited this situation, which is quite a difficult one, given the friction and the other issues that we need to discuss. Does he not think that he is being a little impatient by demanding progress so soon?

Alex Burghart: No, I do not think I am being impatient, because this is an extremely important subject. We were all aware, when the Command Paper was published earlier this year, that this would need to be done. The framework was in the Labour party’s manifesto, so we assumed that it was making those preparations. It is perfectly possible to put together terms of reference for Intertrade UK within three months, for example. We are not being impatient; such things need to be done for a reason and within a reasonable time. I know that the Minister is alive to the importance of those things, but I hope that she will hurry that work along.

It is clear that under this Government the Windsor framework will continue to run. How successfully it runs will depend on any deals they strike and on whether they are able to uphold the commitments made in “Safeguarding the Union”. However, as Opposition Members have said, the limitations of the Windsor framework, in practical terms and on constitutional principle, are clear. That is why we must continue to seek even better solutions.

The hon. and learned Member for North Antrim and my right hon. Friend the Member for Chingford and Woodford Green talked about the Bill’s central issue: mutual enforcement. During the Brexit negotiations, mutual enforcement was categorised as “magical thinking,” but I think that was an unfair ploy used by people who did not want to do it. It is thinking that has magical potential but it is not magical thinking, because, as my right hon. Friend spelled out, mutual enforcement has already been done. We have seen it work in the EU’s dealings with New Zealand. Significantly, we heard that Monsieur Barnier was open to it, and that people involved in formulating policy at the time have stated again that they know it is deliverable. I just do not want anyone on either side of the House to think that mutual enforcement cannot be pursued; it can and must be. With the good will and the technology, there is no reason why there cannot be a future in which mutual enforcement plays a role.

During the Brexit negotiations, I remember being told repeatedly, as a Back-Bench Member, that there could not be any border checks, any infrastructure, or any checks near the border. However, in recent months we have seen that is not true. We know that it is not true because the Republic is conducting Operation Sonnet, which it is perfectly entitled to do. Operation Sonnet is a series of checks performed by the Garda on people crossing the border to make sure that they are not crossing illegally.

Carla Lockhart: I commend the hon. Member on his speech. Does he agree that today, sadly, is a missed opportunity? We had it within our grasp in this place to end the application of EU law in Northern Ireland, to restore Northern Ireland’s place in the UK internal market by removing the Irish sea border, and to address the democratic deficit, but we failed, so we will just have more of the same as of tomorrow.

Alex Burghart: I am very glad that the hon. Lady has had an opportunity to make that point.

As I have said, we have seen that the Republic is carrying out checks on the other side of the border, so things that we were told were not possible are. If that is the case, it must open up possibilities for the future. I remain strongly of the view that the Windsor framework with “Safeguarding the Union” is a better solution than the Windsor framework was; that the Windsor framework was a better solution than the protocol; and that the protocol was a better option than the backstop. However, that does not mean that there are not better solutions available.

Those of us who believe in the Union do not wish for a sea border, or for a settlement that infracts the Acts of Union. Mutual enforcement obviously has the potential to be a sensible alternative, particularly if it is backed up by very serious penalties for those who infringe those arrangements. Indeed, in those circumstances, it could be remarkably effective. We would not start from here. We are where we are, but that does not mean that we cannot get back to where we once belonged.

2.1 pm

The Parliamentary Under-Secretary of State for Northern Ireland (Fleur Anderson): Let me begin by expressing thanks to all those who have contributed to this debate

[Fleur Anderson]

so far—I am sure that there will be many more after me—and to the hon. and learned Member for North Antrim (Jim Allister). He has set out his view to the House with the same ardour as he did a fortnight ago, although at greater length than he was allowed to in Westminster Hall, and he made his case during his time in Stormont as well.

It is important to restate to him what my right hon. Friend the Secretary of State for Northern Ireland said to this House a fortnight ago, which is that the Government want Northern Ireland to prosper and flourish as an important part of the Union. On that, many of us will find agreement. We are here to do what is best for the people of Northern Ireland. I also reiterate the Government's commitment to both the Windsor framework and to the UK internal market. It was on that point that the Secretary of State respectfully disagreed with the hon. and learned Member for North Antrim in this House a fortnight ago.

I will set out the Government's objection to this Bill, which is not compatible with international law, does not account for Northern Ireland's unique circumstances, and would take away powers that are given to the Northern Ireland Assembly to make decisions about Northern Ireland. It would result in a regulatory black hole that would be very bad for businesses, jobs, growth, the Northern Ireland economy and the rest of the United Kingdom.

I will start by outlining some of the good news for the Northern Ireland economy—news that shows what the Windsor framework, the prospect of stability, the Executive returning, and the stability of a new Labour Government are doing for the economic outlook in Northern Ireland. The Northern Ireland composite economic index indicates that economic output increased by 0.4% over the quarter to June 2024 and by 2.3% over the year. Ulster University's economic policy centre shows that Northern Ireland has a forecasted growth rate of 1.4% in 2024 and 1.7% in 2025. The region's economy is performing better than was expected at the start of the year. This has been driven by strong growth in employment, particularly in the transport, construction and health sectors.

The Northern Ireland Statistics and Research Agency's interdepartmental business register shows that the number of businesses registered for VAT or pay-as-you-earn operating in Northern Ireland in 2022 is estimated to have risen by 1,550 since 2021 to 77,640, and is continuing to increase. I could go on and on; I have a longer list of the good news stories for Northern Ireland. The economy is working, but all the businesses I speak to talk about the need for stability, and the underlying premise of this Bill would change that stability. We would go into uncertainty and chaos, which would not be good for the Northern Ireland economy.

Jim Shannon: Honestly and sincerely, each one of us on the Unionist Benches who has concerns has presented examples of where things are not working, and the hon. and learned Member for North Antrim (Jim Allister) introduced the Bill to address those issues. I gave two examples of businesses, and I could give many more if you, Madam Deputy Speaker, were to let me, but I know that you will not. The Minister might say that what has been done is positive, but for us there is not positivity.

Constituents with businesses have told me that they will no longer be able to trade, to have a business, or to provide employment and pay wages, and that has to be addressed. Those are the issues that we are raising, Minister. Tell us what will happen.

Fleur Anderson: I listened carefully to the examples that the hon. Gentleman gave on behalf of his constituents. They are concerning, and we need to listen to them carefully. I absolutely understand the concerns raised by other Members in this debate as well. It is useful to have this debate, so that we can talk about those issues, but without the Windsor framework, there would be no framework from within which to negotiate changes. Many changes have been made since the establishment of the Windsor framework, and that shows that it can flex, allow negotiation, and allow for practices and schemes, such as the internal market scheme, that enable the smooth flow of trade. That is the benefit of having the Windsor framework, rather than ditching it.

Jim Allister: The Minister talked about the flexibility of the Windsor framework in allowing change. Of course, the Windsor framework was not able to change one word of the substantial content of the protocol, because the protocol involved giving the EU control over the vast swathes of our economy that are under those 300 areas of law. It involved putting Northern Ireland under the EU's customs code. Only if that is reversed can Northern Ireland return to the UK internal market and be retrieved from the EU single market. The Windsor framework does none of that, and even with the greatest will in the world, it is not capable of doing any of that. It can tinker; it cannot change.

Fleur Anderson: I will come to his important point on the 300 areas of laws, because it is important to put that in context. However, I reiterate that having a framework within which to negotiate is better for all those areas than not having one, resetting things and trying to do in just three months what has been done and talked about for the past eight years. That is what this Bill would do.

I will cover the points made by the hon. and learned Member for North Antrim and by others. They were sincerely made, but the Government sincerely disagree. Before I come to the substance of the Bill, it is important that this House should deal in facts, and I am afraid that the opening speech of the hon. and learned Member for North Antrim contained a number of factual inaccuracies that it is important to correct. He claimed that a Stormont brake is nothing more than a request from the Assembly for the law to be disapplied. Back-seat driving was referred to. That is incorrect. In fact, schedule 6B of the Northern Ireland Act 1998 places a strict legal duty on the Government to act where the brake is validly used by Members of the Northern Ireland Assembly.

The hon. and learned Gentleman has used hyperbolic and frankly incendiary language, impugning the motives of our partners and allies, all the while ignoring the fact that this House voted for the arrangements that now apply. I can only presume that he supports the sovereignty of this Parliament. Indeed, he has opposed the existence of the Northern Ireland Assembly under the Good Friday agreement, so he should reflect on the fact that the Windsor framework represents the democratic will

of this House. He made repeated reference to the 300 areas where EU law is applicable to Northern Ireland. He ignores the fact that, under the Windsor framework, more than 1,700 pages of EU law, with accompanying European Court of Justice jurisdiction, have been disapplied. They cover areas such as VAT, medicines, which were referred to, and food safety; the UK Government can decide on them, and UK courts can interpret issues to do with them. I have my own views on the whole process, but that was faithfully applied after the democratic vote to withdraw from the EU.

Jim Allister *rose*—

Fleur Anderson: I will give way, but I will not do so too much, as I will not have time to go through all my points otherwise.

Jim Allister: Are there, or are there not, 300 areas of law that are now beyond the legislative reach of this House and the Assembly because they lie within the purview of the European Parliament? Is that true or false?

Fleur Anderson: There was this trilemma, involving the integrity of the UK internal market; avoiding a hard border on the island of Ireland; and respecting that our EU partners have a legitimate interest, and being able to co-ordinate trade with it. Those 300 regulations, which are a very small amount of the whole, allow for things like dairy farmers moving milk over the border and back, which I am sure the hon. and learned Gentleman would agree is necessary. They allow for smooth movement of trade. Those remaining regulations enable businesses in Northern Ireland to go about their business.

The hon. and learned Gentleman has claimed that the vast majority of veterinary medicines are at risk of being discontinued at the end of next year. That is also incorrect. He is right that there are ongoing issues that the Government are working hard with industry and farmers to address, and I am glad that they have been raised by Members today. However, he is simply wrong to say that the vast majority of veterinary medicines are at risk, and engagement with industry suggests no such thing.

The hon. and learned Gentleman claimed that the Windsor framework has caused shortages in medicines for diabetes. Again, that is incorrect. Various factors can sometimes give rise to gaps in medicine supplies across the United Kingdom. The overwhelming majority of medicines are in good supply, and we have well-established processes to manage supply issues. His claim that such issues are in any way a result of the Windsor framework, or are specific to Northern Ireland, is wrong.

The hon. and learned Gentleman held up the Good Friday agreement and asked where it demands that there be no border infrastructure on the island of Ireland. I know he has his own reservations about that agreement; perhaps that is why the facts have not been understood. That agreement was one of the proudest achievements of the last Labour Government, and the peace and security it has produced are premised in no small part on the normalisation of security. The absence of a hard border is an overwhelmingly good thing. The hon. and learned Gentleman asked for quotes, and I shall oblige him. The agreement committed to a normalisation of security arrangements and practices, and committed the British Government to

“the objective of as early a return as possible to normal security arrangements”.

The common travel area has existed for more than a century, and is integral to the movement of people and goods on the island of Ireland.

Jim Allister: Will the Minister give way?

Fleur Anderson: I am going to make some progress. To the Government's mind, this commitment to normal security arrangements could not be met, under the common travel area arrangements, with a hard border of the sort that the Bill would institute.

The hon. and learned Gentleman indicated that, come what may, he wants his part of the UK enabled to follow the rest out of the EU. I need not remind him that the whole of the UK left the European Union, and that the debate has been settled. We can see that he would prefer that damaging hard border for Northern Ireland.

Sammy Wilson: First, will the Minister accept that the arrangements referred to in the Belfast agreement were security arrangements—army watchtowers and Army posts along the border? Secondly, despite what she has said about the common travel area, does she accept that guards are stopping and searching vehicles on roads in and out of Northern Ireland, to take people off them, because they believe that they are illegal immigrants? The common travel area is not even being respected by the Irish Government.

Fleur Anderson: There are absolutely minimal stops along the border. It is not a hard border, but circumstances would be very different under the Bill, which implies an ideological hard Brexit—

Jim Allister: Will the Minister give way?

Fleur Anderson: No, I will make some progress now.

Gavin Robinson: Will the Minister give way to me?

Fleur Anderson *indicated assent*.

Gavin Robinson: I am very grateful to the Minister, but could I just cautiously and gently urge her to draw back from the comments she has made about the movement and security around the border? One of the most incendiary things to occur during the discussions with the European Union and the British Government was Leo Varadkar showing a copy of *The Irish Times* that displayed a picture of a border post that was blown up by the IRA during the troubles, and suggesting that the trade arrangements could lead to the same thing. He was wrong then, and I think the Minister is in danger of stepping into that territory today.

Fleur Anderson: I hope the right hon. Member understands that I am talking about the difference between a hard border and a soft border. The Windsor framework enables the smooth flow of trade, which is good for businesses on both sides of the border and also safeguards the Union. The Windsor framework does not damage the Union; it actually strengthens it and ensures that it can continue.

Sammy Wilson: On the issue of a hard border, will the Minister give way?

Fleur Anderson: I will make some progress now, because time is running out in this debate and I want to get to the end.

On the consent vote, it is simply wrong to claim that all major decisions in Northern Ireland require cross-community agreement. As the hon. Member for Belfast South and Mid Down (Claire Hanna) pointed out, cross-community agreement was not required for Northern Ireland to leave the EU and is not a requirement for constitutional change, in line with the principle of consent in the Good Friday agreement. The reality is that the Good Friday agreement never envisaged a device such as the consent vote, so the arrangements for that vote were determined by this House and the amendments that it made to the Northern Ireland Act.

Let me briefly thank right hon. and hon. Members who have contributed to the debate, including my hon. Friend the Member for Bootle (Peter Dowd), the right hon. Member for Belfast East (Gavin Robinson), the hon. Members for North Down (Alex Easton) and for Belfast South and Mid Down, the right hon. Member for Chingford and Woodford Green (Sir Iain Duncan Smith), my hon. Friend the Member for Ealing Southall (Deirdre Costigan) and the hon. Member for Brentwood and Ongar (Alex Burghart), and others who have yet to contribute. I am grateful to Members for raising many issues, which I will take away. I am also grateful for the comments from the hon. Member for Brentwood and Ongar and others about continuing to speak, and about dialogue.

I turn now to the substance of the Bill. I shall set out three reasons why the Government cannot support it today. First, the Bill cannot be said to be compatible with international law. I know that the hon. and learned Member for North Antrim has made assertions about international law, but the absolute truth is that the Bill is premised on replacing the agreed measures under the Windsor framework with unilateralism and uncertainty. In the circumstances, that would constitute a breach of the UK's agreements, which would be unlawful under international law.

This Government are committed to the rule of the law and to meeting the UK's international obligations, and the Bill contains a set of unilateral measures that do no such thing. This is not an abstract matter; it is a matter of consequence. We must be clear that it is never in any nation's interests to flagrantly disregard international law and treaty obligations. Doing so would weaken our standing abroad and our prospects for beneficial international agreements in the future, which matters, particularly for Northern Ireland.

As the House knows, the Government were elected with a mandate to reset our relationship with the EU and tear down trade barriers, including by negotiating a sanitary and phytosanitary agreement. Hon. Members have raised concerns about the operation of the Windsor framework, but there is significant potential for practical issues to be improved or addressed through the negotiation of such an agreement. That is in the best interests of Northern Ireland, and it is in the interests of the United Kingdom as a whole, but a nation that turns its back on prior commitments cannot hope to persuade others to enter new and beneficial arrangements.

I know that, as a proud Unionist, the hon. and learned Member for North Antrim will appreciate the potential benefits of such an agreement to Northern Ireland and

to strengthening the Union, so I confess that I am somewhat baffled that he is promoting legislation that would be so detrimental to the prospect of securing future agreements. It is playing fast and loose with the rule of law, which is very bad for business. The Bill would create conditions in which businesses and citizens can never be certain about which rules will be respected and which will not. It would create uncertainty over the regulatory framework on which businesses in Northern Ireland now rely to trade, including the ability to trade across the island of Ireland without friction. It would do so automatically by bringing down a hard guillotine on the trading arrangements in just three months, leaving businesses no time to adjust. It would be an economic shock.

In my time working on international development campaigns, I saw at first hand at the World Trade Organisation what regulatory certainty and uncertainty can do for the prospects of small businesses, the jobs they create and the economies they contribute to. I can personally attest that it is better for those businesses to work on the basis of agreed trade arrangements than to leave them stranded in the choppy waters of regulatory uncertainty.

Secondly, the Bill does nothing to account for Northern Ireland's unique circumstances. Let us be honest: these issues have been discussed, debated, analysed and dissected in this House for nearly a decade now, as other Members have said. They have occupied the political life of the nation for some time, and it is right that they have done so. The concerns of the hon. and learned Member for North Antrim, and those of right hon. and hon. Members from the Democratic Unionist party and the Ulster Unionist party, are real and legitimate, and deserve to be taken seriously. But, although I understand and respect the strength of feeling behind the Bill, I say respectfully to the hon. and learned Gentleman that neither this Bill, nor the similar variations on its proposal that have been advanced over the past nine years, do anything to address the practical issues in a more stable and sustainable manner than the Windsor framework addresses them.

Jim Allister: Will the Minister give way?

Fleur Anderson: I am going to make progress.

As I said earlier, the core challenge remains the trilemma: how do we preserve the integrity of the UK's internal market, avoid a hard border on the island of Ireland, and respect the legitimate interests of our EU partners in protecting their single market, just as we seek to protect ours? The Windsor framework provides an answer to a very difficult question. I say simply that, across several elections, the vast majority of right hon. and hon. Members elected to this place have been elected on a platform of avoiding a hard border. For good reason, then, we need to support the Windsor framework.

Thirdly, the Bill would serve to prejudice the democratic decision that the Northern Ireland Assembly is making itself. Last month, my right hon. Friend the Secretary of State for Northern Ireland initiated the progress for the Northern Ireland Assembly to decide on the continued application of articles 5 to 10 of the Windsor framework. That vote is provided for in the Windsor framework and under domestic law, which was strengthened under the terms of "Safeguarding the Union". It is now a matter for

Northern Ireland's elected representatives to decide on. I am pleased that the elected representatives of the people of Northern Ireland are able, as part of the functioning devolved institutions, to exercise the important democratic scrutiny functions included in the Windsor framework. The Bill would fatally undermine the powers that those in the Assembly have over scrutinising regulations that apply in Northern Ireland.

The Government will only support sustainable arrangements for Northern Ireland that work for business, protect the UK's internal market and uphold our international obligations. The Windsor framework does just that, and the Government are firmly committed to it, just as stridently as we are committed to the UK internal market and to Northern Ireland flourishing within a strengthened Union. Just as important is that we will be honest with the people of Northern Ireland about what is and is not possible, and what the trade-offs are with various options. There will be no more magical thinking; no reopening of the wardrobe into a political Narnia of mythical solutions to the practical issues that we must consider in respect of trade; and no more simplifications that work as soundbites but do not stand up in reality. At this crucial time, the people of Northern Ireland deserve honesty.

Sir Iain Duncan Smith: Does the Minister not agree that mutual enforcement is, in principle, about using what already exists in terms of trade? In the course of building on the Windsor agreement, might she consider influencing the EU to get rid of the border between Northern Ireland and the rest of the United Kingdom?

Fleur Anderson: I do not know where in the world mutual enforcement has worked. I understand how it can work in some limited ways, but not in the wholesale way outlined by the right hon. Member. I am afraid it is in the tradition of unreal answers to real and complex challenges to which the Windsor framework remains the only credible solution.

Claire Hanna: Will the Minister indulge me for a moment? Can we just kill off this canard about mutual enforcement? The Bill goes much further than suggesting mutual enforcement. It seeks to remove Northern Ireland from the European Court of Justice, and therefore from the single market. It is not just about in-market surveillance; it is about entirely removing our economy, including our agri-foods economy, from the single market. Does the Minister agree that that is why this proposal is magical thinking and why it is simply not on the table?

Fleur Anderson: I thank the hon. Member for mentioning one area in which this process would be disallowed. However, there is a long list of areas on which we are currently working, in which systems are working well, that would be disappplied. We could go back to 1880 and the Acts of Union, when there actually were differences between the island of Ireland and the rest of the UK, and I could say more about those, but I will end my speech by saying this. I believe that if the Bill were passed, far from strengthening our constitutional settlement—although I am sure that the right hon. and learned Member for North Antrim would wish that to be the case—it would weaken the UK's constitutional foundations and its international standing immeasurably. It would not be good for businesses in Northern Ireland,

and it would not be good for the people of Northern Ireland. For those reasons, the Government will be voting against the Bill today.

2.25 pm

Dr Rupa Huq (Ealing Central and Acton) (Lab): May I echo what was said by my hon. Friend the Member for Bootle (Peter Dowd), Madam Deputy Speaker, and say that my heart swells with pride to see you in the Chair? We are of the same vintage, as is the Prime Minister: the class of 2015.

Here we are on another Friday of private Members' Bills. I have to say to the hon. and learned Member for North Antrim (Jim Allister) that although he and I were on the same side last week, along with the Minister, and I proudly marched through the Lobby with him—he made a passionate speech on that day as well—I am afraid that today I cannot support his Bill, for numerous reasons. The hon. and learned Gentleman—who is not even listening to me!—delivered his argument with his customary passion and dramatic flair, but I think that the Bill is actually quite dangerous.

Last week we were talking about safeguards and limitations of power. That debate was all about oversight. This week we have been talking about mutual enforcement, which removes all oversight. I am a bit worried about all this. I agree with my hon. Friend the Minister—who made a brilliant speech—that by seeking to disapply section 7A of the Windsor framework, which enables EU legislation to enter UK domestic law, the Bill undermines the Good Friday agreement, one of the proudest achievements of the last Labour Government or indeed any Labour Government, and attacks human rights protections. The Windsor framework only saw the light of day in 2023; it is not even a finished process, and the hon. and learned Gentleman wants to strangle it at birth. The framework was only the latest instalment of the divorce deal between Great Britain and the EU revisiting border arrangements. We all remember the referendum of 2016, which opened a Pandora's box and a can of worms—stuff that we had never seen in this country before. I was a passionate remainer, and my constituency was 72% in favour of remaining. There were tears in playgrounds across Ealing and Acton the day after that referendum. However, I am mature enough to realise that the sky has not fallen in, so how do we make Brexit work? I feel that the Windsor framework is one of the things to mitigate. That is what we should be looking at, mitigating, not ripping up international treaties. I agree with my hon. Friend and neighbour the Member for Ealing Southall (Deirdre Costigan): we are still hopeful for trade deals with the rest of the world. If we rip up an international agreement now, how is the rest of the world to take us seriously? It is a fundamental breach of trust. Last week we were talking about assisted dying. People of my persuasion used to say that it would be “political suicide” to leave the EU. I have accepted that the sky has not fallen in, and I think that the Windsor framework is a sensible next step.

We 2015-ers have been through probably 20 years' worth of elections in half the time. We had them every other year: in 2015, 2017 and 2019. Those Brexit years—I am sure that my hon. Friend the Member for Bootle remembers them—and those late nights that we had! John Bercow lived on site, in the place where we attended all those Diwali receptions the other day. It was about

[Dr Rupa Huq]

I am, and I remember Stephen Twigg, who was sitting behind me, saying, “Come on, John—we don’t all live here.” We had plenty of those late-night sittings. Brexit, to my regret, divided families and parties. Remember all those things we have put in the recesses of our minds? There was the Cooper-Boles agreement, the Dromey-Spelman amendment—all those things. This debate is giving me weird flashbacks; I am being teleported back to 2017! This is the bit we were getting to function—*[Interruption.]* Yes, that word “Brexit”. I do not think I have even said the word so far—I cannot bring myself to say it. There was “the Chequers approach” and DExEU. Two entirely new Government Departments were created—

2.30 pm

The debate stood adjourned (Standing Order No. 11(2)).

Ordered, That the debate be resumed on Friday 11 July.

Business without Debate

CONTROLLED DRUGS (PROCEDURE FOR SPECIFICATION) BILL

Motion made, That the Bill be now read a Second time.

Hon. Members: Object.

Bill to be read a Second time on Friday 7 March.

UNAUTHORISED ENTRY TO FOOTBALL MATCHES BILL

Motion made, That the Bill be now read a Second time.

Hon. Members: Object.

Bill to be read a Second time on Friday 17 January.

SALE OF TICKETS (SPORTING AND CULTURAL EVENTS) BILL

Motion made, That the Bill be now read a Second time.

Hon. Members: Object.

Bill to be read a Second time on Friday 17 January.

VACCINE DAMAGE PAYMENTS ACT (REVIEW) BILL

Motion made, That the Bill be now read a Second time.

Hon. Members: Object.

Bill to be read a Second time on Friday 17 January.

NHS ENGLAND (ALTERNATIVE TREATMENT) BILL

Motion made, That the Bill be now read a Second time.

Hon. Members: Object.

Bill to be read a Second time on Friday 17 January.

TERMINAL ILLNESS (RELIEF OF PAIN) BILL

Motion made, That the Bill be now read a Second time.

Hon. Members: Object.

Bill to be read a Second time on Friday 17 January.

COVID-19 VACCINE DAMAGE BILL

Motion made, That the Bill be now read a Second time.

Hon. Members: Object.

Bill to be read a Second time on Friday 17 January.

Spray Foam Insulation: Property Value

Motion made, and Question proposed, That this House do now adjourn.—(Christian Wakeford.)

2.32 pm

Tom Gordon (Harrogate and Knaresborough) (LD): The green homes grant voucher scheme was introduced in July 2020 under the Department for Business, Energy and Industrial Strategy. The scheme was part of the Department's green recovery from the pandemic and promised to contribute to the goal of net zero carbon emissions by 2050. Some £1.5 billion of funding was made available by the Chancellor of the Exchequer to offer homeowners the opportunity to reduce emissions and improve energy efficiency. Individual homeowners could apply for up to £5,000 of funding to cover two thirds of the cost of eligible energy efficiency measures.

Between September 2020 and March 2021, just short of 50,000 vouchers were paid to homeowners that could be used for a variety of improvements, including heat pumps, energy efficient windows and doors and, importantly, spray foam insulation. The exact number of vouchers given out for use on spray foam insulation is unknown. However, almost 14,000 vouchers were used for loft and pitched roof insulation measures which could have included spray foam.

Spray foam insulation is a form of liquid insulation applied with a spray gun, typically in roofs, lofts and attics. This is where the problem occurs. It has the potential to improve thermal efficiency if applied correctly. However, it can cause significant damage when it is not done correctly. Homeowners have reported problems in timber-framed roofs following installation. It restricts air circulation causing condensation that ultimately damages the property and has resulted in signs of decay and dampness in timber framed roofs.

Homeowners put faith in the Government's recommendations and carried out this work with the promise of enhanced energy efficiency. Instead, they have been met with thousands of pounds of remedial works and difficulty in selling their properties. An unregulated trade of cowboy builders offering to carry out remedial work has also emerged. Homeowners are being convinced to spend thousands on improvements when they are not always necessary.

The Government need a cross-departmental strategy to address the issues arising from the green homes grant voucher scheme. We must see action to support affected homeowners with a compensation scheme, regulation of removal companies and steps to tackle the blanket ban that some mortgage providers have placed on homes with the insulation. There are important lessons to be learnt here to ensure future Government home improvement schemes do not have the same unintended consequences.

Spray foam insulation has the potential to cause such severe damage that many mortgage lenders have issued blanket refusals. BBC research demonstrated the varied approach mortgage lenders are taking on the issue. Of the 20 largest mortgage providers, seven have said that they refuse to lend on any properties with any form of spray foam insulation. The other 13 stated that extra information and surveys would likely be required and that mortgages would be offered only on a case-by-case basis. That is adding additional costs to people when they come to mortgage, remortgage or sell their home.

My constituent Tom described the utter devastation he felt when the sale of his house fell through after surveyors discovered spray foam insulation. It was only once the buyer informed Tom that they would not be able to get a mortgage approved on the property that he learned of the dangers of this type of insulation. Without the availability of grant money, Tom and his family would never have considered installing spray foam insulation. However, they wanted to do their bit for the environment through the green homes grant scheme.

There are lots of good people out there like Tom trying to make efforts to help reduce their carbon emissions and contribute to net zero, and they have fallen foul through no fault of their own. Tom applied for a voucher through a scheme that would cover two thirds of the cost of the upgrades and put in £1,000 of his own hard-earned money, too. After receiving a list of Government-approved installers, Tom and his family chose one that they believed met the standards to carry out the works.

After the sale of the house fell through, Tom began investigating potential remedial works to remove the foam and make his home suitable for mortgage. It soon became apparent that there were no affordable options. Tom has reported spending £4,000 on removal of the spray foam insulation, while another constituent, Norma, has been told that she will likely need to have all the roof timbers replaced due to the severity of the damage.

Earlier this year, the Health and Safety Executive published shocking data revealing that condensation could cause 25% of roof timber to decay within five years if spray foam was applied directly to roof tiles. However, the Insulation Manufacturers Association has warned that blanket bans on mortgages for homes with spray foam is leading to a new wave of rogue traders offering to remove foam for over-inflated prices, often causing greater damage in the process. It said that homeowners must not turn to cowboys for this removal service. When installed correctly by a regulated provider, spray foam is an effective form of insulation. It recommends that anyone with spray foam gets an independent assessment by a surveyor.

Prior to these conversations, the surveying industry had little knowledge of spray foam or how to adequately check its impact on roof timbers—that was what was leading to the blanket refusals. The Royal Institution of Chartered Surveyors, the Health and Safety Executive and insulation manufacturers have all worked to introduce protocols, which is a good first step to measure the impact of spray foam and ensure safe removal. It is imperative that we regulate rogue removal companies and stop them charging thousands of pounds to remove spray foam that could have been correctly installed.

Despite the previous Government having run and funded the scheme, they took a hands-off approach to the issue. We must not see the new Government follow that same approach. Instead, we need to see decisive action to support those facing the financial repercussions of the Conservatives' lack of due diligence.

Several excuses have been used to justify the lack of action by successive Governments. Cowboy builders have been blamed for applying foam without the necessary expertise of proper surveys. While that has certainly contributed to the damage, that cannot act as a "get out of jail free" card for the previous Conservative Government.

[Tom Gordon]

There have been attempts to shift blame to the homeowner for using an installer that did not meet standards. In June 2022, when pressed on the possibility of redress for impacted homeowners, the Government argued that it was the responsibility of the installer and homeowner to decide whether to proceed with using spray foam insulation. However, all works using vouchers had to be done by a TrustMark-registered installer. TrustMark is a Government-endorsed quality scheme for tradespeople. The then Minister, Greg Hands, argued that the Government were not responsible for remedying the impacts of a scheme as TrustMark had

“a robust framework of operating requirements, including dispute management.”

Recipients of green grant vouchers were provided with a list of recommended installers to choose from, and my constituent Tom provided a copy of that TrustMark certification of lodgement that he received following the installation of the foam. TrustMark’s slogan is “Government-endorsed quality”. In this case, it is somewhat ironically branded.

While previous Governments have tried to wash their hands of responsibility for the disastrous impacts of the scheme, their involvement is well documented. TrustMark continues to operate as the only Government-endorsed quality scheme for home improvements. Understandably, homeowners trusted the recommendations and installers that the Government had endorsed. It was the responsibility of the Government and TrustMark to ensure that those installers were capable of carrying out the works to the necessary standard.

The Royal Institute of Chartered Surveyors has previously raised concerns with the Government about the lack of impartial advice under the scheme. Retrofit advisers were often the same as installers and salespeople. If the Government continue using TrustMark to regulate contractors, greater due diligence is required to ensure that those contractors are endorsed and have all the necessary knowledge, experience and training to carry out work to the highest standards.

So far, the Government have not taken action to understand the breadth of the impact of spray foam on recipients of green homes grant vouchers. I tabled a number of questions that the Minister kindly responded to yesterday in advance of this debate. We do not yet know the true number of people who might be impacted, but it is estimated to be in the tens of thousands, if not more. There is currently no clear data to ascertain how many homes have been impacted, which is why the Government need to investigate this fully.

Those who put their faith in the Government’s recommendations deserve their fullest attention to remedy the repercussions. The Government should take some responsibility for the negative implications of using the endorsed installers and methods. So far, that is not happened. They have recommended that consumers seek redress under the Consumer Protection from Unfair Trading Regulations 2008. However, a number of these installers have since gone bankrupt, making it incredibly difficult to claim against them. Consumers are therefore having to cover the cost of removal and repairs themselves. The Government have attempted to rid themselves of responsibility by arguing that the availability of terms

of mortgages were an issue for lenders. Multiple issues are at play, including difficulties with TrustMark’s dispute management system. Also, many of those installers no longer exist, and companies have closed, as has the green homes grant scheme.

There are growing calls for compensation for those who have been impacted by spray foam insulation to cover not just the cost of large remedial works but their contributions to the initial works. The green homes grant voucher scheme only covered two thirds of costs in most cases. There needs to be proper support for people who had spray foam installed. My constituent Tom is very lucky that he had family support while they moved, and they had the opportunity to move out for remedial works to take place. Nevertheless, he remains £4,000 out of pocket.

We cannot ignore the issues caused by spray foam insulation. Potentially, 300,000 homes have spray foam insulation, and we need support to ensure these homes are sellable. The Government must step in and ensure that mortgage providers are not unnecessarily withholding mortgages. We must also limit the unregulated trade of foam removal companies preying on vulnerable households and causing further damage at hugely inflated prices. I have already attempted to address that with the Department. It is evident that cross-governmental issues are at play. Where there has been legitimate damage to properties from people who have used green homes grant money, the Government must step in and take action. Lessons need to be learned for future Government schemes, too.

Is important not to be alarmist. People should not remove spray foam until they have had it checked by a reputable surveyor with the necessary training and experience to deal with this issue. It is understandable that mortgage providers have to lend responsibly, but blanket bans contribute to mass panic and fuel the business of cowboy builders. We must make sure that mortgage providers are properly regulated, too. This is a nationwide issue—although the numbers are still unknown, people have reached out from across the country as this issue has come to the surface recently. I have had conversations with a number of colleagues across parties. My hon. Friends the Members for Oxford West and Abingdon (Layla Moran) and for Stratford-on-Avon (Manuela Perteghella) are working hard to get support for their constituents who have been affected.

It is key that people put their faith in the Government’s recommendation. These were good people who wanted to work hard towards the goal of net zero and save a little money along the way. They should not be left thousands of pounds out of pocket because of it. It is crucial that we not only provide them with the necessary support, but look to the future to make sure that we prevent this happening again with any other schemes.

I do not deny that the green homes grant scheme was well intentioned. Such schemes are crucial, and I do not want to diminish faith in future schemes. However, we need to rectify the schemes of the past. If not, people will not trust the schemes of the future. I also appreciate that this is not an issue of the current Minister but one of the many legacies of the previous Conservative Government and the disaster that ensued. I would welcome meeting and working with the Minister responsible

for repair and regulation, and to ensure that this does not happen again. I appreciate the time that the Minister has already given to this issue in advance of today's debate, and I hope that she will continue to work with me to address this issue.

2.43 pm

The Parliamentary Under-Secretary of State for Energy Security and Net Zero (Miatta Fahnbulleh): Let me start by thanking the hon. Member for Harrogate and Knaresborough (Tom Gordon) for bringing this important issue to the attention of the House and highlighting the stories of his constituents.

This Government are committed to ensuring that all energy efficiency installations are done to the highest standards, and that proper consumer protection and redress are built into the system. That matters because building and maintaining consumer confidence and trust are critical to our delivering our warm homes plan and upgrading millions of homes across the country. We will do everything that we can to ensure that the system works for consumers. This is therefore a very important and a timely debate.

We understand the frustration and the difficulties that some homeowners with spray foam loft insulation have experienced when obtaining finance. This problem followed the publication of now-withdrawn guidance from a surveyors association in December 2021. The guidance said that surveyors could not comment on the condition of timber roof structures, or properly assess the risks once installed, given the nature of the product.

In response to the problems that some homeowners were having when obtaining finance, under the previous Government, the Ministry of Housing, Communities and Local Government worked with industry to publish several documents in 2023. These included a consumer guide, a code of practice for installers and an inspection protocol, alongside training for surveyors.

The Building Safety Regulator also completed research to understand moisture risk factors, which indicated that the risk is low if the relevant British standards are followed. Crucially, the inspection protocol now enables a surveyor to determine whether an installation was done properly and, therefore, to determine the risk level. This means decisions on mortgage products should be made on a case-by-case basis, and there should not be a blanket exclusion on mortgages.

I understand that progress is being made and, while some lenders will want to follow the advice of surveyors, most no longer have a blanket policy against lending where there is spray foam insulation. We are aware that just over 6,000 pitched roof insulation measures were installed using a voucher from the previous Government's green homes grant voucher scheme, and some of these installations may have used spray foam products.

If products have been installed to the standard required under the scheme, we do not expect them to be removed. We expect that they are doing the work and are effective in the home. A surveyor should be able to use the available inspection protocol to make the proper assessment. Where the measure has not been installed correctly, however, homeowners should contact their installer or use the TrustMark dispute resolution process to seek redress. If the installer is no longer trading, the homeowner should contact the guarantee provider. The details of this should be in the paperwork they were given at the point of installation, or they will be available from TrustMark.

Although the system is working, we know that it is not working in too many cases and that people are falling between the cracks. We know that the standards and accreditation processes for Government schemes are too complex, and that accountability structures are not always clear. I am new to my role, but I am the first to admit that there is a job to do to improve the system so that, when problems occur, consumers get the right advice and redress without having to bang their head against the wall to get it. The Government are determined to address this.

The Government's ambitious warm home plans will upgrade millions of homes across the country to make them warmer and cheaper to run, from installing new insulation to rolling out solar panels and heat pumps. We will review the consumer protection framework as part of this plan, ensuring clear lines of accountability and clear and easy redress mechanisms so that consumers can trust the system.

The plan will also outline the further action we intend to take to drive up quality and standards, and to support the supply chain to grow in size and competence. This will include investing in training and supporting trusted small businesses that work in the community to join the supply chain.

We understand that the hon. Gentleman's constituents, and constituents across the country, face this issue, and we are looking into it to understand the size of the problem and what we can do in response. More fundamentally, people should be in no doubt that we are committed to building consumer protection and trust, because that is the only way we can take the country on the journey as we try to upgrade millions of homes.

I thank the hon. Gentleman for raising the profile of this issue, for raising the stories of his constituents and the difficulties they have faced, and for giving us the opportunity to highlight the avenues that are available for affected consumers.

Question put and agreed to.

2.49 pm

House adjourned.

Written Statement

Friday 6 December 2024

JUSTICE

Domestic Murder Sentencing Reforms

The Lord Chancellor and Secretary of State for Justice (Shabana Mahmood): This Government have set out our ambition to halve violence against women and girls in a decade. Today, I am announcing that the Law Commission has accepted my request to undertake a review of the law of homicide and the sentencing framework for murder. In addition, I intend to bring forward legislation to implement two outstanding recommendations in the independent domestic homicide sentencing review undertaken by Clare Wade KC, which was published last year.

Law Commission review

The law of homicide was last subject to a thorough review by the Law Commission in the early 2000s. At that time the Government decided not to implement the majority of the recommended changes. In the almost 20 years since then, the problems identified in that review have remained largely unchanged, and, as society and the law has moved on, new issues have emerged. These include the interactions between the law on homicide and joint enterprise and the extent to which the law reflects a modern understanding of the effects of domestic abuse. Following the Nottingham attacks last year, the families of the victims have also called for homicide law reform, particularly with regard to how diminished responsibility should be reflected in the classification of homicide offences.

Our current sentencing framework for murder was first introduced over 20 years ago, and multiple, piecemeal amendments have been made to it since then. Recent concerns particularly relate to gendered disparities for murders committed in a domestic context. These concerns include the inadequate reflection of prior abuse in minimum terms for abusive men who kill their female victims, and disproportionately long tariffs for women who kill their male abusers.

I have asked the Law Commission to undertake a project to consider these issues, revisiting and building upon their report in the early 2000s. The Law Commission will review the law relating to homicide offences, including full and partial defences to those offences, and this time also the sentencing framework for murder.

The Law Commission has already started work on a project reviewing the defences to homicide for victims of domestic abuse who kill their abuser. That project will continue under the umbrella of this full review of homicide law, allowing the Law Commission to consider the issue holistically, moving beyond defences to consider the homicide offences themselves and sentencing for this group of defendants.

The Law Commission expects to begin work on this review in early 2025, at which point they will publish a detailed timeline for the project. The terms of reference and more information on the review can be found on the Law Commission's website.

The separate, independent sentencing review, chaired by the right hon. David Gauke, is due to submit its findings to me by spring 2025. The Law Commission review will take account of any relevant recommendations made in the sentencing review.

Domestic homicide sentencing review recommendations

We anticipate that the Law Commission review will take several years to complete, and the Government will then need to consider the recommendations and bring forward any necessary legislation. This is the right course of action for such a complex area of law, but it is not a quick one.

I therefore intend to take more immediate action in the short-term by implementing two of the outstanding recommendations made in the domestic homicide sentencing review undertaken by Clare Wade KC. In opposition we welcomed this review and its approach of updating the sentencing framework for murder to reflect the seriousness of domestic homicides, while recognising that care must be taken to ensure that any reforms do not unduly punish cases that involve abused women killing their abuser. We did however call for more to be done, including implementation of more of the recommendations as well as wholesale reform of the sentencing framework for murder.

Therefore, alongside the Law Commission review, I intend to bring forward legislation to implement two of the outstanding recommendations from the domestic homicide sentencing review. These measures are statutory aggravating factors for murders involving strangulation and those connected with the end of a relationship.

In recent years strangulation has been recognised as a method of exerting power and control, particularly in the context of domestic abuse where female victims are assaulted by physically stronger males. Nearly a third of the murder cases analysed by Clare Wade KC as part of her review involved strangulation, all of which involved a male perpetrator and female victim. In over a third of cases, the murder occurred at the end, or perceived end, of the relationship, and in the majority of cases this appeared to be the catalyst for the killing. In all of these cases the perpetrator was male. A murder involving resentment or jealousy by the perpetrator at the end of a relationship is a significant feature of cases involving controlling or coercive behaviour—the final controlling act of an abusive partner.

While it is for the judge to determine the appropriate weight to be given to the aggravating factors in each case, we expect that these measures, along with the recommendations implemented by the previous Government, will have a significant impact on the custodial terms given to the perpetrators in these cases. I intend to lay a statutory instrument to implement these measures, and subject to consultation with the Sentencing Council and parliamentary timings, I anticipate that the legislation will come into force next year. These changes will extend and apply to England and Wales.

I would like to take this opportunity to pay tribute to the families and organisations who have campaigned for change in relation to the issues that the Law Commission review will consider. These include the Joanna Simpson Foundation, Killed Women, and the families of the victims of the Nottingham attacks.

[HCWS286]

Written Correction

Friday 6 December 2024

Other Correction

MELANIE WARD

Terminally Ill Adults (End of Life) Bill

The following extract is from the Second Reading debate on 29 November 2024.

Melanie Ward: My hon. Friend briefly mentioned coercion, and the well-held fears of many of us in the House about the risk of coercion, particularly for vulnerable people. What does he make of the fact that in Washington

state, where the relevant law is restricted to terminally ill people like this Bill, last year 59% of those who went through with an assisted death did so because they feared being “a burden” to “family, friends or care givers”? In Oregon, the proportion last year was 43%.

[*Official Report*, 29 November 2024; Vol. 757, c. 1049.]

Written correction submitted by the hon. Member for Cowdenbeath and Kirkcaldy (Melanie Ward):

Melanie Ward: My hon. Friend briefly mentioned coercion, and the well-held fears of many of us in the House about the risk of coercion, particularly for vulnerable people. What does he make of the fact that in Washington state, where the relevant law is restricted to terminally ill people like this Bill, **in 2022** 59% of those who went through with an assisted death did so because they feared being “a burden” to “family, friends or care givers”? In Oregon, the proportion last year was 43%.

WRITTEN STATEMENT

Friday 6 December 2024

	<i>Col. No.</i>
JUSTICE	23WS
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WRITTEN CORRECTION

Friday 6 December 2024

	<i>Col. No.</i>		<i>Col. No.</i>
OTHER CORRECTION	5WC	OTHER CORRECTION — <i>continued</i>	
Melanie Ward	5WC	Terminally Ill Adults (End of Life) Bill.....	5WC

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