

My speech during the debate on the Taxation (Post-transition Period) Bill, 10 December 2020

The origins of this legislation lie in the negotiations under the previous Prime Minister that introduced the whole idea of a Northern Ireland protocol. I regretted those negotiations very much. I opposed them at the time and did not vote for the deals that my right hon. Friend the Member for Maidenhead (Mrs Theresa May) came forward with, because I thought they were designed by the EU as a lever to try to delay, dilute or damage Brexit.

When the current Government asked me to support their version of the withdrawal agreement, I still had considerable reservations about the Northern Ireland protocol. I put those to Ministers, who reassured me and said, "This is only an outline operation in the withdrawal agreement as currently drafted. None of the detail has been done. We will negotiate very strongly. We will get rid of the offensive features that you don't like." They said that they shared some of my concerns and that they would come back with something much better. I am always trusting of colleagues, so I said that that was very good to know but that I did not have the same confidence in the EU.

I thought it was unlikely that the EU would want to facilitate that in the way that I and the Government would like. So with some friends, I backed my hon. Friend the Member for Stone (Sir William Cash) in saying that the way through this was to put clause 38 into the European Union (Withdrawal Agreement) Bill. Under that clause, were the EU to act in bad faith and not come up with a workable solution for Northern Ireland and the other problems, we would have asserted UK sovereignty in our version of the treaty, and so in good law we could use clause 38 to legislate in Britain for what we intend to do, overriding the agreement.

It was quite clear from the drafting of that Bill that we wanted that override, and I would not have dreamt of voting for the thing without the override. The Government were saying that they did not think we would need to use it, but we could use it if we had to, which is why I was pleased to support them earlier this week in a very modest override. It is entirely legal; it is the assertion of British sovereignty. We need to keep that in reserve, because without seeing all the detail from the Chancellor of the Duchy of Lancaster, I am not satisfied yet that we have a working operation for the Northern Ireland border and the matters that we are discussing today—more precisely, who controls the taxation.

What I do not like about these proposals is that it is extremely difficult for individuals and businesses to have to respond to two legal jurisdictions on tax in the same place, yet we seem to have both an EU VAT system and a UK VAT system. I hope that the UK VAT system will deviate rather more from the EU one and be friendlier, lower and apply to different things, but the more

that that happens, the more difficult it will be if we are trying to enforce two different VAT systems in one part of the United Kingdom.

I am also concerned about the enforcement mechanisms. We are led to believe that it will be handled by HMRC, but we are also told that the ultimate authority on the EU part of VAT and excise will be the European Court, and therefore there are likely to be inspectors and invigilators—electronic or in person—interfering in the process within what should be sovereign United Kingdom territory. I hope the Government will think again and push back again.

We need more of the detail that the Chancellor of the Duchy of Lancaster has so far withheld from the House. It may be that he does not yet know it all or that his agreement is high level, in principle, but there are details that we need to know—indeed, details that it would be better to know before we legislate today. For example, the Chancellor of the Duchy of Lancaster says that delay periods for adjustment will be necessary for supermarkets and some meat products and so forth. Does that not require some kind of recognition in this legislation? Does it not mean that these jurisdictions do not kick in during the period of grace that we are told will be available?

We need to have more detail from the Government on what exactly happens at the border. I have always explained to the House and others who are not very interested that VAT and excise take place electronically across the borders at the moment, so we are talking largely about an electronic border. We need to know how this electronic border will be programmed to deal with the competing jurisdictions and competing incidences of taxation, and how the product codes and shipment codes will correctly identify the products by category that will be suborned by the EU jurisdiction as well as, properly, by the UK jurisdiction, which ideally would be handling the whole thing.

We do not have nearly enough time to discuss the fundamentally big issues of principle that the Bill brings before us and we have had precious little time to go into the detail. It is all very sad that this rush job is being done like this, but I hope before the Government finish the debate today they will have done a better job of explaining to someone like me why we need to have this dual jurisdiction; how the EU control is going to be limited; how it is going to operate; how, in the early days, the “transitional arrangements”, which we are told about, are going to apply; and why they are not reflected in the current text of this rather unfortunate piece of legislation.