

EU Withdrawal Bill

Sarah Wollaston Chair, Health Committee

Without the Bill we cannot respect the will of the British people, as expressed in the referendum, and repeal the European Communities Act 1972. Without the Bill, as many Members have pointed out, we will see legal chaos. Given the sheer volume and complexity of the EU law that will have to be converted into UK law, I accept that the Government will need relatively wide delegated powers to amend legislation, but there is a distinction between necessary amendments as a consequence of our leaving the EU, many of which will be technical and minor, and those that implement entirely new policies. The delegated powers in the Bill will touch every aspect of our lives, as many colleagues have said “their use could be unprecedented in scale, scope and constitutional significance” so I am glad to hear that Ministers are in listening mode.

I will support the Bill tonight in the expectation that it will be amended in Committee and that there will be support for reforming the way delegated legislation is handled, so that Parliament, rather than the Government, can decide the appropriate level of scrutiny. Without that, we simply will not be able to bring control back to Parliament. It may be useful to those who are following the debate from outside this place if I explain how delegated legislation works and why it is important that we amend it.

I was first introduced to Delegated Legislation Committees when I was appointed to one dealing with draft double taxation relief and international tax enforcement orders. I thought there must have been a horrible mistake, so I sent a note to the Whip to ask about my duties. I received the following three instructions: “Turn up on time, say nothing and vote with the Government.”

People might argue that no one died as a result of my ignorance of international law on double taxation relief in Oman and Singapore, but what makes the system so absurd is that the very next Committee due to sit was a Delegated Legislation Committee examining the draft Medical Profession (Responsible Officers) Regulations 2010. It might be argued that, as someone who had just come to the House having been teaching junior doctors and medical students and having been an examiner for the Royal College of General Practitioners with an interest in doctors who were failing, I was better placed to be on the second Committee. It seems to me that there is an expectation that Members should not have any expertise at all. I think the general public would find that absolutely extraordinary; they expect Members to be able genuinely to scrutinise legislation.

There are many other reasons why the procedures should change. It is a great concern to people outside this place that many statutory instruments are subject to the negative procedure rather than the affirmative procedure and do not get any scrutiny at all “not even the current defective scrutiny. The power to change that does not necessarily need to come from legislation; we could use the Standing Orders. I commend the Hansard Society for the excellent work it did in advance of the Bill to set out how the procedures could be amended. Even though it is in our power as a House to put in place Standing Orders, for example to

set up a Delegated Legislation Committee with the powers of sift and scrutiny that we have discussed today, it would help if Ministers indicated that they are in listening mode about that, too, and that they would support it happening over time. I genuinely feel that the Government do not want to obstruct sensible debate. All Members from across the House should work with Ministers to put in place something that genuinely works. We know that delegated legislation needs reform even without this Bill, so let us use this as an opportunity. As we have heard, up to a thousand statutory instruments will be coming before the House, and we need the House to decide whether the procedure will be negative or affirmative. We need reform so that we can genuinely develop expertise along the lines suggested by the Hansard Society and so that MPs with a genuine interest scrutinise the proposals. The point is that a delegated legislation Select Committee could have the power to send a statutory instrument to a Committee of the whole House—not just a small Delegated Legislation Committee in a Committee Room, but with all of us here, similar to what we are doing today. It could also have the power to suggest sensible amendments that the Government would have to take away and consider.

I have said that I will support the Government tonight, but I do so only in the expectation that they will support sensible amendments.