Select Committee on the Constitution

Corrected oral evidence: The legislative process: the passage of legislation through Parliament

Wednesday 24 October 2018
10.25 am

Watch the meeting

Members present: Baroness Taylor of Bolton (The Chairman); Baroness Corston; Baroness Drake; Lord Dunlop; Lord Hunt of Wirral; Lord Judge; Lord MacGregor of Pulham Market; Lord Morgan; Lord Norton of Louth; Lord Wallace of Tankerness.

Evidence Session No. 7 Heard in Public Questions 202 -219

Witnesses

I: Rt Hon Andrea Leadsom MP, Leader of the House of Commons; Rt Hon Baroness Evans of Bowes Park, Leader of the House of Lords.
Examination of witnesses

Rt Hon Andrea Leadsom MP and Rt Hon Baroness Evans of Bowes Park.

Q202 The Chairman: We welcome the Leaders of each House. It is good that you could come together and thank you for arranging the date. As you know, the Constitution Committee keeps pretty busy and we try to be constructive in the reports that we produce. At the moment we are looking, as you know, at the legislative process and the way that legislation goes through Parliament. May I ask an opening question: when we produce reports—and we did one on Brexit that was very weighty but I think very useful to the Government—how does the Government think about what is in that report? I am sure you will tell us that you take them seriously, but what is the process for taking on board some of the issues that are raised?

Baroness Evans of Bowes Park: Do you mean in this committee in particular or generally?

The Chairman: This committee in particular.

Baroness Evans of Bowes Park: As I am sure you are aware, this is a highly respected Committee across government and your reports certainly hold weight. What will happen depends on the issues being looked at. For example, on Brexit the relevant department will look into it—and we will also be aware of it—and they will consider the recommendations. As you rightly mentioned, quite a number of your recommendations on the European Union (Withdrawal) Bill were taken into account. I believe that we are looking at the Ivory Bill today and a number of your recommendations are also being discussed there. So your work has a high profile within government and that is not just in relation to the Lords but in relation to the Commons, and Andrea can talk about that.

As Leader of the House of Lords, I make sure my Cabinet colleagues and Ministers are aware of the work that committees such as this do. Often we will want to discuss legislation with you in advance—for instance Northern Ireland legislation—to make sure that you are happy with what we are doing. So I can assure you that your name trips off my mouth on a regular basis in meetings as well as in the processes within departments to make sure that they are looking at the work that you do. I hope you feel you have access to Ministers when they come to give evidence and listen to your views, both in a formal setting and informally. I do not know whether Andrea wants to add anything from the Commons side.

Andrea Leadsom: Thank you. Specifically in the Commons I have the responsibility of chairing the Parliamentary Business and Legislation Committee of which the Leader of the Lords is also a member. We certainly take very seriously any of the proposals that come forward that are helpful in improving the way that we scrutinise legislation or, indeed, the way we manage the interrelation between the two Houses. So I would
say, as Natalie has, that all reports coming from this Committee are received with great interest, and we take them extremely seriously.

The Chairman: There are some recurring themes that we feel we have to bring up time and time again. You mentioned the Business and Legislation Committee—it used to be the Leg Committee—which is supposed to give a clean bill of health to pieces of legislation before they arrive in Parliament. When I and others were on it there used to be a checklist of what we had to go through. One concern is about the preparedness of legislation and the fact that very often so many amendments are needed and so much is done by secondary legislation. Colleagues will ask about the details of that, but there are some themes of concern where we would like to think that somebody in government stepped back and looked at the trends in legislation and the problems that keep emerging.

Andrea Leadsom: May I tackle that? We call it PBL for short, just so we are all clear on the acronym. That Committee has on it the business managers, the Secretaries of State for the devolved nations, and members of the Treasury ministerial team and the Cabinet Office. Essentially, our role is to kick the tyres to make sure that the policy is right and that the Bill is ready to be introduced. We talk about the handling of it, and who is likely to have concerns about this and how we would deal with those concerns, and about potential strategies for allaying the concerns of particular Members of the Commons, or, indeed, of the Lords. Very importantly, we seek readiness. We look at the level of discussion and consultation with the devolved Administrations, the law officers’ views on the readiness of the Bill, counsel’s views on the scope of the Bill and how prepared the primary legislation is.

To add to that, in this Parliament we have introduced a new procedure for secondary legislation, which I am sure we will come on to, and for the first time PBL is considering some secondary legislation before introduction, again to ensure the quality and conciseness of the explanations and the fitness of the Bill to be introduced. So in PBL we have significantly upgraded the quality and quantity of preparation for introducing legislation, and that includes the PBL secretariat working with Bill teams across Whitehall to improve their knowledge and training. We have introduced specific training on Explanatory Memoranda and Explanatory Notes to ensure that they are as good as they can be. So we have really invested in the processes in this Parliament.

Baroness Evans of Bowes Park: I would add that we have also started to have Ministers come in to pre-meetings. They come in on a number of occasions so they understand the significance of some of the legislation that we are dealing with at the moment. They will come in at various points, not just as a one-off when we are presented with everything and it is too late to raise some of the concerns, but to start to test that they understand what they need to do as the legislation goes forward. Senior Ministers, Cabinet members as well as Bill Ministers come in on more than one occasion, and at an early stage, to help make sure—touching on
some of the issues you raise—that we do not suddenly have a Bill appear in front of us that is not fit for purpose.

**The Chairman:** I am sure it is frustrating for business managers when Ministers want to do things that they should not be doing at that stage, but, in view of what you are saying about improvements, why is it that we are getting so many of these problems recurring time and time again? Lord Norton wanted to come in.

**Q203 Lord Norton of Louth:** You have identified the process for dealing with each Bill and you might identify problems with a particular Bill. Do you have a mechanism in place for standing back and looking at the process slightly more holistically, to see whether there are any problems right across the board, rather than picking on one individually? You might identify a problem with a Bill, but it might recur in another Bill in terms of process. Do you have a mechanism for identifying that to stop recurring problems?

**Andrea Leadsom:** Every week we have a meeting with the PBL secretariat, and there we specifically identify problems that are occurring. I am genuinely struggling to think of a constantly recurring theme that has not been addressed. I can well understand that, as the recipients of Bills, you might think that there is a particular problem that comes up time and again, but the weekly meeting with the PBL secretariat is designed to identify any common problems. We consistently feed back to departments where they have had an issue with a Bill, where perhaps we had identified in the PBL Committee that some policies had not been finalised, and we will send a Bill back for further policy work if we feel that it has not been done to the level that is suitable for introduction in either House.

At the same time, where we think that a Bill has been brought forward which appeared at the time to have its policy thought through, but subsequently that proves not to be the case because somebody found something—you can imagine the excuses—we are very clear with the department that that is unacceptable, and at times we have refused to take forward government amendments. At other times, where it is clear that an amendment is to be forthcoming because of some particular concern of a group of either Members of Parliament or Peers, we will adjust our position accordingly. I think the nub of your question is about whether we are managing the process all the way through, and I can absolutely assure you that, yes, we are managing that process all the way through.

**Baroness Evans of Bowes Park:** As Andrea alluded to in her last answer, there is cross-government training with Bill managers and teams. Both Whips’ Offices and our staff work across all the Bills and see everything and they do a lot of going and talking to Bill managers. We have also upped our internal training through our offices and the PBL secretariat, which have the holistic view you are talking about, to try to disseminate these messages and make sure that we get them out to departments.
Lord Dunlop: Can I ask about one aspect of the PBL process, which is how delegated powers are handled? When David Lidington was Leader he gave evidence to us and said that the principle that he and PBL colleagues impressed upon Ministers was that they should not seek a new piece of legislation to have additional regulation-making powers unless those are essential and can be fully justified to Parliament. Is that still a guiding principle of PBL? How good are departments at adhering to that principle?

Andrea Leadsom: I would say that it is absolutely still a guiding principle. We are always very keen as part of the PBL process, where we have the Secretary of State with us, that that person explains very clearly why delegated powers are necessary, and, in particular, the Henry VIII powers that are quite a common feature of Bills but can be quite contentious in either House, and understandably so. So there is a high threshold for accepting delegated powers. We always question that very carefully and, on occasion, again have refused to accept a particular delegated power if we feel that it does not merit its own existence. So we do quiz it very carefully. In particular, with some of the current legislation with regards to leaving the European Union, there have been some areas where it is simply not capable of being battened down on the face of the Bill because the negotiation is still under way: therefore, some delegated powers have been essential, both in the European Union (Withdrawal) Bill and in current Brexit legislation, to accommodate the battening down of final details as part of the process of negotiation.

Baroness Evans of Bowes Park: We also try to ensure at both ministerial and official level that engagement with the DPRRC happens at an early stage so that explanations can be had about why the department feels that this is the right approach. A standard part of our questioning when we have Ministers come to us is about that kind of engagement in advance, so that we can try to understand the conversations that have gone on and make sure that, where possible, we are all moving in the same direction and that the conversation has happened at both ministerial and official level.

Lord Judge: Is anyone appointed in relation to each Bill to examine the constitutional principles that the Bill might engage?

Andrea Leadsom: At PBL our law officers and our parliamentary counsel always look very carefully at constitutional issues and have the capability to take advice elsewhere. In answer to your question, yes, but I do not want to overegg the actual PBL Committee itself. As you would expect and imagine, a lot of work goes on prior to a Bill coming before PBL to ensure that any constitutional implications are clearly taken into account. Cabinet Office members attend PBL and also thoroughly go through Bills before they come to PBL. So I think it would be unlikely, unless you can think of an example, Nat, that a matter of constitutional significance would not be thought of before it comes to PBL. I am not of aware of an instance.

Lord Judge: How high is the threshold in relation to Henry VIII powers?
We keep writing reports saying, “This is a Henry VIII power which is inappropriate or questionable”, or, “Why?”—and we seem to keep getting back Bill after Bill after Bill which is festooned with Henry VIII powers, and we keep asking, “Why was this done? Why was that done?” What I am asking really is: how close is the scrutiny of these constitutional issues?

**Andrea Leadsom:** Again, it is close. Henry VIII powers are used quite frequently, as we all know, in Bills where it is not possible, on the face of the Bill, to fully articulate the consequential results of introducing that primary legislation. We are all extremely conscious of the reluctance of parliamentarians to accept Henry VIII powers in Bills and we are always extremely scrupulous in making that point to Ministers. A good example of consequentials was in the misuse of substances Act where, in the interests of speed, it was important that one did not have to come back for changes to primary legislation, or indeed through secondary legislation, to designate a new psychoactive substance. One needs to be able to act quickly. There are occasions where Henry VIII powers can very much act in the public interest—but I take your point, and we are very cautious about the extent of any delegated powers.

**Q206 Lord Judge:** May I move to a different subject? Sometimes we in this House turn down government legislation and sometimes that causes a great furore. Is there a full understanding in the Commons of the role of this House? I am going to ask the Leader of this House the question the other way round, so she can prepare for it.

**Andrea Leadsom:** I would say first that, on the whole, the House of Commons fully appreciates the value of the level of specialist expertise in the House of Lords, and, secondly, the House of Commons appreciates the fact that the House of Lords often has more time to think about complex areas of detail which the Commons, because of a programme Motion or the sheer extent of legislation, does not have the opportunity to do. In that sense, on the whole I think Members of the House of Commons value the contribution of the upper House—but I think your question is more about whether the House of Commons accepts the right of the House of Lords to overrule the elected House, and that is a much more difficult question.

**Lord Judge:** I do not think anybody has ever suggested that the House of Lords can overrule the House of Commons. If that is how it is seen, that is a worry.

**Andrea Leadsom:** Yes, that is how it is seen. I am being honest with you: that is definitely how it is seen. It is not in the sense of kicking out a Bill and allowing it to make no further progress, but often in insisting on a particular amendment that requires, in order for the Bill to continue to make progress, a significant concession that the elected House is not comfortable with. That is the reality: and the House of Lords frequently takes part in that sort of contribution, and there are people in the House of Commons who do not feel that the Lords should be doing that. But do
not shoot the messenger: you asked me a straight question and I am trying to give you a straight answer.

**The Chairman:** The number of occasions on which the House of Lords tries to insist on its amendment is very limited. The House of Lords may pass some amendments that the Government or the Commons do not like, but ping-pong is not actually very frequent, is it?

**Andrea Leadsom:** As one of the business managers, I can absolutely assure you that a great deal of time is spent on matters around ping-pong and matters of dealing with concessions to ensure that the House can get its business through, and that is a considerable amount of work. So it would not be true to say that the House of Lords is merely making suggestions. That is not the case. The House of Lords makes amendments, passes amendments and the House of Commons needs to decide how it is going to address those, and very often that involves the Government quite significantly moving their position on particular issues.

**Lord Judge:** I had better ask the same question of Baroness Evans—only the other way round, please.

**Baroness Evans of Bowes Park:** Do you mean us understanding the Commons?

**Lord Judge:** Yes.

**Baroness Evans of Bowes Park:** Since I have been Leader I have tried to make sure that we are more joined-up and that the Commons understands where we are coming from, and to make sure that we can manage the passage of Bills effectively between the two Houses. For instance, I have meetings during the course of Bills once they are up in this House—albeit that we start when they are about to come up here—with the Commons ministerial team and Whips’ Office, as well as our Ministers and Whips, to ensure that we understand what has happened within the Commons, and to start to talk to them about what we think may be happening within the Lords. Our Ministers will undoubtedly have already started to engage with Members across the House through all-Peers meetings and by coming to various Front-Bench meetings, et cetera. So I try and we try to make sure that the Commons understands where the Lords may take a position.

To be honest, with the expertise and knowledge in this House, often we will look at a Bill and elements of a Bill that the Commons has never looked at. We know that because we know the expertise and interests people have. That kind of dialogue and communication at an early stage is important so that the Commons side is not astonished when the House of Lords looks at different areas that perhaps have not been considered. That kind of dialogue is useful. We certainly try to do that and I encourage my ministerial team to very much do that. I try to be a facilitator to help make that happen.

**Lord Judge:** Do you think that this House understands the limitations on
its constitutional position?

**Baroness Evans of Bowes Park:** Since I have been Leader, I agree with Baroness Taylor that we have stood on the edge occasionally but we have always stood back. I have confidence—and I have said this publicly and I consistently say it—that the House of Lords understands that the will of the elected House prevails. We ask; they say no; we step back. There has not been an instance since I have been Leader that we have not done that.

**Lord Judge:** If the will of the elected House must prevail and that is understood in the Lords, is it not understood in the Commons, too?

**Andrea Leadsom:** I cannot speak for all 650 Members of Parliament—

**Lord Judge:** No, of course not.

**Andrea Leadsom:** —but I think there is concern.

**Lord Judge:** Very well, thank you.

**Q207 Lord Wallace of Tankerness:** I think the majority of people in the House of Lords would say that when we send amendments back, it is to allow the Commons to think again; it is not in an effort to block. If a timetable Motion in the Commons never allows these amendments to be considered—they are just voted down—does that give some justification when it comes back to the Lords for our Members to think, “The Commons has not thought again. It has maybe voted but it has not thought and we will send it back to them”, and that does not help your timetabling at all, whereas if you properly considered Lords amendments you might save yourself some bother.

**Andrea Leadsom:** You are making a point that many people in the House of Commons would agree with, but at the same time you will be aware that programme Motions are voted on by the House in the House of Commons: timetabling is a matter of a House of Commons vote.

**The Chairman:** Is that the actual timetable?

**Andrea Leadsom:** The House votes on it.

**Lord Wallace of Tankerness:** For example, with the European Union (Withdrawal) Bill, the whole system of dealing with the devolved dimension to it was completely recast in the House of Lords—at the instance of the Government; it was not Opposition amendments but Government amendments—and yet the House of Commons had 15 minutes to consider it. Do you think that is acceptable?

**Andrea Leadsom:** I can only say again that the programme Motion is voted on by the House of Commons. The specific occasion you are referring to was the result of a significant number of votes taking place that ate into the time that the Commons had agreed. That is extremely regrettable, but it is how that happened. It was not intended, in other words, that there would be a very short period for that discussion.
The Chairman: Lord Hunt might wish to follow up on that.

Q208 Lord Hunt of Wirral: My question was more for the Lord Privy Seal than the Lord President. How effectively does the scheduling of business work in the House of Lords? We have heard from the other Leaders. Do Cross-Benchers and Back-Benchers have a sufficient opportunity to influence the scheduling of government business?

Baroness Evans of Bowes Park: There is pretty inclusive scheduling in this House because we do not have the timetabling mechanisms that the Commons does. To get business through we have to work collaboratively, and I think we do, largely effectively. Obviously, there are set days and times for Back-Benchers to put forward their business, be it QSDs or whatever, so there is input in that way. But, of course, the way a Bill is discussed on the Floor of the House is in the hands of the House to a degree. We debate amendments and the amount of time we spend on certain things is in the hands of the House. Luckily we all understand the broader picture within which we are working, but we try to be flexible within that. For instance, this week we extended the Committee stage of the Mental Capacity (Amendment) Bill because Back-Benchers were interested and wanted to discuss issues in more detail than perhaps we had originally thought. On the other hand, we organised a committee day for the Non-Domestic Rating (Nursery Grounds) Bill and we did not have any amendments, so we were able to move straight on to Third Reading.

So while discussion about scheduling happens to a degree through the usual channels, and obviously the Cross Benches are involved in that, when a Bill is on the Floor of the House, the House works and focuses on elements of the Bill that it wishes to, and we also have time for Back-Bench-initiated debates, with topical questions and all of those sorts of things. Nothing is perfect, but I feel it works quite well and the flexibility that we have means that we can try to adapt and, as I say, extend hours and extend days if we wish. We try to publish business in advance. We have schedules of clauses we are looking to debate in advance. We try as well to have information available so that those Back-Benchers who are interested in contributing can do so. For instance, on the European Union (Withdrawal) Bill we tried to publish all the Committee days at the beginning so that everyone who was interested in certain elements could attend. So there are mechanisms that we use to make sure that people who are interested can be there. Back-Benchers can ask to have their amendments degrouped. I believe there are mechanisms by which Back-Benchers can influence things—albeit, I suppose, within the broader context of the work of the usual channels to agree a broad schedule.

Lord Hunt of Wirral: Turning to the Lord President, so far as the House of Commons is concerned, we are watching with great interest the way in which you are scheduling business, and I was surprised to see this week that some business got pulled. Could you explain to us the sort of mechanism by which you personally reach decisions on business and the extent to which you are able to consult?
Andrea Leadsom: At the top level, debate on Bills tends to be subject to a programme Motion. Since September, 27 government Bills have had programme Motions and only three programme Motions were voted against. Of course, the amount of time that a Bill is debated is discussed between the usual channels. It is right that the Motion is put forward by the Government, but it is discussed through the usual channels. For example, with the European Union (Withdrawal) Bill it was agreed that there would be eight days of eight hours’ protected time for those debates. That was agreed by all sides of the House. It is very important that those programme Motions are voted on, taking into account the appetite of the House to debate for a longer or shorter period.

The business with the Offensive Weapons Bill was extremely unfortunate. It was due to a number of Urgent Questions, together with the Prime Minister’s Statement on the EU Council and a very important Statement on the death of Mr Khashoggi. Because there were some important groups of amendments that we felt we would not have time to debate properly, it was decided to pull the business for that day and reschedule it for another day. That decision can be taken, but it is not usually taken and very unfortunately with this particular Bill that has happened twice—but that is a function of very important other business that comes up at the last minute on that day.

Lord Hunt of Wirral: To what extent are you able to work with the Speaker? The scheduling of those Urgent Questions, et cetera, relies a great deal on decisions of the Speaker which run across into the management of business. We do not have that problem in the House of Lords. Are you able to find a better way of handling that situation?

Andrea Leadsom: Urgent Questions, as you rightly point out, and urgent debates are a matter for the Speaker, and he decides whether to grant them or not. Obviously, if that has an impact on the Government’s business, that is a matter for him.

Lord Hunt of Wirral: Thank you.

Q209 Baroness Corston: Would you say that the scrutiny of legislation would be improved if we gave more time between the stages of a Bill?

Baroness Evans of Bowes Park: I am somewhat sceptical about it. As I said, because we do not have the timetabling Motions on the Floor of the House, there is quite a lot of flexibility and, I would suggest, a lot of scrutiny in this House. Having taken Bills through as a Whip, I have been on the other end of it and I certainly feel that we have the opportunity to do it. As I mentioned, Back-Benchers can degroup their amendments. There are ways in which people who want to focus on certain issues have the ability to make sure that they get the focus on their amendments that they wish. We do everything we can to stick to minimal intervals, and, since I have been Leader, we have never broken that. The only time we have squashed those intervals has been with agreement through the usual channels, which has been for instance talking to committees such
as yours, say, on Northern Ireland, and on Article 50 as well. We certainly try to do it.

I feel that it strikes the right balance. The fact that we have been doing it for so long means that it might not be perfect, but it has stood the test of time. As I hope I indicated in a previous answer, the way we can be flexible about business on the Floor of the House gives Members the opportunity to feel that they have been able to put forward the points they want. Also, we try to do a lot of engagement before a Bill comes to the House and through the passage of a Bill off the Floor of the House. I know you regularly have Ministers at your Cross-Bench meetings. We hold all-Peers meetings. I know that my Ministers are very keen to meet interested Peers on specific issues off the Floor of the House. We have tried to make officials available on particularly technical Bills, to be able to give briefings in advance of, say, Committee stage so that Members can perhaps ask some of the more technical questions and understand what the Bill is trying to do and focus on the areas in which they have concerns. So we have a number of things available to us that mean that I am not sure that extending that amount of time would necessarily add anything. From our perspective, we need to get government business through in a timely fashion, and I feel we have quite a good balance at the moment.

Baroness Corston: I did not refer to any specific amount of time. Perhaps you could expand on whether you think that allowing more time would make time for negotiations between Ministers and Back-Benchers and more time for parliamentary counsel to draft amendments and, indeed, we have had witnesses who have said that if there was a little more time, outside groups could brief parliamentarians in that interlude. Surely that should be considered.

Baroness Evans of Bowes Park: As I say, I feel that we have the opportunity to do that now in the way Bills work. I am sure this Committee will consider that, but I do not feel that that is something that cannot and does not happen now. Committee stage issues are raised earlier. A lot of Peers will talk to Ministers to raise concerns before Bills come to us, so I feel that there is a knowledge about that which is not just happening during the time of the Bill; it is an ongoing dialogue between Ministers and Back-Benchers with issues. So I feel that there is the time to do that now. You may disagree.

The Chairman: Did you want to add anything on timing?

Andrea Leadsom: The irony is that I answer Business Questions in the Commons every Thursday, and with the European Union (Withdrawal) Bill in particular I came under so much criticism for the time taken between Second Reading and Committee stage. Obviously you cannot win. We were very keen to ensure that all those with amendments were able to come forward with them. There was a lot of work going on from people who wanted to move the position. In my view, that Bill benefited significantly from the scrutiny it got both in the Commons and in this place and ended up a far better Bill as a result of that. It was therefore
important to have a long period. With other Bills it is really not necessary, so it needs to be determined on a case-by-case basis. The irony is that if you have a long period, people criticise you, “Where is it?”, and if you have a short period, they criticise you for having a short period. So there is no absolutely right answer, but there needs to be sufficient time for parliamentarians to properly consider the issues, and the more complex they are, the greater the tendency to give more time. However, I have to come back to Brexit and say that there is a hard deadline, so we will need to keep moving apace with Brexit legislation between now and the end of March.

The Chairman: And we still have a considerable amount of Brexit legislation to get through.

Andrea Leadsom: Yes.

Lord Wallace of Tankerness: On that basis, when can we expect the Committee stage of the Trade Bill in the Lords?

Baroness Evans of Bowes Park: As we have said, it is on pause at the moment and discussions are ongoing about when we bring it forward. Luckily that is a discussion for the Chief Whips.

The Chairman: Let us move on. Lord Morgan.

Q210 Lord Morgan: We often see great changes in the course of Bills as they pass through Houses. Amendments are added, sometimes as a result of scrutiny, sometimes as a result of the Government, perhaps for internal party reasons, feeling that additional points should be added. How should one respond when Bills are changed by large quantities of material being added to them going through both Houses? Should we make more use of the recommittal of a Bill, for example?

Andrea Leadsom: Certainly the PBL Committee that I chair is very clear that Bills must be ready. One of our core questions to Ministers is, “How ready is the Bill?” We are very unsympathetic to significant government amendments coming through later just because of further policy thinking. As you would expect, when amendments come forward they tend to be for very clear reasons, either because something new has come to light which would mean that there is additional information and that requires amendment, or, indeed, that there is a handling issue that means that it would be difficult to proceed with the Government’s business without an amendment. I would argue that we are very reluctant to see extra policy thinking coming forward in Bills. We resist that and we certainly decline those amendments. I myself have to approve those, and I am very clear that we should not be doing that unless it is absolutely necessary.

Lord Morgan: It is very striking how many additional amendments seem to appear when a Bill turns up in the House of Lords compared with the original introduction in the Commons.

Andrea Leadsom: Again, there can be various reasons for that. On occasion, as I have already mentioned with some of the Brexit legislation,
there are issues that are subject to negotiation and therefore an amendment could come forward because there has been a further development in the negotiation. With other Bills that are not Brexit orientated, we resist government amendments that are just because, ”We've had a good idea and let’s stick this in”. However, where there is further information that comes to light or, indeed, a particular issue raised either by Back-Benchers in the Commons or by a group in this House, the Government will seek to address that up front rather than lose part or all of their business.

Baroness Evans of Bowes Park: From my perspective, again, I am very clear that we do not want government amendments in this House because we had not thought of something beforehand. We have knocked back departments quite strongly on issues that suddenly they want to populate Bills with. Some government amendments come forward because of an identified deficiency that, frankly, we should have worked out beforehand, or, indeed, because as a result of discussions in this House we want to bring them forward to address some of the concerns. Sometimes government amendments are quite welcomed by Peers because it shows that we are listening and trying to improve things or put issues in. But we all take your point about it not being acceptable that late in the day new issues arise.

Obviously, we had the devolution issue with the European Union (Withdrawal) Bill. That was unfortunate, but we made it quite clear that it was happening, and I hope that Peers felt that they had the time to debate it. I think the House of Lords played a really important role in making sure that we got into a good place on that particular issue. That was very unusual—we would not want that to be standard, I think that the Lords played a really important role on that particular issue, and we were able to flag it up at an early point. So it is not what we want, but in an extreme circumstance I felt that the House did an extremely good job on that.

The Chairman: Just for clarification, when you say “handling issues”, you mean fear of government defeats, which you have to respond to. When you say that there can be debates for that in the Commons, that is usually because you are worried about Government defeats.

Andrea Leadsom: Absolutely, yes.

Q211 Lord MacGregor of Pulham Market: People have been extremely critical to us about the way in which the Reasons Committee currently works. Baroness Smith described it as “inadequate”. David Beamish said it was “archaic and not remotely helpful”. Lord Lisvane stressed that he could not “think of a single example of when a Reasons Committee has put together a convincing reason for anything”. Could I ask you: does it serve any useful purpose?

Andrea Leadsom: The Reasons Committee, as this Committee will know, is designed so that where the Commons rejects a Lords amendment outright there should be a reason given, and so a small
committee is convened straight after the rejection to provide a reason. I myself have taken part in them, and I would share some of the concern—but obviously in more modest terms. Certainly if this Committee were to propose an alternative or better way, I am always very open to suggestions.

Baroness Evans of Bowes Park: I think I would echo that.

The Chairman: There are quite a few members of this Committee who have served on Reasons Committees and none of us can think of anything purposeful that has come out of them. Baroness Drake.

Baroness Drake: Perhaps I could turn to the explanatory materials. In response to Baroness Taylor’s opening question, you commented that the PBL process was investing time in improving explanatory materials. But we are still receiving evidence that both the quality and the timeliness of explanatory materials vary considerably from Bill to Bill. Could you elaborate on what you are doing to ensure that these explanatory materials are of a higher standard? Where these materials are criticised by parliamentarians, how are the lessons disseminated back through the process and through the departments to drive the improvement in standards?

Andrea Leadsom: In this Parliament, since the beginning of the Session in 2017, we have been very determined to improve the quality and timeliness of explanatory materials. As I mentioned earlier, the PBL secretariat is providing regular meetings with Bill teams across Whitehall to share best practice. I understand that there are some online forums on which to share information on particular aspects of how to properly elucidate a complicated aspect of a Bill. Certainly when it comes to Explanatory Memoranda for statutory instruments, there has been cross-Whitehall training on how best to improve their quality. It is an ongoing process and we all set great store by those Bill teams that have had continuity and have built up experience. It is quite clear that best practice can be shared across Whitehall and that is what we are seeking to do. At PBL we certainly have the opportunity for Ministers on the PBL Committee to look at the explanatory materials, and we try to ensure that we pick up any problems there rather than waiting until they are identified by House committees or Members of Parliament.

Baroness Evans of Bowes Park: We also encourage departments to provide other information. For instance, with the space Bill, the department produced factsheets. We are also trying to encourage departments to think of other ways in which they can provide information alongside draft regulations, and all those sorts of things, because we are very conscious that to scrutinise properly you need the maximum amount of information. I am certainly not saying it is perfect, but we are trying to encourage departments to think of other ways by which to communicate information so that both Peers and MPs have a fuller picture of the material around and attached to the Bill.

Baroness Drake: On the timeliness issue, it can happen that the impact
assessments are not published until a Bill gets to the Lords stage, and, even then, it can come a little late in the Lords stage. Impact assessments are pretty important documents. What is your view as to whether it is acceptable for the impact assessments to come out so late, and how is that being addressed?

**Andrea Leadsom:** As I say, at the PBL Committee readiness of the Bill is a key question. We have the law officers, parliamentary counsel, the Bill Ministers, the Secretaries of State for the devolved Administrations and the business managers there, and so we are very clear that we expect all the explanatory materials are provided alongside the Bill and, where possible, even draft secondary legislation, so that colleagues can see what is intended if there are delegated powers. That is all designed to try to be helpful to the House. As Nat says, it is not perfect, but we are absolutely focused on improving quality and timeliness.

**Baroness Drake:** On a more positive note, witnesses welcomed the recent pilot that saw explanatory statements provided for amendments during the passage of the Ivory Bill. Is there any scope or possibility of extending that practice?

**Baroness Evans of Bowes Park:** That is our aim. I think it was Lord Bassam who originally suggested the pilot, but it was just before the European Union (Withdrawal) Bill and, to be fair, we did not feel that the poor clerks and others had the capacity to do it—so we agreed, through the usual channels, that we would do a pilot. We wanted to see whether people found it useful and to better understand the additional workload and what was needed to roll this out. Everyone agrees it is a very useful innovation, so we will be looking to do that. Obviously we need the resources, et cetera, to make sure that it is effective—but yes is the answer to that.

**Baroness Drake:** Counterweighting that positive, on the Counter-Terrorism and Border Security Bill, the draft code of practice, as far as I know, still has not been published—at least it had not been when I last checked—which means that it has not been available to MPs throughout the entirety of their consideration of the Bill, and as yet it is not before the Lords. Would you like to comment on that issue?

**Baroness Evans of Bowes Park:** I am afraid I do not know, but I will go back to the Home Office and find out why it has not been. From my perspective, that aside, I try to ensure that everyone understands that the Lords will expect to see all this information, which I hope is why, while it is not ideal that the MPs have not seen it, in most cases—although not this one—it is available for the Lords. To a degree, I can only do so much banging on the table—I assure you I do—but I will take that back because I am afraid I do not know the situation with that particular code.

**Lord Judge:** May I just follow that up? Should the code of practice be available to the Commons before it legislates?
**Andrea Leadsom:** I am sorry, but if the Committee had wanted, we could have discussed this at some length. Like Natalie, I am not aware of what has happened in this situation and will have to write to the Committee.

Q213 **Baroness Corston:** The Joint Committee on Human Rights was set up nearly 18 years ago and I was its first chair. At that time the then Lord Chancellor, Lord Irvine, agreed that in any Explanatory Notes, human rights authorities would always be cited, and they were. Are they still?

**Andrea Leadsom:** I do not know, sorry. We can write to the Committee on that point.

Q214 **Lord Wallace of Tankerness:** It is almost the question that Baroness Drake and Lord Judge asked, but perhaps I may move away from the specifics of the Counter-Terrorism and Border Security Bill. As a general matter, do you think it is appropriate that an important Bill should go through the House of Commons without MPs ever seeing any codes of guidance, which is going to happen? It happens in other instances, too, that one House does not get that and it is not until the Bill is before the second House that these materials become available. As a matter of general practice rather than as regards a specific Bill, do you think that is acceptable?

**Andrea Leadsom:** In the House of Commons, in the PBL Committee, before a Bill goes forward, we press for all relevant materials to be made available. I can only say again, in the context of your specific question, that I am just not sighted on it. If the Committee wanted to raise very specific issues we could certainly have come prepared, but I am afraid we have not come prepared to answer.

**Lord Wallace of Tankerness:** I was asking as a generality.

**Andrea Leadsom:** As a generality all materials should be available to both Houses; I completely agree.

**Lord Norton of Louth:** A moment ago Baroness Evans mentioned the pilot with explanations of amendments, which is very useful, because sometimes amendments are very difficult to understand, so it is helpful to inform Members. But, of course, it is also helpful for people outside Parliament to make sense of what is going on, and that is really what I want to focus on. There is a danger of us looking at this in a rather insular way as something confined to the Palace of Westminster, but of course we are enacting legislation which affects—quite fundamentally at times—people outside Parliament, and it is important that they know what is going on and have some opportunity to engage.

I want to look at both understanding and engagement. Should we be doing more and can we be doing more to disseminate more so that people understand the process? In a way, that applies to the next point, which is the opportunity for engagement as a Bill is going through. We want to hear from people and of course in the Commons evidence can now be received through the Public Bill Committee. Clearly that was a
change and a step forward, but the people who tend to give evidence of course are people who already know the process. This is about how we can reach out to those people who are not giving evidence who are really the people we should be hearing from. Are there any changes we could make to the process to increase understanding and to encourage people so there is more input, while the Bill is going through, from those outside who have an interest and may be affected by it?

**Andrea Leadsom:** I think you raise an incredibly good point. Certainly a core goal, as well as improving the quality and timeliness of explanatory materials, is to improve their accessibility, in the sense that they need to be written in clear English that anybody can understand. That is absolutely the third goal of our upgrading of the processes in this Parliament.

However, I think your point goes much broader than that to how we are managing to engage with members of the public. That is, of course, a complex question and you are absolutely right to raise it. What I can say is that the Parliamentary Education Centre does a great job. It has thousands of schoolchildren in every year and specifically takes them through the passage of a Bill and quizzes them on the different stages of a Bill so that every child who goes through one of those Education Centre briefings comes away understanding the passage of a Bill. For the very young that is really valuable. Also, as Leader of the House of Commons I go and talk to schoolchildren and at universities about the passage of legislation, the importance of it and of course the ways in which to engage with it.

We have made changes in the Commons with, for example, the Petitions Committee, where anyone can start a petition and have it heard by the Petitions Committee and potentially timetabled for a debate on that topic. That is a great way for young people to engage. I have a very active Leader's Office Twitter feed where I make a point of putting out there anything significant and of public relevance that members of the public might like to know about. Obviously, there is a lot more that can be done. Within the House of Commons itself the public hearings before Bills are incredibly valuable, and quite often help those who, as you say, are engaged already to understand more about it.

This year in particular, with Vote 100—celebrating 100 years of some women getting the vote—there has been a lot of outreach from the parliamentary outreach teams through the exhibition in Westminster Hall on women’s suffrage and the process of some women getting the vote, and through the Brownies, Guides, Rotarians, WI and different community groups which have taken the time and trouble to celebrate that. That engagement is very important right across the board. We are about to have Youth Parliament Week and National Democracy Week. We are also about to have an international women’s parliamentary meeting here in the Commons. All those things give us an opportunity to try to reach out to members of the public. You are absolutely right to raise the
fact that it is quite difficult. A lot of people are like, “What is it?”—so
there is always more to do.

**Lord Norton of Louth:** Picking up on your point about education and
going into schools, of course there is citizenship education, which possibly
could do with far greater resources to be taught more effectively, and
that could be a more pervasive way of making sure that from the bottom
up schoolchildren learn about Parliament and the process. That is one
point. The other point is that you mentioned the Petitions Committee and
how that engages with people outside. An awful lot of people sign
petitions and, of course, that is a very active area now for the Commons.
One suggestion was that it might be exploited as well when a Bill is going
through—that people could petition on amendments, for example. Is
there any scope for exploring that particular suggestion?

**Q215 Andrea Leadsom:** We already have Early Day Motions which, in a sense,
quite often end up being a petition on an amendment, because a Member
of Parliament will support a particular amendment and then EDM it and
lots of people will write in. I am always open to suggestions as to how we
can improve our engagement with the public, but I think there are now
many more ways of doing so. Particularly with a social media-savvy new
generation of people, we are seeing a lot more people. Certainly for me
as a Member of Parliament, when I was first elected in 2010, I would get
perhaps 10 campaign emails a week, by which I mean a lobbying
organisation, an NGO, a charity or a pressure group of some sort which
has captured some email addresses and persuaded people by saying
“Download your MP’s name here and send this to them”. Now I am
getting about 150 a week. Sometimes that is not altogether helpful
because I write back and someone will email saying, “Why have you
written to me about this?” and I will say, “Because you wrote to me”, and
they will reply, “Did I?” So I am not sure it is always with the greatest
level of engagement: nevertheless, it is good to see more people taking
an interest in that.

**Baroness Evans of Bowes Park:** From the perspective of the Lords, we
should give credit to the improvement in our social media output. The
work of the committees is much more accessible and we have made
great strides. The parliamentary website now has much better
information, with SI trackers and those sorts of things. From a
government perspective, with Green Papers and consultations, there are
other ways in which perhaps more people can get involved earlier in the
process. I know the SLSC, for instance, has public guidance on scrutiny of
secondary legislation. There is no question that there is more we can do,
but I guess part of it is about harnessing social media in particular. I
think the teams in both Houses are doing a good job in making sure that
we get more people engaged. Obviously we have the Peers in Schools
initiative, which is excellent. A lot of work is done to try to help expand
the public’s understanding of what happens in here.

**Lord Norton of Louth:** In a way, we are looking at this through the
prism of Parliament for raising that awareness. Is there more that the
Government themselves could be doing, not least at the early stages?
Baroness Evans of Bowes Park: More of that early consultation, exactly.

Andrea Leadsom: Obviously, there are Green Papers and White Papers and stakeholder consultations. One of our roles as business managers is approving consultations, and I can absolutely assure you that there are many stakeholder consultations. Of course, when you see the number of responses to the consultations, sometimes they are quite small—100 responses, two responses. The Government try to reach out to those who are interested in a particular area. Depending on the subject, there can be a massive response that is quite difficult to work through. Then the frustration is the other way: “Why aren’t you replying? Why aren’t you doing anything with this?” It is because you are trying to work through the wide and varied response rates. Certainly government consultations are a feature of most new policies of any significance. But, again, it tends to be quite a limited response rate, and the people you would like to engage with it—youngish students and people just starting out—are not necessarily engaged at that level, so there is more we need to do there.

I would like to pay tribute to a charity called Votes for Schools, which goes into schools, picks a topic such as “Should everyone be a vegetarian?” or whatever, and encourages a proper debate and a vote on it, so children are learning about the democratic engagement process at the sharp end. I think all that is really helpful.

Baroness Evans of Bowes Park: Another element is pre-legislative scrutiny. We have a number of Bills coming through and we have improved civil liabilities with ideas coming from that. We have R&R coming through. That is another tool which we are keen on. We have the domestic violence Bill in pre-leg scrutiny, so I guess that is another opportunity at an early stage for people who are interested to be able to shape and give their views, and to make sure—the point you raised—that Bills are fit for purpose when they arrive, through having had that level of scrutiny in advance.

Lord Norton of Louth: On the Green Paper point, when you publish a Green Paper it may go to stakeholders, but perhaps we can think more innovatively about how we get it beyond the usual suspects—your point about getting other people engaged—and make them aware that that is going on.

The Chairman: That leads on to your point, Lord Wallace.

Q216 Lord Wallace of Tankerness: It appears that the Public Bill Committee in the Commons has been seen to strengthen scrutiny of legislation and to have assisted Members of Parliament, but, of course, some Bills start in the House of Lords. Have you given any consideration to a similar procedure within the House of Lords, so that if a Bill starts there there is the equivalent of the Public Bill Committee to examine it there?

Baroness Evans of Bowes Park: Partly this goes back to the difference between the two Houses and the different experience the two Houses
bring. I am not sure about replicating what happens in the Commons or whether it matters that it is slightly later than here due to the expertise and experience of Members here.

Also, I believe that only a small number of MPs sit on a Public Bill Committee, and in our House it might curtail the number of Peers who are able to get involved. We have already talked about the fact there is no timetabling and that we discuss all the amendments in a way the Commons does not. My sense is that we have a different way of approaching legislation anyway, which works to complement what the Commons does.

With the expertise and involvement of the Lords, we have a very good voice and the ability to interact with stakeholder and lobby groups. Many of their views get brought to the Floor of the House by Peers already. It is an idea to consider, but I feel that part of the complementarity between the two Houses is that we have different skill sets within each House and we approach legislation in slightly different ways. From my comments earlier, you can see that I feel we do a good job of that now and I am not sure that replicating it would necessarily improve scrutiny when we have diversity between the two Houses. That is a process that can happen to a Bill, albeit slightly later than within the Lords if a Bill starts with us.

Lord Wallace of Tankerness: Am I right in thinking—scrutiny in the Commons postdates my time in the Commons—that if a Bill starts in the Lords there is no Public Bill Committee in the Commons? Is that factually correct?

Baroness Evans of Bowes Park: Is that right? Sorry, I did not realise that.

Lord Wallace of Tankerness: Perhaps I did not express it well enough. I am talking about when a Bill starts in the Lords. Have you any other observations when a Bill starts in the Lords?

Baroness Evans of Bowes Park: The House might want to consider that, but, as I say, my view is that the level of scrutiny by and engagement of Peers with broader stakeholder groups is quite strong. I guess we would want to consider whether that would curtail it in some way, particularly were we to follow a process where things might be taken off the Floor of the House, or had to be in Committee, and where fewer Peers could be involved. I had not thought through the technical details, but I would not want an innovation that dilutes involvement in a Bill, and I have not been given the detail to know that.

Lord Wallace of Tankerness: May I ask the Leader of the House of Commons if I am right in thinking that the witnesses who give evidence to Public Bill Committees are, by and large, chosen by the Government?

Andrea Leadsom: No, the discussion is through the usual channels. Whether there is a public evidence session is based on discussions with colleagues right across the House.
**Lord Wallace of Tankerness:** I am just thinking about how you get beyond the usual suspects.

**Andrea Leadsom:** The public evidence sessions are incredibly valuable. As I say, anyone can put forward proposals as to who should give evidence. As a Back-Bencher, I remember putting forward some witnesses for the Children and Families Bill to the Public Bill Committee. Ultimately, it cannot go on for ever, and so those with the most likely excellent contribution to make tend to be those who are invited, but, at the same time, I also recall from that experience how incredibly valuable it was for a Member of Parliament to actually hear that public evidence session before getting into the nitty-gritty of a Bill. Quite often a Member of Parliament will be asked to sit on a Bill that they do not necessarily have any expertise in, so to hear from people in that area of expertise is incredibly valuable to them.

**Q217 Lord Dunlop:** May I ask you about the volume of secondary legislation? I think that in the last two years the number of SIs laid has declined, albeit I understand that the level of scrutiny of secondary legislation is at normal levels. Why do you think the number of SIs laid has declined, and to what extent is this perhaps a function of preparing Brexit-related secondary legislation?

**Andrea Leadsom:** The amount of secondary legislation varies year to year. I have seen a chart going back to the early 2000s and it really varies. Of course, in the past, before this session, you had a bit of a feast and famine, where you would have huge spikes in secondary legislation and a fallow period where none was introduced. In this Parliament we have sought to get ahead of the secondary legislation.

We now have a process whereby all secondary legislation is triaged by the business managers and other Ministers to make sure that it is ready, that we are clear about when the appropriate moment is for introduction; to make sure that the flow of secondary legislation is manageable; and to make sure that the Explanatory Memoranda are good, particularly with the Brexit legislation where this is this particular relationship with the sifting committee—ESIC—in the Commons. You have your own pre-existing committee looking at that, but in the Commons we set one up specifically for the purpose. With all that secondary legislation we have significantly improved the process.

In answer to your question about whether it has dropped significantly, before the European Union (Withdrawal) Bill was finalised we tried to get through as much of the urgent secondary legislation as possible to clear the decks for the Brexit secondary legislation. We are now managing the Brexit secondary legislation and we are confident that there will be a decent manageable flow of secondary legislation through until the end of March.

As for the numbers, as I say, it varies from year to year, so there is no specific reason for a particular drop off.
**Baroness Evans of Bowes Park:** The number of SIs subject to parliamentary control where we are involved has remained relatively stable since 2015-16. As Andrea said, there are peaks and flows, but the underlying numbers have been relatively stable over the last few years.

**Q218 Lord Dunlop:** May I ask you about the Brexit-related SIs? The Government have said the expectation is that there will be 800 to 1,000 Brexit-related SIs to prepare the statute book. I invite you to comment on the Hansard Society report that you will have seen earlier in the week, which said that 45% of the time available to lay Brexit-related SIs has elapsed but only 9% of the SIs have been laid.

Coming back to what you were saying, Lord President, what is your assessment of progress, and are you confident that the task can be completed in time, without compromising either scrutiny or the sifting process?

**Andrea Leadsom:** With regards to Brexit SIs, the PBL has actively managed the process. I have written a number of times to Secretaries of State, urging them to bring forward their secondary legislation as soon as possible. Each policy department now has a secondary legislation Minister whose job it is to meet with colleagues regularly and kick the tyres around the preparedness of their secondary legislation.

As a result of the policy negotiations and issues such as the close consultation with the devolved Administrations and so on, we had hoped that more Brexit secondary legislation would have been brought forward before recess, but we are in a very strong position. We think that the absolute number of secondary legislation SIs for Brexit is to the lower end of that 800 to 1,000. Of course, there is some legislation that needs to be in place by the date we leave the EU, and other SIs that do not need to be.

I recently had a private meeting with the ESIC Committee, the sifting committee in the House of Commons, where I explained to them the sorts of parameters of the likely numbers of statutory instruments that would be coming forward to them. As Natalie says, that is perfectly in line with previous sessions and slightly lower than in some other sessions. We genuinely do not believe that there is any unmanageable prospect facing us. Departments are now coming forward very clearly with well-prepared secondary legislation and I am confident that we are in a solid place.

**Baroness Evans of Bowes Park:** We are also looking more broadly, and we will undoubtedly see the number of business-as-usual SIs that are not essential being delayed. We are also looking at how the number of Brexit SIs affect the overall numbers, and, where possible, making sure, as Andrea says, that the ones that need to be seen, scrutinised and in place by exit day are at the front of the queue as against those that can wait. We are looking at the broader picture, as you said, taking a step back and ensuring we look at the totality so that we have a manageable flow. As Andrea said, for the first time we have as business managers taken much more control, and rather than departments just
flying out things we are trying to take a step back. I think it is fair to say that our Cabinet colleagues are very well aware of the pressure, and we raise it regularly, not just in ministerial meetings but in Cabinet.

**Lord Dunlop:** You are saying it is not flashing red on the risk register.

**Andrea Leadsom:** No, it really is not. I know there has been an awful lot of talk about that, but we have put in a huge amount of effort to get ahead of this and to ensure that secondary legislation is not going to be a problem. It is not done until it is done, but we have in place steps to properly manage the process.

**The Chairman:** Lord Judge, did you want to say something non-Brexit related about the direction in which we are finding SIs going in complexity and offences?

**Q219 Lord Judge:** The question I am going to ask may seem to be trivial, but it is not. Why is it that we cannot even count the number of pages of statutory instruments that have been put into law? We have not counted them since 2009. There was a very steady count upwards. The issue is not necessarily the number of statutory instruments but what they contain. We get endless Bills that produce not very much as it is said to be contained in a statutory instrument, and the statutory instrument contains matters of policy that need careful examination. My general question is related to that, but why can we not be told the number of pages of statutory instruments every year? It has run out since 2009.

**Andrea Leadsom:** I am sure we can be told and I cannot imagine why we cannot. We are creating a new online SI tracker so that organisations that are waiting to hear about the final cost or the date for something can get alerts on the process of a statutory instrument. Off the top of my head, I would have thought that in itself would mean that you would know exactly what in aggregate was being debated, but I think we will have to take that away and come back to the Committee on that.

**Lord Judge:** The important point when you are examining the constitutionality of a piece of primary legislation, as you told us you do at the beginning of this evidence session, is whether anybody says, “Hang on, this is really a skeleton Bill. We have to have secondary legislation to cover everything”. Is that sort of issue addressed when you are looking at constitutional issues?

**Andrea Leadsom:** It certainly is, yes.

**Lord Judge:** Why do we continue to get so many skeleton Bills?

**Andrea Leadsom:** I would argue that we do not and that we take great steps to ensure that we minimise the amount of undecided, open-ended policy issues that are in a Bill, and we seek to ensure that Bills are ready before they are introduced to either House. We absolutely seek to avoid skeleton Bills.

**The Chairman:** We have had Bills that have created SIs which are
enabled to define an offence, which surely should be in primary legislation.

**Lord Judge:** The Sanctions and Anti-Money Laundering Bill, which is EU related/Brexit related, includes a provision for 10 years’ imprisonment on the basis of an offence found in secondary legislation. How does this happen?

**Andrea Leadsom:** On that specific point, I would go back to my earlier comment about the need for the ability to impose sanctions swiftly to articulate a new psychoactive substance. With particular regard to the Sanctions and Anti-Money Laundering Bill, it is not completely current, but I know we put in place significant means by which any particular sanction can be scrutinised properly. There is the necessity for speed if assets are leaving the country or if an individual is about to commit some particular offence.

**Lord Judge:** When you say “we” put them in, they were put in because the Lords insisted on them going in. It was not appreciated, apparently, by the Government in the Commons. When the Bill came through, this House took very seriously the creation of criminal offences by secondary legislation, and so a whole series of safeguards was put in. That did not come in from the Commons. How does this happen if the constitutionality of each Bill is being considered?

**Andrea Leadsom:** That absolutely highlights the value of two Houses and the value of the level of scrutiny that is given to a Bill in this House. Equally, I would say that you are supposing that those issues were not discussed and that views were not taken and that there were no significant debates in the Commons prior to the introduction of any Bill, and that would not be correct. Those issues are considered in great detail. You are absolutely highlighting both the value of scrutiny by the House of Lords and the fact that where the Government have carefully looked at an issue and decided not to do something, the Lords will quite often say, “Actually, we are going to do it”. It takes us straight back to where we started, which was your assertion that the House of Lords merely suggests, and I was gently pointing out that I am not sure I agree with that.

**Lord Judge:** It is only a suggestion. The Government did not have to accept it.

**Andrea Leadsom:** Okay.

**The Chairman:** But we accept the suggestion that the House of Lords performs a useful purpose.

**Andrea Leadsom:** Thank you. That was intended to be a compliment.

**The Chairman:** That is a suggestion that we can accept. Thank you both very much. We will, of course, continue to try to be constructive, but we are keeping an eye on some of the trends that concern us, and I think it is our responsibility to report on that. Thank you both very much.
Baroness Evans of Bowes Park: We would like to thank you very much for all your work and for keeping our feet to the fire, painful though it may be sometimes.

The Chairman: Thank you very much indeed.