

5.57 pm

## Lord Howell of Guildford (Con) [V]

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My Lords, I join in congratulating and welcoming the noble Baroness, Lady Hayman. I am sure that most of your Lordships will agree that—after defeating Covid-19—the highest priority for our country, if we are to face the challenges of the next 10 years, is to hold this United Kingdom of ours together. The problem is that devolution has created a whole world of delicate compromises and unfinished constitutional business. Then on to the scene comes the Bill, which I am afraid is a bit like a bull in a china shop.

My question on the devolution side of the Bill is this: I admit that the timing may be unavoidable but, as the chairman of the Constitution Committee, the noble Baroness, Lady Taylor, asked, why on earth could not these issues between the different parts of the kingdom be handled mostly within the common framework procedure or consensually? Why was it decided to try to codify, in law, the thousand and one different complex and ever-shifting connections between all the myriad businesses across the devolved regions, rather than address them as they come along, which they will unceasingly, by ongoing practical co-operation—or maybe just by setting up the new internal market office?

As to the rule of law clauses which have so greatly disturbed your Lordships, and disturbed the legal profession, and indeed many of my good friends, including my noble friend Lord Howard, and now the Archbishops as well, I am a little less worried than some of my colleagues. It is quite correct, as the Constitution Committee's report pointed, that the late Lord Bingham warned against a Government which "routinely"—and I emphasise that word—disregard their international law obligations, and I would not wish to live for one moment under such an Administration. But the reason I am not so worked up as some are in this instance, is that I

believe we may be overlooking the degree to which the whole spirit of the withdrawal treaty and the Northern Ireland protocol was and already being undermined, and is now being undermined, by the other party, namely the Brussels negotiators and their legal advisers.

I believe that this is just what the Lord Chancellor meant when he rightly advised the Constitution Committee to consider the context behind the need for this Bill. Here, too, we are in an area of delicate ambiguity and compromise, as Northern Irish affairs always have been—as the Good Friday agreement was as well, and as I know full well from my years of working there at the height of the time of violence. So my question here, before rushing to judgment, is: why were these tangled problems of treaty interpretation, for that is what they are, not handled in the joint committee for settling disputes, which the withdrawal treaty set up? What happened in that committee? Was there a deadlock? Did the EU side make threats which were, in the Prime Minister's words, "extreme and unreasonable" and undermined the withdrawal treaty? Were these clauses put into this Bill in fact justified as a response on that account? When it comes to would-be violations of the treaty spirit, are the critics, of which we have heard so many this afternoon, quite sure that they are looking entirely and solely in the right place?

We have asked these questions, but we have got no clear answers so far. Can we please have them now? Can we have a bit of chapter and verse about what actually went on the disputes committee? I know that this will not assuage my distinguished legal friends, nor the Church leaders, but it would at least explain more fully why the clauses got into the Bill and why they were felt to be necessary. Perhaps it would persuade me to oppose the two amendments, even though they have been spoken to by your Lordships at your most eloquent, and by people I most admire.