

European Scrutiny Committee

Oral evidence: [UK Exit from the EU](#), HC 1798

Wednesday 30 January 2019

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Members present: Sir William Cash (Chair); Geraint Davies; Richard Drax; Marcus Fysh; Kelvin Hopkins; Mr David Jones; Andrew Lewer; Michael Tomlinson; Dr Philippa Whitford.

Questions 71 - 118

Witness

I: Mr Steve Baker MP.

Written evidence from witnesses:

– [Add names of witnesses and hyperlink to submissions]

Examination of Witness

Witness: Steve Baker.

Q71 Chair: Good afternoon, Mr Baker. It is good to see you. I will start by asking the first question. You resigned on 9 July 2018. To put it in context for the sake of anybody watching this programme, which is going to go out on the parliamentary channel, so I understand, that was in fact three days after the Chequers meeting on 6 July. To remind people, 6 July was literally only 10 days after the withdrawal Act had been passed by the House of Commons and got Royal Assent. For practical purposes, on 26 June we had Royal Assent for an Act that says that we repeal the European Communities Act 1972 from exit day. Then in a matter of days we have the Chequers arrangement.

In the broadest terms, so we can set the scene, what did you feel when you saw all that happening and what were the underlying thoughts that were going through your mind? This is partly personal but it is also very interesting for us to get a sense of what was really going on in your mind.

Mr Baker: Thank you, Sir William. I very much appreciate this opportunity to give evidence. I am grateful to the whole Committee. You have of course come to the heart of the matter, in particular in connection to the passage of the EU (Withdrawal) Act, for which I was responsible in the Commons, and my resignation not far after. Obviously, David Davis and I were very close to one another and it became apparent to me in the preceding week that the Government were going to adopt a policy for EU exit that I would not be able to support. Indeed, I declined a number of meetings in the preceding days because I felt I could not bear to go through the business of being persuaded to capitulate and support the proposals. I came to believe over the course of my time in Government that one of the reasons I had been made a Minister was so that, when the moment came for capitulation, I would be asked to sell it. Of course, I was not willing to do so.

As we approached the Chequers debacle, I felt aware of what was going to happen: that we would have an EEA-lite style Brexit with a customs union-lite alongside it, which I was not willing to support. It was not a particular surprise to me when Chequers happened. I stayed close to David Davis and, when David decided to resign, I knew I was going to go with him. In a sense, I tried to minimise the impact in the media by going at absolutely the same time, which meant of course I was a single line on the "Today" programme, rather than the story. It was not the first time I had considered resigning. I had previously considered resigning over the failure of the Government to make public no-deal preparation. I very nearly resigned in March. I decided not to because of the passage of the EU (Withdrawal) Act. I felt that I could not responsibly resign before that Act had completed its passage.



Q72 **Chair:** Thank you very much. Again, have the Brexit process and the Brexit negotiations in your view had an impact on public confidence in democratic and parliamentary Government? If so, in what ways? Could or should the Government have done more to inform and explain to the public what it was all about?

Mr Baker: That is a huge question. I would like, if I may, to answer it in two parts, a little about the strategic communication and a little about confidence in Government. I vividly recall a conversation shortly after Suella Braverman joined the Department. I have asked to go back and look at the papers. All the Ministers came together in our conference room and were briefed on the kind of exit we could have: either what I would characterise as a high-alignment Brexit, something like the EEA plus something like the customs union, or a normal advanced free trade agreement.

After going to and fro through the briefing, all the Ministers in the Department together decided that we wanted a normal advanced free trade agreement because that would be the kind of Brexit that would fulfil the mandate of the referendum and, indeed, the mandate of the proceeding speeches and the mandate of the general election. Our officials looked somewhat crestfallen. Clearly, the advice was to go for a high-alignment Brexit. Subsequently, in a sense, the rest is history because the European Union then offered us that kind of Brexit. President Tusk's offer on behalf of the Council included an advanced free trade agreement.

Q73 **Chair:** Can you give a sense as to what that date was, more or less?

Mr Baker: I think it was in February. I have been back to my notes this morning. I cannot find the exact date this morning but, as I say, I have asked to go back to the Department and examine the papers. I would be happy to write to the Committee and let you know, Sir William, exactly when that happened. What clearly happened subsequently, as David Davis explained in his evidence to the Committee, is that we ended up with parallel process of policy development. Within the Department, Ministers led by David Davis were developing one policy and the Cabinet Office Europe unit was clearly developing another, which was revealed at Chequers. David, I think, has attested that he had five days' notice. It seems to me that this is a considerable abuse of our constitution. For a Secretary of State to be cut out of the development of his main policy is quite a debacle. It seems that something similar happened to Dominic Raab as his successor.

Q74 **Chair:** Can you explain, in words that demonstrate the sequence of events, how you saw this divergence of opinion and thought with No. 10, who was responsible and what was going on in the Department? You are demonstrating at the moment that you were picking up messages. You thought you might resign at an earlier stage; you thought you had better stay there because of the withdrawal Bill, but there comes a time when you are conscious of the fact that you are operating in what appear to be



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different silos. That must have been quite an experience because, after all, as you quite rightly say, the Secretary of State is the person given responsibility for carrying out the functions of Secretary of State and appearing in the House of Commons to be accountable. You are there with him and have to do a similar kind of job. Can you explain the relationship with No. 10? Was it like a bunker, for example?

Geraint Davies: Not to put words in your mouth.

Mr Baker: It is worth restating the context. My job was primarily domestic preparedness and legislation with some English regional engagement, for example. I was originally responsible as junior minister for all legislation and I handed over the Withdrawal Agreement and Implementation Bill to Suella Braverman after she joined.

Chair: Can you speak a little more slowly, because you are saying some very important things?

Mr Baker: Of course. My responsibility was mostly to get the EU (Withdrawal) Act through, and to make sure that all Departments were preparing properly for all exit scenarios. That, of course, was all consuming. My duties were therefore mostly UK facing, not facing the negotiation. I would not see all the papers, but I would see a good number of the important papers, in particular the summer policy papers that we produced. They seemed, as the EU Commissioners said, like applications to join.

The reason I mention this is that the constant refrain throughout my time in Government was this atmosphere of reluctance to leave. This is at the heart of the problem. While we won the vote, we did not win the argument with what, for want of a better term, I would call the governing class. We have ended up with those who govern being forced to do that which they must, take us out, but it is not that which they choose. That suffuses the entire approach. The entire approach is suffused by a reluctance to deliver what the public wanted, which is us controlling our laws in our Parliament with all that that means. The relationship between No. 10 and the DExEU Ministers was always one of instinctive tension because it is fair to say, as Mr Jones will know, that the DExEU Ministers are overwhelmingly people who believe in exiting the European Union.

Chair: He was a Minister before you were.

Mr Baker: Indeed, yes. We were Ministers who believed in exiting the EU, whereas overwhelmingly the staff of No. 10 seemed, for the most part, not to be people with a heart for it. That tension suffused the entire process and we were regularly overruled. For example, after President Tusk made his offer of security co-operation, participation in institutions of research, innovation, education and culture, dealing with absurdities—he mentioned flights and I would add a range of other things, such as driving licences, data and so on—he also offered an advanced free trade agreement, all sectors, no tariffs. You know what he offered.



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Once he had made that offer, I was very pleased because it matched the policy that DExEU Ministers had decided and I wanted to start putting it in my speeches. One speech in particular I remember was edited by No. 10 to remove references to that offer, because of course it was not the offer that the system as a whole wanted.

Silos is a good way to look at it, not only in terms of policy but also in terms of mentality. I take an expansive view of the world. I want us to be a country that is outward facing, a global citizen, free trading with the world, but many of those determining policy are so wedded to the European Union and this idea of integration for the purpose of free trade that they cannot face up to enthusiastically delivering the mandate that they have. That has meant our entire negotiation has been fearful and conducted in a posture of supplication. It is difficult to be too damning about the attitude that has been brought to the negotiation. That is not to condemn the individuals, who I feel sure are all doing their best within their view of their duty to the nation, but unfortunately they do not believe in what they are doing. I am afraid I view our current circumstances with considerable sadness.

Chair: First, I will ask Philippa Whitford, then Geraint Davies, then Richard Drax.

Mr Baker: Sir William, I beg your pardon. If I may, you asked me to explain. Forgive me. There was another issue. Back in the autumn of 2017, after I joined, I wrote a paper on strategic communications, strongly encouraging the Government to communicate what we were doing and in particular our no-deal preparedness. Those suggestions were not taken up, again, by No. 10 because they did not want to have an impact on the negotiations in case the European Union essentially did not like what we were saying. This is further to the point about reluctance suffusing the whole thing.

Chair: There is one last question I would like to put in at this stage. At any point in your time as a Minister, did Ministers in your Department come together to frame a collective view on the kind of Brexit they wanted to see?

Mr Baker: Absolutely. The meeting I described earlier, I believe, took place in February, but I will go back to the Department and check. It was certainly after Suella Braverman joined the Department and before the Tusk offer. In that period, we met collectively with officials and took the view that we should have an advanced free trade agreement-based trade relationship and not one of high alignment of the kind similar to the EEA.

Q75 **Dr Whitford:** It almost follows on from that. At the start of the process, the Prime Minister said she would consult across the House, consult across the United Kingdom and come up with what Brexit looks like before going to Europe, but she did not really do that. Going through, cards were kept close to the chest, which touches on the communication. Do you think, if more work had been done right at the start to work out



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across Government, across Parliament and across Cabinet what we want and to have agreement, we would not have had the public negotiations we have been having in this House over the last couple of months?

Mr Baker: You raise an extremely important point. Before the Vote Leave campaign kicked off, I was extremely optimistic about our capacity as a nation to decide what we were doing, accept the result of a referendum and move forward together. When the Vote Leave campaign started, it was very high minded. Dominic Cummings's interview with the *Economist*, for example, stands the test of being a thoughtful interview, aware of the great geopolitical, technological and economic challenges of our time. It is an interview anyone could be proud of. Of course, by the end of the Vote Leave campaign, we were putting out leaflets helpfully showing where Syria is in relation to Turkey. I was not very pleased about that.

When you ask that question, you point to the overall dynamic, because what we have discovered is that altogether too many people have not accepted the result and have not accepted that it is a national result. The United Kingdom took a decision together. I appreciate that the different nations and parts of the UK voted in different ways, but I had always hoped that the nation would take a collective decision together and go forward boldly and united towards a future we could be proud of.

It seems to me, just as the European Union set out in that now infamous stairway slide, if you accept the implications of a vote to leave, we need to be in a relationship similar to that of Canada or Japan, obviously closer because we are immediate neighbours. Having a land border, we would have additional customs facilitations. Too many people have not faced up to the reality that that is the implication of the red lines of choosing to leave and be autonomous. I hope that answers your question.

To be specific about the consultation, I sat myself in the Cabinet room with the Prime Minister meeting Scottish and Welsh Ministers. The Prime Minister personally was engaging with them. I was responsible for English regional engagement, my colleague Robin Walker for the other nations of the UK. He was travelling frequently and engaging with people. I hope you will forgive me for saying that it is very difficult to engage with someone constructively on how we should leave the European Union if they are determined that we ought not to.

Q76 **Dr Whitford:** Do you recognise that having cards close to the chest, which is a phrase that was used in Parliament frequently, meant that not just the Welsh and Scottish Governments felt cut out of it, but Members in the House felt cut out of it, until suddenly it appeared?

Mr Baker: It is absolutely clear to me that Ministers in the Department for Exiting the European Union felt cut out of the process of negotiating our exit. That is why two Secretaries of State have resigned.



Chair: Geraint Davies, you are, of course, Member of Parliament for Swansea.

Q77 Geraint Davies: I am Member of Parliament for Swansea; that is right. Incidentally, Swansea overall voted to leave, but I have to say that many people in Swansea who voted to leave are coming to me and saying, "I voted for more money, more trade, control of immigration and control of our laws". They are saying that what is coming out of the machine looks like we will have less money, in terms of the divorce bill, less trade and less control. Therefore, they want a final say on whether the deal that is on the table or will be on the table represents what they voted for. If it does not, they want to stay where they are. I would like you to comment on that, but also to comment on the point that you specifically made.

You claim that people want to basically control our rules and our Parliament as a fundamental driver, as opposed to these other economic ones, which are a concern to people. In particular, insofar as your vision would be to leave on WTO rules, albeit in a managed way, would you not accept that that is a system in which rules would be set by a council of Ministers where we would have less say—160 members, some of them dictatorships, and simple majority—implemented by a commission where we would have fewer appointees, enforced by a panel of judges who are not democratically elected, which provides for having less state intervention and various other rules? How could you deliver your promise of more control by our Parliament under the WTO, which is a less democratic and more rule-governed system?

Mr Baker: Thank you, Mr Davies. I think you have asked me three questions, one about a second referendum, one about the fundamental driver and a third about the WTO. I would not pretend to know the opinion of your constituents but, if I look at it, I think we will continue to flourish, and not only that, but our being in or out of the European Union, taken alone, would not make much difference to our growth. If I could read you a quote from an Open Europe report, they wrote, "In summary, we can see no relationship between the cold numbers of our economic analysis, which are in line with other comparable studies, and the rhetoric of those who argue that Brexit will make a dramatic difference to Britain's growth trajectory in either a negative or positive direction".

Q78 Geraint Davies: Like the Treasury, you mean.

Mr Baker: Of course, there are forecasts on either side of the argument. Economists for Free Trade are at the top end and others are much more negative. It is a matter over which people are considerably divided. The Treasury's forecasts I am happy to answer questions on, but CGE analysis does not represent the full evolution of an economy and does not claim to. What people want is a system where power answers to them.

Geraint Davies: Mm.

Mr Baker: I am glad we agree. If we zoom out and look at Europe, we are in the midst of a grand crisis of political economy. I do not think



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anyone can seriously objectively say that is wrong. You only need me to name the countries for us to agree that there is a problem. In France, we have the problem that sometimes the streets are on fire. In Italy, we have the problem of a radical left and radical right coalition. In Austria, a so-called Freedom Party is in coalition. In Germany and the Netherlands, far-right parties are being kept out by grand coalitions for that purpose. It goes on. Even liberal Sweden has flirted with the far right, and 70% of the vote in Hungary is for populist parties. In fact, there is a very helpful chart from Tony Blair's institute indicating that we seem to have the lowest levels of populism in Europe, notwithstanding voting to leave. I could talk about QE as well.

If you look at all of Europe, we are in the midst of a profound crisis of political economy. That crisis needs to be solved. One of the ways you solve it is to take back democratic control of our laws. Yes, people want more money into our public services. Of course they do. People want to have more free trade and I believe we can deliver it. But people want their politicians to answer to them, and I do not think the way to solve that is to push the question back to them, with all the division and despair that would sow among those people who would say, "We have told you once; we are telling you again. Take back control". I absolutely do not support having a further referendum.

Geraint Davies: On the WTO point—

Chair: Just a minute, Geraint. Let him finish that point.

Mr Baker: That is where I would want to leave that. I absolutely do not support a second referendum. I think it is a terrible idea. In fact, the first time round, I overestimated people's willingness to accept the result. The idea that we would ask again and have people accept it is for the birds. It is a terrible idea. I have probably, in the midst of what I have said, dealt with the fundamental driver point.

On the WTO, I do not accept your caricature of how the WTO works. It works overwhelmingly by consensus. It also does not have a supreme court that rules over our country with extremely broad scope. It does not have a set of institutions comparable to that of a nation state. It does not have an ambition to political integration. It works very differently. I simply do not accept your characterisation. You spoke about my ambition to leave on WTO terms. That is not my ambition. My ambition is to leave in an advanced free trade agreement with security co-operation and all those other things that President Tusk offered us, but I am not afraid to leave on WTO terms, which are the underpinning of the world trade system.

Q79 **Chair:** There is one question that I would like to follow up on. You referred to the control of laws. You also looked at the situation in different countries. You mentioned Italy. You mentioned the position in Sweden, in Hungary, in France with the yellow vests movement, and so on. Actually, a lot of this is associated—and I will ask you to tell me



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whether you think this is the case—with the fact that the fiscal compact that was imposed, which David Cameron, to his credit, refused to join in on, alongside the Czechs at that time, and which was largely conceived and led by Germany for the purposes of making sure that it has ultimate control over the laws of Europe, raises the very question you were looking at. If the consequence of having a law-making arrangement like a fiscal compact is imposing austerity by law on those countries, naturally they are going to say, “We want our laws back”. Is that not part of the situation?

Mr Baker: Of course, Sir William, I would agree with your analysis, as you would expect.

Q80 Chair: I think it is important that you arrive at your own conclusions about that. I am interested to know whether you think that is the right way to assess it.

Mr Baker: I have arrived at my own conclusions about that. If anybody wanted to validate that, they would look at my website and see blog posts going back to 2007, before I was even a candidate, and they would see my thinking. I have left it there. It is public. It is available. It is stevebaker.info, if anybody wants to look at it. I doubt the server will crash now I have said that. There are plenty of blog posts about my thinking on the European Union and plenty of writing on the internet. I have reached my own conclusions and I certainly agree with you. It is profoundly dangerous to impose things like a fiscal compact on populations in a way that denies the public a meaningful say over how they are governed. Governments might make foolish decisions to overspend, but the public should have the opportunity to choose foolish Governments or not.

Q81 Dr Whitford: I recognise a similar position in Scotland. We cannot influence the decisions made here.

Mr Baker: I sometimes look at the Scottish National Party with some sympathy, despite being a unionist, because I believe in democratic self-Government. I do not mind that you had a referendum, but the public in Scotland, as you know with no doubt some discomfort, voted to stay in the UK. We had a referendum and that is what they decided. Yes, of course I can see your view. You can legitimately object to the way the UK is constructed, but you had a referendum.

Dr Whitford: We will be looking for another one.

Q82 Richard Drax: The first question you were asked this afternoon was whether this process of negotiation has had an impact on public confidence in the democracy of our country. The second one was whether the Government could or should have done more to inform and explain to the public what it was up to.

Mr Baker: Yes, you are right.



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Richard Drax: Your evidence to us so far confirms what I think most of us knew. In my humble opinion, I think it is devastating, from your evidence today, that the Government—our own Government, I hasten to add—have almost complicitly tried to thwart the will of the people either directly or indirectly, not least by not informing their own Department that was charged with getting us out of the EU of what they were doing. Would you agree with me, Mr Baker, that the question, in or out, was a very simple one? I am a very simple ex-soldier. To me, you either stay in the EU or you leave it. It was not about deals or economies. Yes, these are factors, of course, but in my humble opinion, and I would be interested to hear yours, Government and others have intentionally thrown these factors, which were not in the debate, into it to confuse and, ultimately, in some cases, to stop it.

My question to you is this: do you think that is the case? My second question to you is this: how complicit in this effort to prevent Brexit, from your very, very damning evidence, were people like Mr Robbins and Mr Barwell? We have had Mr Robbins here, who in effect did not answer our questions, but you know him better than we do. Mr Barwell, we know, is an arch-remainer who is very close to the Prime Minister, and we hear good evidence that his advice has very much influenced her thinking. I would be most grateful if you could illuminate us on both those points.

Mr Baker: The Government should have done much more to communicate positively about Brexit. In fact, one of the points in the communication strategy paper I wrote shortly after arriving was that the Government should be campaigning for Government policy. Indeed, there is now a GOV.UK campaigns website. It has only taken them over a year to set it up, and it is now campaigning for the wrong things, but that is by the bye. Yes, Government should have been doing much more to embrace the result and communicate it directly.

I am very reluctant to directly attack either special advisers or officials because in the end Ministers do decide. There is another great conversation to be had here: do officials govern or do elected politicians and Ministers? Everybody here will have watched “Yes, Minister” and we need sometimes to remember the old joke that it is a documentary, not a comedy. That is not to say that officials are not responsive to Ministers. I was incredibly impressed by DExEU officials, far beyond my expectations. They were wonderful professionals, responsive to what I decided, and it was a joy to work with them.

That was in my area of legislation and domestic preparedness. My direct experience of Ministers deciding one thing, to leave on an FTA basis, the EU offering us that basis, and then officials working through the Cabinet Office Europe unit to the Prime Minister to deliver something else has, I am afraid, profoundly undermined my trust in the way the system works. It really would be wrong for me to sit here and be critical of Mr Robbins and I think I met him only once or possibly twice, because he is in the end answerable to the Prime Minister. If the Prime Minister were to give



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direct instructions on policy, they would be carried out professionally by him. Of that, I have no doubt whatsoever.

When it comes to special advisers, one has to be extremely careful as an elected politician. I previously made some comment to the newspapers and, with absolutely no relation to that whatsoever, I found myself subject to a number of smear stories in the newspapers about a week later. I feel sure that was nothing to do with my previous comments. It was a mere coincidence. I am rather reluctant to therefore be too critical.

Q83 Richard Drax: I understand and respect that. Finally, can I ask a quick question? If this had all been handled very differently and more positively, do you think now we would be in a very, very different situation with the EU?

Mr Baker: Yes, we would. Imagine that DExEU Ministers' decision had been taken, accepted and carried out, and that a few weeks later the EU had offered us a matching offer and we had sincerely tried to deliver it. My goodness, how different it would look. We might have carried Parliament with us that there was a clear, constructive, deep and special partnership being developed on the basis of our independence, our separate and equal status among the nations of the world, perhaps you might say. My goodness, it would have been different. We need to rescue that position from now, which is why, as you will know, I have been working on what we are now calling the Malthouse compromise. That is perhaps a subject for later.

We need to rescue the situation. I still believe we can be an independent nation and get out of the EU successfully. I would just implore the Government to take seriously delivering independence. That means not having a triple lock into the institutions of the EU through the implementation period, through the current backstop and through a future relationship built on the backstop. Those three things are a triple lock holding us in. It is a mistake to pursue that policy and it must change.

Q84 Michael Tomlinson: Staying on the theme of communication, I want to ask you about the media and media coverage. I want to ask your view on the quality of the coverage and whether it has been, in your opinion, fair and balanced. Separately and perhaps as a supplementary to that, what could or should the Government have done in response to that coverage, in your opinion?

Mr Baker: Great, we go back to the first paper I wrote. I must go back and read it. The first paper I wrote seriously was about the Government's communication strategy and what should be done differently. I ought to go back, read it and make sure I can communicate to the Committee some of the suggestions I was making even within the first few months.

Chair: Perhaps you can send us a copy.



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Mr Baker: If I am able to obtain a copy from the Department, I will, but I am not sure I am able to do that. I will have to check, but I certainly will take notes and communicate to you the gist. When looking at the media, I am very conscious that there are, as somebody once told me, basically five categories of stories that sell: scandal, danger to the community, human interest, novelty and the sport. A good news story about how the Prime Minister is repealing the European Communities Act or how we are going to end the saving of its effects at the end of the IP is very difficult to communicate. More practically, it is very difficult to get a front page story saying that Eurotunnel, Calais and Dover will all be ready for exit day in March and there will not be any delays to freight traffic. It is difficult to get that on to the front pages because it is not a scandal and it is not a danger to the community.

Q85 **Michael Tomlinson:** Incidentally, do you believe that to be the case?

Mr Baker: That they will be ready?

Q86 **Michael Tomlinson:** Yes.

Mr Baker: Yes, absolutely. They have announced it in public.

Q87 **Michael Tomlinson:** But we still do not see that on the front pages.

Mr Baker: You will not. In answering your question about fairness and balance, the media is what it is. It is bound to carry stories of that category and not the good news ones we would want.

To answer your question directly about the response, the Government should have been putting up Ministers much, much more often. The Government almost seems, then and now, afraid to put up Ministers in rebuttal. As you know what I am like, I am sure, I would have been—and I was—chomping at the bit to get out there. Particularly now we are into full-on project fear, every time there is a big scare story, Ministers should be in the media rebutting it and saying, “No, actually, Calais will be ready. We will adopt a policy of continuity because risk will not have changed on day one after Brexit. Therefore, we will not need new checks on day one after Brexit and, therefore, Calais will not have any delays to freight traffic coming in. No, do not worry about Calais on that closed loop because here is the long list of things that Calais is doing. It will not be a problem”.

The customs facilitations that were recently announced should have been announced a long time ago. As I said in earlier evidence, I was imploring Government to make public our no-deal preparations and it was prevented. I was told we could start after the December Council and it did not happen. I was told we would do it after the March Council and I very nearly resigned in protest at not being allowed to start then.

Q88 **Chair:** That is nearly a year ago.

Mr Baker: Indeed. You might remember there was a front page *Telegraph* story about having a new Cabinet Minister for no deal back in,



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I think, January. I would have to go back and check. You may remember a front page story and some considerable fuss about having a member of the Cabinet for no deal, which was reported to be me. Three sources tell me it was a true story, it had been briefed out and then of course it did not happen. I am not bitter about that. I do not mind not having served in the Cabinet. I would not have minded if it was somebody else, but the fact remains that that story was on the front page and I understand it to be true, and somebody blocked it. Why did they block it? They did not want to upset the European Union.

Back we come to the heart of the matter. The Government have constantly been in this posture of craven supplication, refusing to answer criticisms levelled at them in a proper manner and refusing to debunk scare stories. It has left this country in the state of anxiety it is in. The Government should have been making clear far sooner that no-deal preparations were in progress, putting Ministers up to debunk scare stories, being far clearer in announcing successes, finding reason to make a fuss about successes as they came up, things like Euratom being dealt with. Government, I am afraid, in many ways, have not merely failed but deliberately failed to communicate.

Q89 Michael Tomlinson: In terms of media coverage, shortly after your resignation I saw the striking phrase "Potemkin structure". Chairman, given your knowledge of history, you will know all about Catherine the Great's lover, but I had to look it up.

Chair: Was it just one?

Michael Tomlinson: It is quite a striking phrase. Why did you use it?

Mr Baker: DExEU contained leave-leaning Ministers who could have had a leave-leaning attitude to the negotiation, which would have been considerably more robust than the one that has been taken. But we were there to disguise the reality that the negotiation, in its tone and substance, was being driven by others. I am quite sure that I was expected in Government to fold, to hold on to my nice corner office on Whitehall and Downing Street, my red box and all the rest of it, and not stand up for what I believe is in the best interests of this country. It has too often been used as a Potemkin to make it look like we are serious about leaving the European Union when actually the policy has been to cling on to as much of it as possible.

Chair: That is very interesting.

Q90 Richard Drax: Having worked for the BBC as a reporter for 10 years, I know a little about its internal structure. It has a charter to be fair and balanced. I have listened over the last eight years to the BBC and I find it totally biased and unbalanced. There is no doubt about that. The statistics prove it. What did your Department do to try to redress that balance? As you say, the story about the Calais port would never reach the front pages. Maybe not in the local or national tabloids, but on the BBC it should have been top and foremost to counter the remainers who



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are trying to operate project fear. What did your Department do to try to counter the bias of the BBC?

Mr Baker: Mr Drax, I hope you will forgive me if I say that I am not trying to duck your question, but that would be a question for our media special advisers and possibly the Secretary of State. I was not directly responsible for our communication strategy so I cannot answer that.

Q91 **Richard Drax:** Were you outraged at the coverage by the BBC? You were in the newsroom. You must have seen it and heard it. Like me, you must have been furious with the coverage you were getting from the BBC, surely.

Mr Baker: I am generally furious with the coverage that has taken place, not least because I am quite sure that some campaigns to overturn the referendum result have had a deliberate strategy of demoralisation. It is quite despicable that people should set out to demoralise the public in their millions, but I do not doubt that it has been done. The BBC strives mightily to be impartial, as the Civil Service does, but people have groupthink and there are few enthusiasts for Brexit. Tempted as I am to give you a strident line of criticism of the BBC, I will not.

Richard Drax: You have already. Thank you.

Q92 **Kelvin Hopkins:** A component of the bias in the media, and particularly the BBC, I have to say, is the almost complete absence of putting a socialist case for leaving the EU. It is quite appalling. If one goes back in history, trenchant opponents of the common market and the EU were Clement Attlee, Hugh Gaitskell, Michael Foot, Peter Shaw, Barbara Castle, Bryan Gould, Tony Benn, Bob Crow, all of whom were splendid socialist politicians.

Michael Tomlinson: Jeremy Corbyn.

Kelvin Hopkins: I will leave him to his own views. These are people who have a history. This is where the party was. I would not expect you to defend the socialist position, quite obviously, but nevertheless there is a socialist case, which has been completely ignored. Would you agree that one of the things the media has tried to do is portray opponents of the EU as extremely right wing and sometimes racist?

Mr Baker: Mr Hopkins, you are my new favourite Member of the Committee. Yes, that is certainly true. Indeed, in the House of Commons we have been painted as far right. As I have repeatedly said, I consider myself an old English classical liberal. I am profoundly committed, not least because of my faith, to the moral, political and legal equality of every person, their liberty, the dignity of the individual and their freedom. That is what I am committed to, in my life and in my politics. I absolutely agree with you that that aspect has been, again, despicable. The caricatures and the propaganda have been despicable.

You and I in the past have often formed allegiances in this course. I am conscious that the free market right and the socialist left have often



formed allegiances in the course of this journey, but it has always been founded, I think, on the same common ground. That common ground is a great faith in the people of this country and their capacity to choose their Government. Yes, the Labour leave case should be made and made more strongly, more often. People should not engage in smears. I have been smeared so many times that it is now water off a duck's back. People engage in mere smears rather than serious argument. They are failing our country profoundly when they do it. I agree with what you said.

Q93 Mr Jones: To return to your experience of the Department as a Potemkin structure, shortly after your resignation, you appeared on the BBC's "Daily Politics". You told the interviewer that you thought DExEU had been blindsided and had been out of the loop. I would guess from the evidence you have given so far that you believe that was a deliberate exercise. In what respects would you say the Department was blindsided?

Mr Baker: Can I take a slightly different tack, to start with, as to where it was not blindsided? In my personal responsibilities of the legislation and domestic preparedness, I am absolutely clear that the Civil Service functioned as it should and Government functioned as it should. I pulled levers and the response was as it should be in all those areas related to legislation and domestic preparedness. I am very, very clear about that.

But where we were cut out was the negotiating strategy. You, I, David Davis, Martin Callanan and Suella Braverman are all Brexiteers who want freedom for the United Kingdom, independence and take a considerably different stance to that of No. 10. No. 10 has consistently sought to cling on and have as little Brexit as possible, in a sense. That is where we were a Potemkin. I reread David Davis's evidence to this Committee before I came on, and it bears out exactly the same story of not merely feeling but being able to evidence being cut out of policy-making on a profound level.

Q94 Mr Jones: You referred to No. 10, which is of course a building on Downing Street. Presumably you are referring to individuals inside No. 10. Are you referring to career civil servants there? Are you referring to political advisers there? Who are you referring to there?

Mr Baker: Ultimately, the responsibility for the position and the policy is the Prime Minister's. I have no doubt whatsoever that everyone involved who works in that building is doing what they think best in the national interest. I mean no slight to them. But the way the system works is that the power is in No. 10. The whole Civil Service looks upwards, as I feel sure those here who have been in Government will know. The Civil Service sees the Minister as a client, but the ultimate client is of course the Prime Minister. Everyone looks upwards, rather than outwards to the public. That is something else I would change. Yes, when I refer to No. 10, I mean that nexus of the Cabinet Office Europe unit, the Prime Minister's special advisers and the Prime Minister herself

Q95 Chair: Who is in charge of that nexus, by the way?



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Mr Baker: The most important people within this nexus have been Mr Robbins, Mr Barwell and probably the Chancellor of the Duchy of Lancaster, Mr Lidington.

Q96 **Mr Jones:** When you refer to being kept out of the loop and blindsided, are you referring to those individuals as the people who are responsible for the blindsiding and keeping out of the loop?

Mr Baker: Yes. Politics is a battle of wills. Within Government, then as now, there is a battle of wills between the policy of those who actually hold the pen, as they say, on our Europe policy and those who would like to leave. I often saw efforts to persuade me. There was one notable incident where I was asked to produce a video for the "Sunday Politics" explaining the new customs partnership. I knew at the time that they were trying to co-opt me into seeming to approve of the new customs partnership. I very, very carefully chose what I said, how I said it and my intonation, perhaps as BBC journalists do, to make sure that people understood I did not approve of the new customs partnership. That battle of wills included tricks like that: trying to get me on TV supporting a policy that they knew I did not support.

Q97 **Mr Jones:** I must say it is an extraordinarily Machiavellian exercise for people at the head of Government to set up a completely new Department of State as a sham that is designed to conceal the true aim of those individuals or the people at the top of Government, which is something totally different from the remit of the Department.

Mr Baker: Let us be absolutely clear. In the areas for which I was directly responsible, Government functioned as normal. I was highly satisfied with the officials who worked for me and the mechanisms by which it worked. In relation to the negotiation, it is very clear to me, and it is very clear objectively to anyone looking at the evidence of multiple resignations and what multiple Ministers have said, that in relation to the negotiation the machinery of Government has not worked as it should. At the centre is the debacle of Chequers. The way Secretaries of State were whipped and, if I may say so, humiliated with that story about the taxi cards and so forth was not the way that decent, civilised, collective Cabinet Government should work.

Q98 **Mr Jones:** Indeed, but your suggestion is that this was a deliberate exercise—to repeat, a deliberate Machiavellian exercise.

Mr Baker: Of course it is, absolutely. We took one decision in the Department as all the Ministers together and a different policy emerged at Chequers. It was very deliberate.

Mr Jones: Can I say for the record, and obviously I worked in the same Department, that I want to echo what you have said? I have nothing but admiration for the officials of DExEU, who are extremely dedicated, extraordinarily talented and extremely hardworking. I just wanted to put that on the record myself. Thank you for that.



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Mr Baker: You are most welcome.

Q99 **Dr Whitford:** Obviously the last two Secretaries of State have been very openly cut out of negotiations but David Davis, the original Secretary of State, was not and had the opportunity to be directly involved and present in Brussels at negotiations. Would there have been some scope for him to have taken more of a grip of that in the early phase before Chequers grew, or was there digging away underneath the whole time?

Mr Baker: I have no criticisms of David Davis, far be it from me. I have great admiration for David Davis. I enjoyed working for him and I now sometimes enjoy working with him. David has given you evidence on his relations with the Prime Minister and the negotiations. Having read it carefully, I recognise in his evidence my own experience and, indeed, the elements where I shared in his experience. I certainly would support the accuracy of his testimony to you.

You always look back on what you have done and think you could have done more. It is certainly my intention throughout the whole of this process to look back and be confident that I did everything I could possibly have done with the foresight I had at the time. I feel sure David Davis would feel the same. In his resignation letter, he set out some of the objections he had made to policy at the time. If you walk into the negotiating room thinking you are going to only ask for what you know they will give you, which has been our approach, you are on the road to capitulation. That, I am afraid, is what has happened but it is not the approach David Davis would have taken. He did well to stay in Government as long as he did.

Q100 **Dr Whitford:** He received external criticism for not being more active and more engaged, and therefore people being able to go off to Brussels representing the United Kingdom without him. We did not particularly discuss that with him. Do you think that is merited?

Mr Baker: It is not merited, for a very straightforward reason. In the last few days, as people can read in the press, there has been conversation about whether the current negotiating team should become more political. I understand, from a conversation that I am afraid I cannot evidence, Sir William, that the pushback has been that this negotiation is being conducted by officials. It is officials on their side so it must be officials on our side. Again, who governs?

We always need advice. We need the advice of the brilliant policy specialists that we have. In the end, if power is going to be used in a way that meets with public consent, which is at the heart of this debacle over leaving the EU, politicians must have the skills to deliver on the pledges they made and actually go and do it. We do need to get more politicians into the negotiating team, but that will be resisted by those who wish to keep politicians out of it.

Q101 **Chair:** Can I comment on that and ask you a question derived from a



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very important proposal or suggestion you just made? Of course, the European Union is not, through the European Commission, an elected body in the first place. What you just said illustrates the nature of the problem, which is that we have here in Westminster, and for centuries have had, an evolving democratic system of Government. When you translate the question to the issue of the European Union, you are dealing with institutions that do not have a political persona. It is not a Government, although it claims to operate that. We, as the European Scrutiny Committee, know this as well as anybody, because we receive the laws that are passed down through section 2 of the European Communities Act 1972, which are made in a Council of Ministers behind closed doors, by consensus, without a transcript, and the proposals themselves are initiated by a European Commission. Could you comment on what you just mentioned in terms of the contrast?

Mr Baker: I mentioned earlier that this is a profound crisis of political economy. We are living through a terminal crisis of technocracy: the idea that our lives should be managed by others. I can evidence with economic data, with various literature, that prior to the First World War the dominant political economy was classical liberalism. State spending was low, the state was limited and money was sound. We had two wars of transformation, as it was put by a former communist called Burnham, writing a book called *The Managerial Revolution*, a brilliant book written in the course of the Second World War, along with a panoply of other relevant literature. The outworking after the Second World War was that the dominant political economy was what amounted to social democracy. Burnham and others make the case that the centre ground became managerialism. Whether it was fascism, communism, the British managerialism or the New Deal, the new centre ground became Government as big as you could get away with, taxation at its limits, sustained chronic deficit spending and chronically inflationary easy money. I have all the evidence with me. I am happy to go on at some length.

That system of Government, which has been sustained by debasing the currency for 40 years and taking people's power away from them and handing it to officials, not least through the system of the European Union, is today in profound collapse, because the system of money, the financial system, cannot sustain this overspending chronically for decades. We have to look after people, but we have to get through this crisis. I have not time to put all that I think about this on the record but, to answer your question about the institutions and how they make decisions, this goes all the way back to Plato and the idea of the philosopher king. The idea of the philosopher king now as always is wrong. It is time to hand power back to people and live honestly, with honest and decent politics that makes pledges it can keep and pays for them in a moral way.

Q102 **Geraint Davies:** Coming back to earth, if I may, and the relationship with civil servants, did any civil servant simply say to you, "Look, if we



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are not in a customs union, there will have to by definition be a hard border in Northern Ireland. If we are in a customs union, there will be no control over immigration"? What did you say in response? Were they too frightened to say the truth?

Mr Baker: I do not think you will find anybody was ever frightened of me. I am absolutely confident that my relations with civil servants were professional, constructive and positive all the time. I hope you will not mind me saying this. When you say "coming back to earth", I would ask anybody who does not want to engage with the arguments I just made, based on data and ideas, what your answer is. To anyone watching this or on this Committee, what is your answer to the obvious crisis of political economy afflicting not just Europe but much of the world?

Q103 **Geraint Davies:** It certainly is not WTO and giving dictatorships a vote. I want to ask this specific question. If somebody says, "Look, if we are in the customs union, we cannot control immigration. If we are not in a customs union, there will be a hard border". It is simple stuff. How do you respond to that? Do you say it is project fear again?

Mr Baker: We had many conversations about Ireland and the Irish border. I do not have a transcript of all those conversations and, insofar as they were recorded, I would have to go back to the Department to go through my notes. Leaving the European Union undoubtedly raises a wide range of administrative problems. When it comes to the movement of people, we will preserve the common travel area. When it comes to whether there is a border today, yes, there is. There is an excise border, a tax border and a currency border. When you look forward and think, "What about regulations and customs?", you have to ask yourself a question: "Can these problems be solved with current technology and administration?" The answer to that question is yes. I happen to be sitting here with a treaty that solves those problems. The problem of the Irish border is a very interesting one and it is a matter of debate, which I am not in a position to answer, as to the extent to which it has been constructed, as many people have said, in order to justify a high-alignment Brexit. Every party to this problem has insisted that there will be no hard border.

Q104 **Geraint Davies:** Those are just words, are they not?

Mr Baker: I am afraid we are politicians. We use words.

Q105 **Geraint Davies:** If there are two countries without a customs union, there will be a hard border because otherwise, if you go back and forth, they will have different standards and all the rest of it. It is something asserted that is clearly false.

Mr Baker: That is not true. You need to explain what you mean by a hard border. I am sitting here now with a treaty that means the border in Ireland will be invisible and compliant, just as it is with excise duties. Remember, if we are outside the customs union but in a free trade agreement with zero tariffs on all sectors, which is what the EU offered



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us, there would be no customs duties to collect. You would have to make customs declarations, but you have to make Intrastat declarations today, albeit not on consumers going to and fro. This set of problems undoubtedly is massively overblown. I am convinced, if we can break through the ideological dogma that you have to have political integration in order to have free trade, if we are willing to engage with the solutions that, as I say, are in the treaty that is sitting here on this desk, we can have an invisible and compliant border on the island of Ireland and be an independent country.

- Q106 **Geraint Davies:** Did any civil servant put to you that under the Good Friday agreement there is a provision to have a referendum on the reunification of Ireland if there is a popular view that there should be one? Given that 58% of the people in Northern Ireland voted to remain and there is going to be this problem at the border—some people say they can resolve it, but I think there is an intrinsic problem—did anyone in the Civil Service say, “There is a real risk here, Minister, of triggering a referendum on the reunification of Ireland, not to mention, downstream on the Scottish issue, and therefore the Union is in peril”?

Mr Baker: Nobody ever said to me the Union was in peril. I do not believe the Union is in peril. The Union is not in peril. The Good Friday agreement will be upheld. I think I can safely say that I am sure every DExEU Minister at some point or another has said, “We will uphold the Good Friday agreement”, and we will.

- Q107 **Geraint Davies:** A referendum on the reunification of Ireland is in the Good Friday agreement. Would you be happy to have that?

Mr Baker: No.

- Q108 **Chair:** With respect, I think we are now moving into the question of Northern Ireland itself as a whole. I would rather we concentrated on these questions.

Mr Baker: I can confirm to the Committee that I have read the Good Friday agreement and I am aware of its provisions, but I do not think the fact that those provisions are in there means that Brexit makes the unification of Ireland necessarily more likely. That is a matter for the people of Ireland under the terms of the agreement. Lord Trimble launched one of the papers associated with our solution to the Irish border. No one, surely, has more impeccable qualifications on this issue than he does. He stands with us on this set of solutions. I am afraid that is good enough for me.

- Q109 **Andrew Lewer:** Correct me if I am wrong, but I think you have stated that the White Paper produced on 12 July had already had large elements of it produced and written before the Chequers gathering took place. I did hear you say that, did I not, earlier on?

Mr Baker: We would all have to go back and check the transcript. It is very clear that David Davis was leading a process within the Department



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for Exiting the EU, which I participated in, of preparing our White Paper, which corresponded to our policy choices. With five days' notice, which I think was his evidence to you, he was presented with a different White Paper, which came out at Chequers. It is very clear that the policy developed and presented at Chequers was substantially different to our policy.

Q110 **Andrew Lewer:** Who in your view had put together and written those pre-agreed, pre-written, not agreed at Chequers but already written and produced sections of that White Paper?

Mr Baker: Sorry, do you mean the Chequers White Paper?

Q111 **Andrew Lewer:** Yes.

Mr Baker: The phrase they use is "holding the pen". The pen was held for the Chequers White Paper by the Cabinet Office Europe unit. The Secretary of State was holding the pen for our version of the White Paper, but of course the drafts were all produced by officials. It raises the question, which I cannot answer, of whether officials, which would be very unfair on them, were serving two masters and producing different papers for different bosses. If they were, which seems to me plausible, that would be quite wrong.

Q112 **Andrew Lewer:** Given that there were two versions, as you have already said, to what extent were you involved in the publication of one or both, or were you only involved in the writing and preparation of one of them?

Mr Baker: This is why I have used the phrase "Potemkin structure". I was only involved in the DExEU White Paper. Again, I should say it is led by the Secretary of State. I read multiple drafts and commented on multiple drafts, but it was led by the Secretary of State. In his evidence to you, he explained how, approaching Chequers, he was shown a different White Paper.

Q113 **Andrew Lewer:** When you and the Secretary of State were involved in producing that, while you were doing that, were you or did you at least feel that you were in accord with No. 10 and No. 10 was aware of what you were doing?

Mr Baker: No. 10 was aware of what we were doing, but I was aware of a conflict going on between us. I was aware of snatched sections of conversation about different and perhaps conflicting work going on in the run-up. This was why I was able to tell you earlier in evidence that I was expecting to resign over Chequers in the run-up to Chequers, even though I had not seen the White Paper, because I was aware in the week or two before Chequers that this was going on and that there was going to be a change of policy. Snatched conversations gave me to understand that.

Q114 **Kelvin Hopkins:** You spent some time in DExEU and, indeed, one of our



colleagues here did as well. Do you think that DExEU was and perhaps still is too under-resourced or understaffed to be fully effective? In another Select Committee, we raised concerns about the tightness of the Civil Service staffing levels in a number of Departments. Is that the case with DExEU and, if so, what impact do you think this had on the ways in which negotiations with the EU have been conducted?

Mr Baker: My experience within my sphere of responsibility was that we were adequately resourced. Everybody worked extremely hard but that intensity of work was largely driven by the difficulty of getting the EU (Withdrawal) Act through. If Parliament tables a great many amendments, there is a great deal of work for officials to do. Possibly we could have used more, but on the legislative side, no, I certainly do not think we were under resourced. The work level was not the product of a small number of staff but rather the product of intense parliamentary scrutiny, which of course is entirely legitimate. We could have added more officials, but people are specialists on their part of the Bill. There is only so far you can disperse that knowledge.

Turning to policy and delivery co-ordination, what outstanding people—and I want to say young people, because the average age of DExEU civil servants is lower—they are. They are aspiring people, making a career for themselves. It feels like DExEU has attracted the brightest and the best because they know this is the moment for our country when things change. People have been willing to take something of a risk in their careers to join DExEU, a time-limited Department, we hope. PDC works extremely hard. Places can be difficult to fill because it is DExEU. This is stressful for the whole country. Some jobs can be difficult to fill there. I am reluctant to say that PDC is understaffed.

They are doing an absolutely extraordinary job. They are trying to co-ordinate over 300 programmes across all of Government. The innovations they are bringing forward in project management and co-ordination are a joy to behold. It has not held them back. In terms of the impact on the negotiations, most of my officials were not working on the negotiations; they were working on UK-facing aspects. Some of my PDC staff would provide input into policy areas, but the negotiation co-ordination unit did not answer to me.

Q115 **Kelvin Hopkins:** Broadening out the question, like you, I have a high regard for both civil servants and the job they do, and the principle of the Civil Service and the way it can serve Governments of different political persuasions and immediately adjust. Indeed, when I was a student, over 50 years ago now, one of our lecturers in economics was a former Treasury official. He said one of the great things about the British Civil Service and the Treasury is that, if the policy changes, there is always a backroom where someone has been working on alternative policies that they can bring forward: "Here is one I made earlier". The devaluation of 1967 is an example of that sort of thing. They can do this.

Given that civil servants can serve different people, they are still human



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beings with views or inclinations to views as well. When there is a negotiation going on with the EU, would it not have been more sensible to have, and should Ministers not have insisted there was, a more balanced team of civil servants going over there, perhaps some leant to your view and my view, and some leant towards other views, so that you did not see civil servants being led away to the position that we have now?

Mr Baker: What an interesting question that is. I was always extremely careful not to inquire how people had voted in the referendum, not to inquire, not to pay any notice to any hints, to deliberately not notice. With an impartial and objective Civil Service, one which aspires to impartiality and objectivity, it would be absolutely wrong for Ministers to seem to inquire after people's either party affiliation or leave/remain affiliation. With that in mind, since propriety requires that one not ask the question, I do not know how we could have a leave/remain-balanced team leading the negotiation. I would say, though, that one of the major aspects of our negotiation with the EU is trade. My experience in Government and the answer to my recent parliamentary question tells me that our chief trade negotiation adviser, Crawford Falconer, has been cut out of our chief trade negotiation. That is a stupid mistake. We have great experts in Government on trade policy: Julian Braithwaite, our ambassador in Geneva, so UN plus WTO, and Crawford Falconer. They are people with great expertise who should be intimately involved with our EU trade negotiation, and they are not. It is crazy.

Q116 **Mr Jones:** Returning to your experience with the officials in DExEU, you have read David Davis's evidence so you will have seen that he says it was difficult to make progress. In fact, the expression he used was that it was like being in treacle. Is that an expression you would recognise in relation to your own experience of officials at DExEU?

Mr Baker: I do recognise it, but I would not attribute it to any shortcoming of officials. The Government system is huge. It is huge and it is most concerned to do the right thing. It is also most concerned to both prevent and manage every conceivable risk. There are also huge issues of collective agreement, various power struggles between Departments. All those things are well documented in public choice theory and elsewhere. The result of all that is that Government is a very slow and cumbersome beast, which is not to criticise the individuals. It is to say that Government is categorically different to business. It is not profit seeking. Government is able to look upwards to Ministers and think it has succeeded when the Minister is pleased with a paper. It is important that Ministers are pleased with papers, and I do not mean to diminish anybody's work and the enormous amount of work that is put into producing subs to Ministers, but that is not the product that my taxpayers and all our taxpayers in our constituencies are paying for. They want to be served in their lives.

There are really deep problems with the functioning of Government, the state as a whole, which partly arise institutionally because it does not



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pursue profit and loss; it is not disciplined by profit and loss. This is where I start to depart from Mr Hopkins, I am sure, on this point. The state, not being disciplined by profit and loss, ends up serving Ministers, seeking status and bigger budgets, and being very slothful. There are some wonderful books like *The Blunders of Our Governments*, setting out how things go wrong through cultural misapprehensions and so forth. Yes, I absolutely recognise this idea that the system moves slowly but I do not wish to diminish any of the brilliant work people do. Sometimes it moves very quickly. Take the work that has been done on software, for example the replacement for the TRACES system, which was rescued in the course of things.

Q117 **Mr Jones:** I have one further question. I think you were, like I was, responsible for overseeing the co-ordination of Brexit preparation across Departments. Did you find that some Departments were more treacly than other Departments?

Mr Baker: Absolutely. Some Departments took different attitudes to their reporting than others. One Department in particular insisted on saying it had no capacity to deliver month after month. It is a matter of opinion but fair comment to say that was part of its Treasury funding bid. It created an enormous amount of work. There was an inter-ministerial group, which I chaired, to drill into why it kept reporting a lack of capacity and it was not improving. Once it got its funding bid through the Treasury, miraculously its capacity dramatically improved. I am afraid all these things go on in Government as people struggle for power and money.

Q118 **Andrew Lewer:** We know about the Attorney General situation. We know that the vote has taken place and the instruction was given to Government to release the previously confidential advice of the Attorney General. What this Committee, particularly our Chairman but also others, has said repeatedly, which does not seem to be cutting through as well as it should, is that that instruction was for all the legal advice relating to the withdrawal agreement, rather than just the bit about the Northern Ireland backstop. In that context, is there a case for arguing that, despite ministerial code provisions regarding the confidentiality of legal advice given to Ministers by Law Officers, the circumstances surrounding Brexit are so extraordinary that all legal advice from the Law Officers should be made public through the negotiation process? In answering that question, the follow-up would be this: do you see or what are any potential risks in making that information public for those involved in the negotiation process?

Chair: Remember that the Attorney General and the Government were held in contempt by a resolution of the House of Commons in relation to the full legal advice on the withdrawal agreement. For practical purposes, it is constrained by a resolution of the House of Commons.

Mr Baker: On the point of the Government being held in contempt, I found myself thinking, "There but for the grace of God go I", because of



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course we had leaks and humble addresses, plural. The misery of being in minority Government through this process is broad and deep, both in getting legislation through and what it means in our negotiation for the power of the Prime Minister to deliver what she negotiates. The Attorney General not only was required to produce the advice but was subsequently held in contempt because of our status as a minority Government. There is no point particularly raking over that.

Given that the Government were so ordered to produce the advice, the Government must produce the advice. They must produce all the advice they are required to under the humble address. I am absolutely clear about that, but it raises the question of whether there is further relevant advice within the scope of that humble address that was not produced. I do not know—it is not information that I have—whether there was additional advice on that. I did read some legal advice in particular relating to the sum of money owed.

Chair: There is a vote, so we need to bring this to an end.

Mr Baker: The question is whether there is further advice that the Government have not made available. If they have not made it available, there are deep questions to be answered about why. I hope this Committee is able to dig into that question and establish whether the ministerial code has been complied with, because it certainly should be, even at the highest levels.

Chair: Finally, before we finish, you might be interested to know that we have had exchanges with the Prime Minister over this very question. We had a reply and, as far as I am concerned, the answers we are looking for have not been forthcoming. We can leave it at that, Mr Baker. Thank you very much indeed for coming.