

Northern Ireland Affairs Committee

Oral evidence: [Implications of the EU withdrawal agreement and the backstop for Northern Ireland](#), HC 1850

Wednesday 6 February 2019

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Members present: Dr Andrew Murrison (Chair); Mr Gregory Campbell; Maria Caulfield; Mr Robert Goodwill; John Grogan; Mr Stephen Hepburn; Lady Hermon; Kate Hoey; Conor McGinn; Nigel Mills; Ian Paisley; Jim Shannon.

Questions 160 - 250

Witness

I: Tony Lloyd MP, Shadow Secretary of State for Northern Ireland.

Examination of witness

Witness: Tony Lloyd MP.

Q160 **Chair:** Good morning, Mr Lloyd. It is great to see you here today. Thank you ever so much for coming this morning. I would like to kick off with an opening question and then we will go round the table. I suspect that you can probably predict most of the questions that are likely to be fired in your direction but please feel free to be discursive, because the point of this meeting is to better inform the report that we will be writing as an update to the work that we did in March around the land border in Northern Ireland. Clearly your views on this are expert and based upon some considerable experience of the situation, to which I know you have given a great deal of thought.

Last month, the Leader of the Opposition said that the backstop is an arrangement for which there is no time limit or end point, locking Britain into a deal from which it cannot leave without the agreement of the European Union. He went on to say, correctly in my view, that this is unprecedented in British history. Yet he also said that he wanted to see a permanent customs union, using the indefinite rather than the definite article. I wondered perhaps if you could explain what the difference is between a permanent customs union, which he envisages, and the “forever” customs union that perhaps is potentially contained within the pages of the withdrawal agreement.

Tony Lloyd: Sure. First of all, thank you for your welcome and your very flattering remarks. I do not think there is any difficulty in explaining Jeremy Corbyn’s words there—you would probably expect me to say that there is no difficulty in explaining Jeremy Corbyn’s words. Let me make it quite clear that the Labour Party believes that there has to be a backstop to guarantee no hard border across the island of Ireland, if we reach that point beyond transition and we have not come to final arrangements. However, nobody thinks that this is the best possible situation for us to find ourselves in, whether it be specifically for the people of Northern Ireland, the businesses, the farms in Northern Ireland or, for that matter, for the rest of the UK. Indeed, Michel Barnier has made it quite clear that it is not even good from the point of view of the European Union. Within that context, to say that that is not the best possible place for us to end up is common terrain.

What we have argued for is that, in the event of leaving the European Union—and, again, I believe there is a majority in the House for some form of Brexit—we all have a duty to find the best solution for the whole of the United Kingdom. We will all have different opinions on that. I would say this quite forcefully, because it touches on one of the essential issues: one of the drivers for me is bound to be a commitment that there can be no hard border across the island of Ireland. Again, I am very well aware of the fact that within this Committee of yours there will be different views as to how that can be achieved, but I am profoundly of the view that there is no easy technical solution and no easy fix. The one



way of guaranteeing this in the long run is for the United Kingdom as a whole to be part of a customs agreement with the European Union—one that we would enter into voluntarily. As you heard my colleagues say on numerous occasions, it would be one where we would want to negotiate the capacity for proper engagement in the development of that customs union as it expands around the world.

Q161 Chair: The withdrawal agreement does deliver a customs union but it delivers a customs union that is permanent in the fullest sense of the word—that is to say, one from which the United Kingdom could not unilaterally withdraw. Do you have a problem with that?

Tony Lloyd: We have no problem in the specific sense. I believe this is absolutely accurate; if we negotiate on the basis of being part of the kind of long-term customs arrangement that I have just described, that obviates the need for us to enter in the backstop in any case, or, in the event that it takes longer to pursue the negotiations to get to the kind of customs arrangement I have described, that any movement towards the backstop and any use of the backstop would almost by its nature be transitory and therefore we would not be locked into it.

This is a statement of fact, as Jeremy Corbyn and others have said. I am not an international lawyer but I am not aware of any treaty that this country of ours has ever entered into that has this indefinite nature. As a principle, it is one of the difficulties that everybody would have to concede is there. However, the way around it is to either make sure that we do not get into backstop territory or, if we do, that we have the drive to go beyond that. Consistent with the no hard border that I have talked about before, I honestly believe that we will end up having to look at the customs union and the single market alignment to prevent that hard border and to move us beyond the period of the backstop.

Q162 Chair: Yes, but the withdrawal agreement is very clear that, in the event that everything else falls away—and it is quite possible that we have to admit that the future arrangement may not turn out as we might all wish it to—we will be reliant upon a backstop that is permanent, and indeed much has been made of that. Its virtues have been sung from the rooftops by those who insist upon this particular instrument. It would have the effect of anchoring the UK, potentially forever, into an arrangement that may not be in its interests. You correctly said, as has Jeremy Corbyn, that that would be unprecedented in British history. I entirely agree with that. That is an extraordinary arrangement, is it not, because it means swapping the current arrangement that we have, which means that one party or another can remove itself from it—and Article 50 is part of that—for one where such a safeguard does not exist? Is the Labour Party prepared to sign up to such an arrangement? Jeremy Corbyn's remarks last month suggest that he would not be.

Tony Lloyd: The Labour Party has made it clear that a backstop is necessary for us to move the conversation on with the European Union. In that sense, to answer your question, yes, it is extraordinary. In the



almost literal sense of the word, it is extraordinary because, as I said, as far as I am aware, it is unprecedented. It is, by definition, extraordinary. Do we accept that as a period that we will need to go through to get to the kind of permanent arrangement that the whole of the UK needs? Yes, that is absolutely the case.

Q163 Chair: It is very rare that I agree with the Leader of the Opposition, but when Jeremy Corbyn made those comments, I absolutely agreed with him on that. Given what he has said, would the Opposition be inclined, for example, to support a time limit on the backstop?

Tony Lloyd: I honestly do not believe that the concept of giving a guarantee to the European Union could allow for a time limit to exist. Let me start back and repeat what I said earlier on. My preoccupation has to be to say, "How do we maintain the lack of a hard border across the island of Ireland?" We can talk about—and I am sure we will talk about at a later stage—the reasons why there should be no hard border across the island of Ireland. It is self-evident to all the people on your Committee. If we start off with that principle, the way in which we move to a long-term arrangement does mean transition and, as part of that transition, accepting that the backstop, as negotiated, is the status quo and we would accept that, yes. We have to move through that period but we have to make sure that we negotiate on the basis of something in the long run that moves away from the concerns that you have expressed.

Q164 Chair: We have heard from experts—people like Lars Karlsson, Hans Meissner and Christian Bock—who are quite clear that, through a variety of streamlined custom arrangements and perhaps the use of technology, we can ensure that that border looks and feels very much as it does today. Are you persuaded by that evidence or not?

Tony Lloyd: Not really. It may well be that, as technologies of different kinds develop, they might have different applications in this event. I am a Member of Parliament for a constituency in the north of England that has its own manufacturing base and its own needs. I also want us to pursue a customs agreement to protect the jobs and the industries in my own constituency. It lies alongside the needs of Northern Ireland. Within that concept, do I believe that there is technology at the moment that can avoid the imposition of some form of control and some impediment and a moving towards a hardening of the border if we do not have a customs agreement and customs alignment? I do not think that the technology is there. If it did exist, quite honestly, I think it would exist on the Canadian and United States border; it would be applied on the Norway-Sweden border. We know that in neither of those cases do they have a borderless border. It is very obvious if you go to either of those. I have to confess that I have only seen the one between Norway and Sweden in pictures, but I have travelled across the border in North America; there is no technological solution there. Nobody, frankly, has come up with anything more than the proposition that it could be there.

Q165 Chair: To be fair, the imperatives on those borders are very different to



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the imperatives in the island of Ireland. Before moving on to other members, could I just press you on this business of the backstop? You have articulated your support for the backstop and insisted that we must have one. However, that is very different, certainly from the tone if not the text, to what the Leader of the Opposition has recently been saying, and indeed been saying since February last year. He is very clear that the backstop is an arrangement for which there is no time limit or end point. He uses words like “locking Britain in”. Those are very strong words, and I am still struggling to reconcile what you have said about accepting a limitless arrangement, which is potentially what this would be under all circumstances, with the remarks of the Leader of the Opposition. I wonder if you could help me out.

Tony Lloyd: I will, although the problem is this now almost becomes hearsay.

Q166 **Chair:** This is on the record and it is on the Labour Party website.

Tony Lloyd: No, I am not accusing you of hearsay; I am talking about what I am about to tell you. I was engaged in an exchange with Jeremy Corbyn on this and what he said to me is that his comments were strictly in the context of the negotiations that the Prime Minister has achieved so far with the European Union. Jeremy Corbyn is absolutely in the same place as the overwhelming majority of the Parliamentary Labour Party in saying that, if we do not have the customs agreement and single market alignment with the EU, we may have to go through that period of backstop. Jeremy Corbyn is in the same place as I am, which I have described to you this morning.

Q167 **Chair:** The European Union under that situation would say, “That’s fine. You have committed to a customs union, which very much looks like the customs union, so job done.” Where is your negotiation for a different sort of customs union coming from?

Tony Lloyd: It is far easier to negotiate what Labour is proposing than the open-ended and very difficult to interpret “long term” that the political declaration has that lies before us at the moment. It may well be that, were there a Government negotiating on the basis I have described, those negotiations could be completed well within the 21-month timeframe that we have or, in any case, within the 21 months with the capacity for extension that we know is allowed within the existing agreement.

The point I would make to you is simply this: we accept that, if we have not concluded that agreement in that timeframe, the backstop could become a necessity, and the backstop would be an important part of guaranteeing no hard border across the island of Ireland.

Q168 **Chair:** Would you still be holding to the second of the six Labour tests, which says that the customs union that you would negotiate would have to deliver the exact same benefits as we currently have as members of the single market and the customs union?



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Tony Lloyd: I have to rather unkindly remind, not you as the Committee, but the world that those tests were derived from the promises made by Government Ministers at the beginning of those negotiations. David Davis used that formulation.

Chair: That is fair enough, but I am asking you.

Tony Lloyd: We use those through the period of uncertainty around this in terms of trying to establish legitimate benchmarks for the British public to measure what the Government have done. I am trying to spell this out and you have heard it on different occasions. You would have heard my colleague, Keir Starmer, in Parliament on many occasions spelling out what Labour wants to push forward. That is probably a better statement of where we are than referencing back to six tests that were designed as a measurement of Government progress, rather than as the ambition that we now need to have if we are to move forward as one United Kingdom in terms of our long-term arrangements with the European Union.

Q169 **Chair:** Again, the Leader of the Opposition last month railed against what he referred to as being a “passive recipient” and a “mere rule taker”, which I think was a reference to the customs union and signing up to a customs union whilst we are not members of the European Union. I am wondering how, in 21 months, you are going to be able to deliver the exact same benefits that we currently have and ensure that we are not passive recipients and mere rule takers. That seems like a tall order. Good luck with that.

Tony Lloyd: We have been consistent on this. The technical argument around a customs agreement rather than a customs union is one where, in actual fact, the customs union is a legal entity that only exists for members of the European Union. If we are outwith that European Union, we cannot actually be members of the customs union, but we would want equivalence to that. What we have said as part of the negotiation is that we would want long-term active engagement as that customs union developed in its trading relations with other parts of the world. Yes, of course those are things that would have to be negotiated. That is undeniably the case. Do I believe that they can be negotiated? Yes, I do.

Q170 **Mr Goodwill:** If I may, I would like to press you a little more on the technical solutions. For example, are you aware of how the HGV levy works for trucks from the Republic of Ireland travelling on the roads in Northern Ireland?

Tony Lloyd: No, I am not.

Q171 **Mr Goodwill:** Under the coalition, we introduced a system whereby all foreign trucks pay £10 a day to use our roads, so every truck already driving on the roads in Northern Ireland, or indeed the UK, will be paying £10. That is all done online. There is no barrier at the border where they pay a toll. Would you accept that every single truck from the Republic of Ireland that is travelling on the roads in Northern Ireland is already on



record and that a system could very easily be added to that to track the load and so forth?

Tony Lloyd: Could it? There is a difference between tracking a lorry, which is a fairly large and well-defined unit, and tracking what is inside. I do not want to try to make a difficult case but we know, for example, the capacity to stop the smuggling of people, drugs and arms is very difficult. We do not have 100% success in those areas. It is not just a question of saying that, because we can track lorries in what is a fairly voluntary accepted arrangement, that necessarily means that we have the same facility to track the contents of those lorries.

Q172 Mr Goodwill: Have you ever been to one of the major parcel hubs—say, at East Midlands Airport or Cologne—where tens of thousands of parcels are coming in every night from all different jurisdictions around the world? Indeed, if you have ordered something online, you can actually track it and you know where the parcel is. It is on a truck in Germany or on a ferry or at the distribution centre. Would you not accept that there is already technology available so that even the smallest of packages can be tracked? Using a known shipper system where you trust the shipper, whether that be Amazon or whoever, it is possible to have a system that could be used in parallel with the existing relationships on the Irish border. These systems are already working and in place.

Tony Lloyd: I have seen those things. One of the large companies in my constituency, JD Sports, has the capacity to send their sports goods all over the world, and do send them all over the world. I have seen their technology in operation that can ship something to a customer in Korea and the next one can go to somebody in Doncaster. Of course, technology can do those things—there is no doubt about that—but I am not convinced that that is quite the same proposition as establishing something that would have the same impact at that border, for what is an international border that would be governed in the event of there being no customs agreement and no written agreement on single market standards.

One of the concerns that you will have seen expressed in this Committee, and certainly something that has been expressed to me in Northern Ireland, is the concern about the capacity of the backstop to create regulatory imposition between Great Britain and Northern Ireland. That is an issue. I know it is an issue that concerns yourself, Mr Goodwill. The same proposition, in theory, applies there, but people do not simply accept it as just as simple as saying that technology can solve all of these things. There would have to be different forms of controls and different forms of checks.

Q173 Mr Goodwill: Finally, is it not already the case that we have a technical solution to the VAT regimes in the Republic of Ireland and Northern Ireland? Businesses that are moving goods between those jurisdictions already have in place a system whereby refunds are claimed on VAT and VAT is paid in the different jurisdictions. Do we not already have quite a



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complex system in place in terms of tracking trucks and in terms of where we can track parcels, but also in terms of the VAT that is in place? Although you dismiss the idea of a technical solution, is it not the case that much of the mechanism of that technical solution is either already in place in terms of VAT or in terms of tracking trucks or indeed available and used in other types of international trade, for example through Felixstowe, where containers come in from China and elsewhere? There is not a barrier. This is not a guy opening the back and checking, because all that is done in parallel with the physical movement of the goods electronically. The tariffs are calculated and the VAT is dealt with. That system is indeed not that far away at the moment and we could easily get that done during the transition period.

Tony Lloyd: If I was to throw that back to you and say, "Would you be content, for example, if we were to see controls disappear at all our ports, so that we have the free movement at Felixstowe of people and goods without any check?" you would probably, as I would, say that that would be a dangerous step.

Q174 **Mr Goodwill:** We have had a common travel area since 1923, and therefore there is no suggestion that that would not still be in place when we leave the European Union.

Tony Lloyd: It is important that everybody accepts that the common travel area is something that would not be affected; whatever solution we reach, there can be no reneging on that common travel area. That is not the exact point I am making; I was talking more about your Felixstowe example, Mr Goodwill. I do not think anybody would seriously believe we could take away the whole of the customs and regulatory regimes that exist at our ports, because they are there, if nothing else, in extremis. We do not yet have the technology that does everything.

Q175 **Mr Goodwill:** Would you not agree, however, that illegal activity, whether that is the trafficking of people or goods, would have to be intelligence-led and not based on a physical border at the border? We already have in place good systems. There is criminality involving smuggling diesel and people. Those systems are already in place and they are in parallel with any mechanisms in connection with the border.

Tony Lloyd: It is absolutely true that we have systems in place, but we also know that the paramilitaries in Northern Ireland, at least in part, benefit considerably by their capacity to smuggle goods that make different profits in different parts of the island of Ireland. You are inviting me to say that to see that increase would be a healthy thing, and I do not think it would be.

Q176 **Mr Campbell:** You have said several times that one of the paramount issues is to avoid the re-emergence of a hard border. There has been a lot of concentration on what the solution might be, and obviously that is concentrating the Prime Minister's mind at the moment. In your visits and meetings with people since your appointment, has anyone outlined what



the hard border would actually look like, or what it would be?

Tony Lloyd: Yes, a lot of people have. Mr Campbell, I should congratulate you, by the way, on your performance on the Holywell Podcast. First of all, it is true to say that, within the withdrawal agreement, there is a discussion about what a border might look like. In fact, if I can find it quickly, it might be helpful just to say what is there, for the benefit of the Committee, but I do want to go slightly beyond that. The withdrawal agreement talks about the UK's commitment to protect the north-south co-operation and its guarantee of avoiding a hard border, including any physical infrastructure or related checks and controls. There is a minimal point there but let me go on.

Mr Campbell, you will know from your own constituency that 35,000 people travel across the Irish border every day to go to work. People travel beyond work. They travel from Donegal to the cancer centre in Derry. People travel from your constituency to the children's cardiac facility in Dublin. People travel to visit their aunts and uncles, to go shopping, to get petrol in Lifford across the river in Strabane. Any impediment to the normalcy that has been developed over the last 20 years would be part of that hard border. I am not trying to be romantic when I say that and I am not trying to make a very small case; these are things that are important to people's way of life now that have developed over those 20 years, and they are things that people, rightly, accept as the normalcy of life.

Q177 **Mr Campbell:** Yes, I understand that. Relating to the issue in the withdrawal agreement about physical infrastructure, the Prime Minister has said that there will not be any, the Taoiseach has said that he is not planning for any and the EU has said that it does not want any. Have you spoken to anybody who has said, "But there is going to have to be some if there is no agreement"? If you have, who are they?

Tony Lloyd: Mr Campbell, I have certainly spoken to people who have begun to consider the consequences if we were to see the erection of a hard border. For example, the Chief Constable of the PSNI has made it very clear that he has concerns about the impact of a hard border. I know you know the case is made but let me also add something that is important for the Committee to consider. I, and members of this Committee, have pushed the UK Government for a long time on policing numbers. I know that Northern Ireland members of this Committee and others have made that very same case that the PSNI needs more officers. The Government have not made the decision to move up to the Patten levels; they are about 1,000 short. It has given 300 extra officers for Brexit-related operations.

Just consider what that means. That is an acceptance that things will change and that there will be a creation, through Brexit, of a changed status, such that those 300 extra officers will be needed. Most of us believe that those are geared, again, as much as anything, with an acceptance that there can be a need for controls at that border.



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Q178 **Mr Campbell:** I just want to concentrate on this hard infrastructure. Has anyone indicated to you how they would quantify that? Is that going to be on main roads, minor roads or all 285 crossings?

Tony Lloyd: You know that border far better than me.

Mr Campbell: I certainly do, and that is why I am asking the question.

Tony Lloyd: I know it well enough and I know it well enough to remember a time when there were the sandbags on the border and all those things. I travelled through those on different occasions. It is a very hard border to control. That is absolutely true.

Q179 **Mr Campbell:** Would you go so far as to say it is virtually impossible?

Tony Lloyd: It would be virtually impossible. I am not saying that anybody on this Committee wants to see this but, if we were to crash out of the European Union and we were to have that no-deal Brexit, we know that the economic cost to Northern Ireland is probably something in the order of £5 billion a year. In actual fact, under WTO rules there would have to be the erection of controls on the border.

Q180 **Mr Campbell:** Given that you have accepted what I would have thought most reasonable people would accept—that it is virtually impossible to secure a land border with 285 crossings and 300 miles—

Tony Lloyd: As it was in the past, actually.

Mr Campbell: The common travel area allows everyone visiting and frequenting and socialising to go about their business as they have always done, despite the scare-mongering and Project Fear, which has understandably driven people to distraction on the border because they think something is coming that is impossible to come and just cannot come; it cannot happen. If there were a few main road crossings and a few token posts put up, how would they be implemented to ensure that everyone with any knowledge of the border would not just treat them with derision and bypass them by going 100 yards down the lane to cross the border at another convenient crossing?

Tony Lloyd: Sure. Can I just make it clear? I am not quite sure if I am here now defending a hard border.

Mr Campbell: I was just wanting to find out what it was. We are all agreed that it should not come about but I am trying to find out what it is.

Tony Lloyd: Let me, just for the record, say that I do not want to see a hard border of any description. I agree with Mr Campbell that the consequences of the wrong solution would mean that there would be controls but those controls would not be adequate to effectively stop the flow of goods and people across that border.

I would say this. I occasionally sit in a traffic jam bemoaning my fate. You would have some very interesting traffic jams in different parts of



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that border. I talk to people that are very close to your constituency, Mr Campbell, who cross that border to work in the Altnagelvin Area Hospital in Derry. They probably cross that border half a dozen times on the way to work because of the nature of the historic road system.

Mr Campbell: They will continue to do so after April.

Tony Lloyd: They may, but they may be in a traffic jam for more than a day or two. The answer that we are all coming to is that there must be no hard border. What I am also saying to the Committee is that I do not believe, consistent with Mr Goodwill's line of questioning, that there is an easy technological fix that will allow us to have no hard border. We have to look at what would guarantee no hard border, and that takes us into the terrain that I have already talked about—customs alignment and single market standards that say that goods and services would cross. Importantly, if we have controls that slow down goods and services, people get slowed down if they are in motorcars or indeed donkey-drawn carts.

Mr Campbell: I do not think there are any circumstances whereby that is going to happen.

Q181 **Jim Shannon:** Tony, it is nice to see you here and, as always, have happier thoughts upon where we are. The more we talk about the border, the more every one of us—even those who said there would be a hard border—have suddenly realised that there is going to be a soft border. It is what everyone wants. It can work. Even the EU seems to have come to that realisation at a very late stage, and especially Leo Varadkar. It is really wonderful to see this Damascus road experience that some of these people have had.

Do you accept that the majority of the people, through the referendum result, decided that they want to leave by 29 March? If you do accept the referendum result—and I suspect that, as a democrat, you do—is it your intention to ensure that the decision that the people who voted in that referendum made will be delivered upon?

Tony Lloyd: Yes, I do. Importantly, the party that I represent accepts the situation that the Brexit decision was as was. However, we have a duty to find a way of managing the process. Let me just expand that slightly. I was talking to somebody the other day representing the whiskey industry. Whisky, we know, is also a very powerful lobby from our colleagues from north of the border in Scotland. In actual fact, whiskey in Ireland is an industry that is worth directly to the Irish economy—both sides of the border—something like £1.6 billion. It is a significant economic and employment base. That whiskey industry relies on goods travelling across the border in every which way, including in Northern Ireland, where it is probably worth £400 million a year. They will bring in malted hops from Ireland and the southern producers will bring in the peat and hops from the north. The grain travels every which way. We have to make sure that we do not jeopardise an industry like that. Whiskey is an important industry and an important employment



base, and it is totemic of what would happen to an awful lot of industries, manufacturing and agriculture, if we get this wrong. We have to have that soft border. There cannot be any compromise on that.

In a rather circuitous answer to your question, Mr Shannon, what I am saying is, yes, we accept Brexit, but we have to have a Brexit that is jobs compatible and, importantly, is compatible with the way of life that people, particularly in your part of the island of Ireland, have got used to in the years since the Good Friday agreement; it is a very different situation, I am glad to say, than it was in those years back. It has to be not simply a soft border but it has to be a soft Brexit.

Q182 Jim Shannon: We also have to deliver on the timescale of the referendum, which was indicated as 29 March 2019. It is nothing like my friend's Bushmills Whiskey in North Antrim, but I have a small new factory just opened there some time ago, Echlinville, owned by Shane Braniff, which also does Dunville's Whisky. It is only been going for four or five years but it is already finding markets outside of Northern Ireland, which is where you have to go to get the biggest markets.

I am just wondering this, Tony, in relation to the backstop. We all know the issues and all of us here, as unionists, hopefully appreciate the fact that the backstop has the potential to constitutionally change our position within the United Kingdom of Great Britain and Northern Ireland. We are ever mindful that the latest national opinion poll indicates that about 70% of the people of Northern Ireland—which includes some people who probably vote for nationalist parties—see that their position within the United Kingdom is where they want to be. Do you and your party recognise that Northern Ireland is very much an integral part of the United Kingdom of Great Britain and Northern Ireland, that constitutionally it must remain, and that any diminution of that through the withdrawal agreement has now been knocked on the head, at least at this stage? Do you commit yourself and your party to ensuring that the constitutional position of Northern Ireland will not be changed in any way? That is what the people want and they want to remain that way.

Tony Lloyd: I would just say that there is a technical issue. You talked about the timeframe dictated by Brexit as being 29 March. That was not in the referendum, and I very much doubt now that the Prime Minister can keep to that timeframe. We need to have some sense of realism about that, but that is a detail that we can come on to.

Chair: That was the implication of Article 50, which received the overwhelming support of Members of Parliament.

Tony Lloyd: It did indeed, Mr Murrison. This is a digression from Mr Shannon's question, but I will say nevertheless that we have seen monumental delay in the negotiation process. We have seen breaks when we had a general election. We have seen other delays, with a long time before we saw the Chequers agreement being put in the public domain. We had the delay before Christmas when the vote was not taken. At



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every level we have seen the clock wound down. There may be those in your Committee who really believe we can come to a satisfactory arrangement with the EU by 29 March, but I must say that I am finding it very difficult to believe that whatever agreement we reach will take place in that timeframe. Anyway, that is a digression, Mr Shannon.

Q183 **Jim Shannon:** Now you have digressed, I am just wondering whether what you have just said is Labour Party policy.

Tony Lloyd: No. It is not a question of policy. First of all, I have to say one very central thing in this. We are not yet in Government. What I am saying is that I find it quite difficult to believe that the Prime Minister, with the negotiating mandate she has, will be able to achieve the deal that even she wants within the 29 March timeframe. Now, she may prove me wrong. She has proved me wrong once since Christmas.

Q184 **Jim Shannon:** Did you not vote for Article 50? I think you did, didn't you? Maybe you are one of the exceptions that did not.

Tony Lloyd: I was not in Parliament at the time of Article 50. It was before the 2017 elections.

Q185 **Jim Shannon:** Your party majority voted for it and therefore there is a policy decision taken.

Tony Lloyd: I am not resiling from the fact that, at the time Parliament voted for Article 50, that seemed like a reasonable timeframe. Nobody thought we would still be in the absolute confusion that we are in today. A Government that still are not able to tell their own supporters—never mind the world—where it is heading, with a party of Government that is still seriously unhappy and uncertain about where the Prime Minister is taking this country. Nobody thought that on today's date we would be in that situation.

You asked me if it is Labour Party policy to extend it. No, it is not. Is it a reasonable proposition that the Prime Minister herself will have to think very hard about what she can achieve in those limited number of days left. That is most certainly the case. Anyway, it was a digression. I am happy to digress.

Q186 **Jim Shannon:** I just want to remind everyone that there were 17.4 million people who voted to leave on 29 March. That should be at the forefront of everybody's mind, including the Prime Minister and everyone else, and we should work towards that goal, which the people instructed us, through the referendum, to deliver on. I have great respect for you, Tony, and I want to make that quite clear, but obviously you cannot ignore that and push it back and extend Article 50, or whatever your thoughts may be—we are not quite sure what Labour Party policy is; it seems to change from day to day. Do you not honestly think that you cannot ignore that referendum result?



Tony Lloyd: Mr Shannon, what I have said is that we are not ignoring the referendum.

Q187 **Jim Shannon:** Will it be delivered by 29 March then?

Tony Lloyd: I do have to repeat this point. You have told me twice that the public voted for 29 March.

Jim Shannon: The people told you and told me—

Tony Lloyd: No. Mr Shannon, let me be absolutely clear to your Committee that, on the ballot paper that I voted on, that you voted on and members of this Committee voted on—I assume you all voted—there was no mention of the date of leaving. That was a construct brought in by the Prime Minister—I think this Prime Minister—after the event. We have to be very clear on that. If we tie ourselves to that arbitrary date and we do not have a satisfactory arrangement by 29 March, I am not prepared to commit national hari-kari. I am not prepared to see the threat to the jobs in your constituency or mine.

Let me mention something that may not apply to the company. By the way, you advertised the whiskey distillery in your constituency well. I am sure they will be grateful for that. In fact, if you want to tell me the name again, I will make sure I repeat it.

Jim Shannon: I am sure you will.

Tony Lloyd: Whiskey is zero rated around the world but what is not zero rated, to take a Northern Ireland product that is very closely associated with whiskey, is Baileys. Baileys is produced in the constituency of the hon. Member for East Antrim. If we were to take Mr Shannon's advice and, under all circumstances, hit that 29 March date and, if that meant crashing out of the European Union, Baileys would find its growing market in Korea suddenly hit with tariffs. It would find that its significant market in Canada would be hit with tariffs. I do not think that is an intelligent way of proceeding.

What I am saying to this Committee is that it is not Labour that has put us in this position of needing to extend the Article 50 envelope; but the Prime Minister, having run down the clock, has made it very difficult for her not to have to go back and ask for that. Think about the amount of legislation that we have to take through these Houses of Parliament of ours and the volume that will come through. If you, Mr Shannon, honestly believe that we can do it in the way that, as legislators, we ought to do and give it the care and attention we ought in that timeframe, I will honestly be astonished. There are some serious technical issues that the Government have to face and they have not yet come up with good answers.

I cannot tell your Committee how to conduct its work, but certainly your Committee may want to think about what a legitimate and reasonable



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timeframe is to get the legislation through Parliament that is necessary to get us to that date, which you want to be 29 March.

Q188 Jim Shannon: It is the date that the people wanted and that is very important to remember. It was 17.4 million. It was obvious, if you do not mind me saying, Tony, that the two years from the referendum would be 29 March 2019. When people voted to leave, that was the intention, and the Prime Minister made that comment and made that date and that date was very clear in everybody's mind, including those of us who wanted to leave.

Tony Lloyd: Could I just take this opportunity? In fairness to Mr Shannon, it is important to state the position in terms of the question that I did not get round to responding to. That is my fault. Can I say this for the record? Labour is extraordinarily proud of the Good Friday agreement. It was so important in the history of the island of Ireland. It was not created by the Labour Party, although we, as the party of Government at the time, feel that it is intensely important that we stick with both the spirit and, effectively, the letter of that. The constitutional guarantee to the people of Northern Ireland is written in that Good Friday agreement. However, it is very clear what it does not say. It does not say that there could be no constitutional change; it actually does determine the way in which constitutional change would take place. That, for me and the Labour Party, is the only way, in compliance with the Good Friday agreement, we would even contemplate that kind of change. That means that the constitutional position of Northern Ireland is an integral part of the United Kingdom.

Q189 Jim Shannon: The backstop cannot change that and should not be allowed to change that either.

Tony Lloyd: Indeed.

Q190 Lady Hermon: Could I just pick up where you have just left off in reply to my colleague? You said that the Good Friday agreement, the Belfast agreement, is intensely important. Of course it is. It provides the constitutional guarantee for Northern Ireland, as written into the agreement. I see you rest your hands on the Brexit deal, on the withdrawal agreement itself.

Tony Lloyd: And the Good Friday agreement.

Q191 Lady Hermon: Yes, but you also have your hands on the withdrawal agreement. You will know that, in fact, the constitutional guarantee of the Good Friday agreement, the Belfast agreement, is actually written into the Brexit deal. You will also know that the Labour Party voted against the withdrawal deal in January of this year. How do you reconcile, as the Labour Party, voting against a deal that guaranteed the constitutional position of Northern Ireland in the Good Friday agreement, written in black and white in that Brexit deal that you are resting your hands on at the moment? How did that make you feel since the Good Friday agreement is "intensely important", and I say it is?



Tony Lloyd: Let me use words that are even more than “intensely important”; it is fundamental to the nature of not just what Northern Ireland is but what we, the United Kingdom, are and what our relationships with the whole of the island of Ireland are. I do not resile from one letter of the words around the Good Friday agreement that were expressed.

Lady Hermon: Yes, but your party voted against the withdrawal deal that guaranteed the Good Friday agreement.

Tony Lloyd: We did but then you invite me to say why.

Lady Hermon: Yes, I would.

Tony Lloyd: Clearly, what Labour has put forward, first of all, is most certainly compatible with the Good Friday agreement and anything we put forward will be dictated by that. The biggest single issue with the withdrawal agreement is its almost total open-endedness when we move beyond the period that is defined in the withdrawal agreement and into the area covered by the political declaration. There are nearly 600 pages in this withdrawal agreement and only 26 pages in the political declaration. We can argue about the detail of those 600 pages relative to the 26 but any reading of the political declaration says that it is a vacuous document. It could lead virtually to a no-deal Brexit—not quite but nearly. It could lead, on the other hand, to the lightest-touch Brexit. It does not really tell us anything at all.

What I am saying, Lady Hermon, is that, yes, I have the role that I am very proud to have in terms of my party’s relationship with Northern Ireland. I also have the role as the Member of Parliament for my own constituency, and my party has to look at the interests of the United Kingdom as a whole and the issues about the kind of relationship we want to have in the long run with the European Union. This withdrawal agreement simply does not cut it as far as the long term works. It does not protect my constituents. It does not protect the jobs and services.

Q192 **Lady Hermon:** Sorry; forgive me for intervening. You have made a distinction there, and the distinction is actually very important. You have explained that the withdrawal deal, the Brexit deal, runs to almost 600 pages. Yes, it does—585. It is the one that guarantees the Good Friday agreement. You have been very critical of a separate document—this separate document—about the political declaration about the future relationship of the UK and the EU. Could I just ask you again why it was that the Labour Party chose to vote down a deal that guaranteed a Brexit deal? The lengthy one—that is what they voted on. Why did the Labour Party do that and how did you feel about voting down a deal that guaranteed the Good Friday agreement?

Tony Lloyd: The Labour Party will always pursue a deal that is not simply Good Friday-compatible but actually is riven through both with the spirit and the letter of the Good Friday agreement. We will not turn away



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from that. Voting against this does not turn us away from the Good Friday agreement. I feel no pangs of conscience.

Lady Hermon: No pangs of conscience.

Tony Lloyd: No, none whatsoever.

Lady Hermon: None whatsoever.

Tony Lloyd: No, not even remotely, because we can do better than this. That is the whole point. We can do better than this.

Q193 **Lady Hermon:** Do you understand that voting against a deal that guaranteed the Good Friday agreements sends a very negative message? I wonder what message it sent to your sister party, the SDLP. Is your sister party consulted any longer by the Labour Party?

Tony Lloyd: Of course we talk to the SDLP. I met a senior representative of the SDLP on Monday this week. Actually, I met the leader of the SDLP not simply Monday this week but on Wednesday of the previous week.

Q194 **Lady Hermon:** How happy are they that the Labour Party, its sister party, has voted against this?

Tony Lloyd: Lady Hermon, I think you know the SDLP has a different view to the Labour Party about the withdrawal agreement. Whilst we of course listen to the SDLP, it would be ludicrous were I to say to you or to anybody else that the SDLP will determine the policy of the Labour Party; nor would the SDLP seek to do that. Yes, they are a sister party but, like sister parties everywhere else around the world, we of course take into account their views, but we cannot seriously form our policy on that basis. We have to take the view of the Labour Party as a party of would-be Government of the whole of the United Kingdom. That of course includes the interests of Northern Ireland, but it includes the interests of Great Britain as well.

Q195 **Lady Hermon:** Do you mind if I ask if your meeting on Monday with the SDLP was an amicable one?

Tony Lloyd: Yes, it was an amicable one.

Q196 **Lady Hermon:** Can I ask you this, since you are the Shadow Secretary of State for Northern Ireland? I am aware that you visit Northern Ireland regularly. We received some very striking evidence—striking for a variety of reasons—from a former Brexit Secretary last week to this Committee about police advice that was given to him when visiting South Armagh in the border area. Do you experience any difficulty at all in visiting South Armagh or Crossmaglen?

Tony Lloyd: I have not visited Crossmaglen but I have visited other parts of Northern Ireland that historically would have been seen as areas of tension. Frankly, no, I have not personally found visiting Northern Ireland challenging in any which way. This sounds almost like a lapse into



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whimsy, but I have never found anything other than a very strong welcome from people across the piece in Northern Ireland.

Q197 **Lady Hermon:** Yes, and that is in the border area. Have you been able to stop freely and engage with communities along the border to find out how they feel about the prospects of Brexit and how it is going to impact on them?

Tony Lloyd: The most challenging thing I can remember on the border was standing on the bridge in Strabane looking across into Lifford, when a local man came up and challenged me because on the previous day or the previous week a whole load of slurry had gone into the river. He did not want to challenge me personally but he wanted to give somebody a hard time about the slurry in the river. I was in agreement with him because it did kill the fish. That was the worst, most challenging incident I have had on the border.

Q198 **Lady Hermon:** What I am asking is whether you have had advice from the PSNI or the police not to visit.

Tony Lloyd: No. For the record, at no time have I received any advice about any form of security threat to me.

Q199 **Lady Hermon:** Thank you. That is very useful indeed. Can I just ask what the Labour Party's policy is? You have indicated that you personally find 29 March to be a very tight deadline. You implied that, in your view, you would require an Article 50 extension. Is that Labour Party policy? I have difficulty understanding what Labour Party policy is. Jeremy Corbyn says something and Keir Starmer contradicts it within a few days, or hours even on some occasions. What is the Labour Party policy on Article 50?

Tony Lloyd: I will repeat what I said before. It is not Labour Party policy to extend Article 50.

Lady Hermon: It is not.

Tony Lloyd: No, but what I am cautioning is that, as this clock is ticking down, what Labour is not prepared to do is countenance crashing out because we have nothing better than crashing out on that date of 29 March. The way that the clock has run down means that the Prime Minister herself will find it increasingly difficult to deliver what she wants to deliver. As you know, that still has some measure of controversy not simply with my own party but maybe even with people around this Committee horseshoe of yours. For her to achieve that by 29 March will be extraordinarily difficult.

Q200 **Lady Hermon:** What does the Labour Party intend to do to stop the country crashing out?

Tony Lloyd: We would most certainly want to prevent the country from crashing out. As you know, the bulk of the Labour MPs voted last week on the resolution of the House that there should be no hard Brexit,



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effectively. I believe Government have a duty to listen to the House of Commons on that, and the Government have a duty to arrange that we can move forward in an orderly way. I imagine the Prime Minister is going to bring back her revised deal to the Commons for a vote next week. That is what we all believe will happen. The Prime Minister may win that vote. That is possible. We saw a huge change in voting patterns between the vote two weeks ago, which seems so long ago, and the vote last week. She may win that vote.

If she does not win that vote, the Prime Minister then has to allow the House of Commons to move quickly on to looking at what the options are in terms of the future of Brexit. I would like to see the House test the proposition around the customs agreement and single market alignment that my party has been talking about, actually with no ambiguity now, for longer than any other agreement that has been proposed. If we can get to that position quickly, we may be in a position to move forward.

Q201 Lady Hermon: What about votes of no confidence in the Government? Is it the intention of the Labour Party to create more chaos by calling further votes of no confidence in the Government?

Tony Lloyd: Legitimately, Lady Hermon, I am honestly, genuinely surprised that you phrase it in those terms, because when a Government loses a vote by a bigger margin than anything in modern political history—I think you have some constitutional background—it would almost be unimaginable, in any other period in parliamentary history, that that would not have been followed by a motion of no confidence in the Prime Minister. The House then made a determination and it determined that it was not going to follow that course of action. In the end, can I say there will not come a point when the House needs to test its support or otherwise for the Prime Minister? That may well arise. It depends how events proceed over the next stage. Something has to break this present logjam.

Q202 Lady Hermon: You are not ruling out another vote of no confidence in the Government.

Tony Lloyd: I am not ruling out mechanisms that allow Parliament to clearly express its will, and not simply to express its will, as we did last week on a no-deal Brexit, but to find a mechanism by which we can deliver on that will.

Q203 Conor McGinn: For the record, can I firstly say that I reject and resent the idea that by voting against the withdrawal agreement I and other Labour MPs have somehow abandoned or undermined the Good Friday agreement. I and others have consistently supported and defended it in this House and outside it. The level of engagement from both you, Mr Lloyd, the Shadow Brexit Secretary, and many others, with people in Northern Ireland, business groups, trade associations and political parties has been exemplary and stands in stark contrast to the Government. If I had one criticism, it would be that there are lots of reasons to vote



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against this deal, which is why I did—it is bad for my constituents and for the country as a whole—but the backstop is not one of those. That is an entirely consistent and logical position to take.

How worried are you about the impact of a no-deal Brexit on the security situation in Northern Ireland, particularly in border areas? You quoted the Chief Constable's concerns in a recent House of Commons debate. I wonder what further discussions you have had, both in Northern Ireland and with authorities in the south of Ireland, on their concerns about a no-deal Brexit and also around contingency planning for that in terms of security and tackling criminality.

Tony Lloyd: First of all, thank you for your opening remarks. I would endorse those. Perhaps there is no need to use quite the same language, but Labour's commitment to the Good Friday agreement is absolute. There is no resiling from that. Why would we want to run away from that? It is something that has not simply kept a peace; it has transformed the way things work.

Almost as an aside, one of the tragedies about the situation in Northern Ireland at the moment is that whilst there has been enormous movement over the last 20 years, actually, at least in part, the process of reconciliation has come to a juddering halt. We have to get back to that reconciliation agenda. I register that point because, if you want to be consistent with the Good Friday agreement, returning to that agenda is a really important part. That is something that most certainly we as a party want to see delivered and we hope that is something shared by your Committee.

On the issue you asked me about, I paid tribute to the Chief Constable the other day in the House of Commons; he has announced his retirement and has given exemplary service to people of all backgrounds in Northern Ireland. He deserves genuine praise. He also deserves real consideration of the words he has used. He has warned and has made it very clear that anything that acts as an impediment on the border across Ireland will potentially put at risk whatever those structures may be. Importantly, because those structures in the end would pull in people—it would pull in police officers and may pull in others—he has made it clear that there is a danger to human life. I prefer him to be the person who makes that assessment than me.

That view is shared by others, both in Northern Ireland and in Ireland. It does emphasise the reality that we cannot move to anything that can be remotely conceived, symbolically or otherwise, as a return to a restricted or hard border. It would be inconsistent with the Good Friday agreement, anyway.

In terms of the provision that is being made, my security clearance has lapsed. I am not quite sure that I would be taken into the full confidence of everything that is being done, but I made the point before that whilst the PSNI is something upwards of 1,000 people short of the deployment



that Patten recommended, nevertheless the Government in the end accepted—and this was arm-wrestled at every level—that they needed to provide those 300 extra officers for Brexit-related duties. People have to use their own common sense to think what that might be for. It is certainly not to manage traffic. In those circumstances, it is clear that there is determined consideration being made about what the impact, particularly of a hard border, would be.

- Q204 **Conor McGinn:** You were very clear, and I welcome the fact that you were, about Labour's strong support for the principle of consent, which is a core part of the Good Friday agreement, which states very clearly that there should be no constitutional change in the position of Northern Ireland without the consent of people of Northern Ireland, and then on the rest of the island of Ireland in addition to that. What would you say to the argument that leaving the European Union is a huge constitutional change that was voted for by a majority of people across the United Kingdom, although there were 19 remain voters to every 20 leave voters? What would you say to people who say that that constitutional change has not been given consent, specifically by the people of Northern Ireland and therefore there should be some special arrangements made for it in leaving the European Union?

Tony Lloyd: It is difficult for me to conceive what "special arrangements" might mean in this context. The constitutional position, as outlined in the Good Friday agreement—I will not detain the Committee by reading it out, but I can if you want—is absolutely clear that the status quo is that Northern Ireland is part of the United Kingdom. It does talk about the mechanism by which consent can be given by all the people of Northern Ireland, and, in actual fact, in parallel by people in Ireland, for a change in that position. Those circumstances are as defined in the Good Friday agreement.

If Northern Ireland is constitutionally part of the United Kingdom then the simple rule says that if you have a referendum you cannot allow London, which voted to remain, to have a separate status from—I don't know, Doncaster, which voted overwhelmingly to leave. That applies across the piece. I do not think we can have special constitutional arrangements that are built round the different parts and the different voting.

- Q205 **Conor McGinn:** Is there an argument then for testing that? Given that the will of people in Northern Ireland was not to leave the European Union and that it cannot be taken in isolation from the rest of the United Kingdom, the only other way to test opinion in Northern Ireland about its constitutional future is through a border poll, which you, if you were Secretary of State, would have the ability and power to call. Is that something you would consider? Is it something that you think would be helpful or that you think there are reasonable grounds for? I am very sceptical about it, but I am interested to hear your view.

Tony Lloyd: The Good Friday agreement makes it clear that the Secretary of State has a duty to have regard to—I cannot remember the



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exact words but I paraphrase not far from them—evidence that there may be support for a change in the constitutional status. It is not even remotely clear at the moment that those conditions arise. I must say, as well, that in the middle of a constitutional change of the magnitude of Brexit, it is probably not the most obvious thing that we ought to rush into—to disrupt the position—as this moment in time.

Any Secretary of State has to have regard to what the Good Friday agreement says. There certainly will be voices, and there certainly are voices, that argue that circumstances have changed. I, like you, Mr McGinn, start out by saying that this is probably not the most propitious time to begin that conversation.

Q206 **Conor McGinn:** Finally, Chair, the different between Rochdale, St Helens and Northern Ireland is that if you are born in Northern Ireland, you are automatically entitled to Irish citizenship. Some people choose exclusively that; some people choose exclusively British citizenship; I have always been very clear that I choose both, and so do many other people. That is an important distinction, because with that right to Irish citizenship there have already been acquired rights as European Union citizens as well. There is a significant concern amongst Irish citizens in Northern Ireland that in leaving the European Union, while much of the focus has been on trade, the economy and solutions around the border, they will lose rights.

Some of those rights are based on residency, like the European Health Insurance Card. I would not expect Irish citizens living in Great Britain to be able to avail of that, but one would expect Irish citizens who, by right of being born where they are and living where they are, can avail of that in places like Newry, Belfast, Armagh or wherever else to be able to do so. What would a Labour Government do to ensure that Irish citizens' rights in Northern Ireland are protected after Northern Ireland, with the rest of the UK, leaves the European Union? Have you discussed it with the Irish Government?

Tony Lloyd: No. It is probably something that you would invite me to take forward next time I meet the Irish Government or their representatives. Specifically, Mr McGinn highlights a really important issue. The right, for example, to access, the capacity to obtain, healthcare in a third EU state would be exercised by somebody who has residence in Northern Ireland who has Irish citizenship, but would probably not be available, ironically, to someone who has UK citizenship. There will be an imbalance, possibly, in the capacity of Irish citizens as EU nationals to exercise all EU rights. Paradoxically, there will be some rights that Irish nationals in Northern Ireland have that will not be available to UK nationals, so we have a little bit of what you might describe as a dog's dinner.

One of the things I am quite clear on is that we need to examine what that means for the future. Again, Dr Murrison, I can never tell your Committee what to do, but it might be something you might want to entertain yourselves with in the future, by looking at precisely that issue.



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I know it is an issue that the Human Rights Commission in Northern Ireland is engaged with. It is certainly something we have thought about. My own view is that the forthcoming Labour Government, which you invited me to comment on, would want to look at something that was written in the text of the Good Friday agreement, and that is the bill of rights. It may well be that it is time now to examine what a bill of rights needs to contain to begin to enshrine those individual and collective rights that may find erosion in different directions for different parts of the Northern Ireland community.

Conor McGinn: Thank you, Mr Lloyd. I want to again acknowledge the work that you and the Shadow ministerial team do and the appreciation certainly that Back Benchers on the Opposition side have for your continued engagement and the listening that you do to our views.

Tony Lloyd: I am very grateful.

Chair: I just want to say, of course, that we have looked at the rights issue that you alluded to and we are more than happy to send you a copy of the report, which we published a little while ago.

Q207 **John Grogan:** It is good to see you in your place. One of the happy consequences of the 2017 general election was to revive both your parliamentary career and indeed mine. I have one further point of information in relation to the earlier debate about whether we are going to be out on March 30. The best betting odds you can get this morning are 5/2 against coming out on March 30 and 1/3 on it having to be extended. I do not know if any of my fellow Committee members want to have a word afterwards. I am certainly a betting man and I think those odds reflect the situation.

I have two questions. You say it would be good if the House could consider, in the next few weeks, Labour's proposition of a customs union and alignment with aspects of the single market and so on. In your discussions in Northern Ireland, and indeed if you have had discussions with the Irish Government, how does this idea go down with business and so on? Have you discussed it with the Irish Government?

Tony Lloyd: The first thing I should say, as one of those who deplores betting adverts in the middle of football matches, is that I am not quite sure about going down Mr Grogan's line of advertising the betting industry at this stage.

In terms of Labour's own view of where we want to go, of course I personally and others have discussed it with the Irish Government at different levels. I do not speak for the Irish Government, obviously. They would always, in any case, make the very clear point that they are not the negotiating arm. I can say that I have yet to meet anybody in Ireland—this may give you a clue—who thinks that what Labour is saying is less good than anything else that has been put on the table so far, other than for those who hope we could dis-invent the whole Brexit



agenda, which I do not believe is going to happen. It would go down very well.

Q208 **John Grogan:** Is that the case with business as well?

Tony Lloyd: With business, most certainly. Business is conscious. I repeat what I said before. I know there are some exceptions, and I understand the DUP position, but an awful lot of people across the island of Ireland are desperately concerned that we are heading nowhere very fast in this debate. The blackmail position—"It's my deal or no deal"—is one that frightens people, because the consequences of crashing out on March 29 are so appalling. It would be £5 billion to the economy across the island of Ireland; we simply cannot get into that position. That is a position put by farmers, manufacturers and service providers on both sides of the Irish border.

Q209 **John Grogan:** The Committee has found it frustrating in recent months that, with the absence of the Executive and so on, Northern Ireland is missing out on contributing to these discussions. Obviously we have individual Members of Parliament and so on, but do you share that frustration that, whereas there is a clear voice from Scotland and a clear voice from Wales, we are not getting that from Northern Ireland?

Tony Lloyd: If I talk to people who know little about Northern Ireland about my concerns, I say they come down to two major things: one is where we go with Brexit and the other is where we go with the lack of a functioning Executive and a working Assembly. It is not just Brexit, although I will return to that; it is the fact that the health service is moving to crisis in some areas of Northern Ireland. It is the fact that education needs reform; headteachers are in despair because of the inability to get decisions made. I meet people across the piece who are concerned about the lack of ability to get any progress on things that I and you, Mr Grogan, would take for granted in our respective constituencies. It is already very serious and it is now bordering on the dangerous.

Of course, in terms of Brexit, one of the things in this withdrawal agreement is not simply the establishment of the joint committee but the establishment of the special Irish committee. Common sense says there ought to be the capacity for the political system. It may be officials who staff those structures or the engagement of those structures but those officials have to work under a political mandate. That political mandate at the moment is not there. If we had moved to the joint committee or this special Irish committee, I would expect that we would see people represented at the highest political level from across the communities to put the Northern Ireland case. That, at the moment, is a silent case, institutionally.

Q210 **Ian Paisley:** Tony, thank you for your evidence and for giving us so much time today. It is appreciated. I agree with Conor McGinn's opening statement that it is not consistent to say that you support the Belfast



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agreement and at the same time support the withdrawal agreement. That is not my position; that is the position of one of the authors of the Belfast agreement, David Trimble, who is challenging to take this matter to court. It is important to have that on the record also.

Last year, it was widely reported that the deputy leader of your party has displayed quite prominently in his office a plaque supporting and endorsing the hunger striker of 1981, which contains the words "Bobby Sands" and was given to him by a senior republican member. I assume that you told him to remove that from his office wall because it was so insulting to the people of Northern Ireland and could undermine the standing of the Labour Party in the work that it does with unions.

Tony Lloyd: I am not even aware of this, Mr Paisley. Quite candidly, I am not aware of it.

Q211 **Ian Paisley:** It was reported last March and last November in The Daily Telegraph, the Daily Mail, the Daily Express and The Guardian, and was reported widely in Northern Ireland.

Tony Lloyd: I can say with all honesty that I am not aware of that. I suspect those words have now been heard. They are on the record.

Q212 **Ian Paisley:** Would you undertake to go to John McDonnell and ask him to remove that because it is so insulting?

Tony Lloyd: Whose office was it?

Ian Paisley: It was in John McDonnell's constituency office.

Tony Lloyd: I have no knowledge of that whatsoever. I can draw your words to his attention. That is probably the best I can undertake of.

Q213 **Ian Paisley:** I am sure you can see the obvious parallel. If any other Member of Parliament from another party were to display a banner or something that promoted loyalist paramilitary activity, it would also be grossly insulting to everyone, and, of course, it would be right thinking that that would be removed.

Tony Lloyd: Maybe it will help if I say this. I am massively seized with the impact of symbols on people from different backgrounds. I sometimes see things in my travels across Northern Ireland that I would be surprised to see appear in other parts of the United Kingdom. Of course that is true. People do have to be very cognisant of the impact of those things. That goes across the piece.

Q214 **Ian Paisley:** Those are very wise words, Tony. Will you undertake to speak to John about that?

Tony Lloyd: I will draw his attention to this exchange in the Committee.

Q215 **Ian Paisley:** Thank you. In answer to an earlier question from Gregory Campbell, I do not know if you were being facetious or serious but you used words about people getting involved in traffic jams for a day or two



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along the border. Do you seriously think there will be traffic jams or were you being facetious?

Tony Lloyd: A day or two may have been an exaggeration for the purpose of effect. You know the border, Mr Paisley, very well. I have travelled different parts of that border over the years. It is a very complicated border. This is quite a physical memory of mine. On the bridge between Strabane and Lifford, you see the traffic going across to buy petrol on one side of the border and travelling back. The flow of traffic today is normal. The traffic moves rapidly.

Ian Paisley: It is uninterrupted.

Tony Lloyd: It is uninterrupted, exactly. Anything that began to slow that down would very quickly move into traffic jams, or people would change their patterns.

Q216 **Ian Paisley:** What do you think would be put there to slow it down?

Tony Lloyd: If there were any form of check on the border, it would slow traffic down.

Q217 **Ian Paisley:** Who do you think would put that check there, because Britain has said they will not do that?

Tony Lloyd: If we were to crash out, there is no doubt that under WTO rules it would be necessary to erect posts on both sides of the border?

Q218 **Ian Paisley:** Who would erect these posts?

Tony Lloyd: It would be a legal duty. I have heard the Taoiseach say the Irish Government would not seek to do that and I have heard the Finance Minister say the same thing over the weekend.

Q219 **Ian Paisley:** Do you think the Irish Government would erect barriers on the southern side of the border?

Tony Lloyd: Let me emphasise here that I am most certainly not advocating that we end up in this position and I do not want us to, but I follow the logic of those who say that the European Union, for example, would need to take the Irish Government to the European Court of Justice were it to fail to provide that.

Q220 **Ian Paisley:** I am also following the logic, and I think it is illogical that anyone would put anything on that border. The British Government say they will not do it. They have no reason to do it. The idea of wet-stamping passports and things has gone 30 or 40 years ago. There is no reason, therefore, from the British point of view why they would wish to do that. There has always been free movement on that border prior to entry to the EU. Is the Irish Government really going to do it? Is the EU really going to demand it? Is it not the fact that this is just total blarney and scare stories? There is not going to be the erection of barriers on any side of that border.



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Tony Lloyd: It is scaring if we were to move into that position. I do not share, Mr Paisley, your view that this could not happen under any circumstance. I do share the view that we must make sure it does not happen. That is where we ought to be. What are the solutions that genuinely can avoid that? I am very well aware of the fact that this committee that the Prime Minister set up under our colleague, Stephen Barclay's jurisdiction—I am sure I should mention his constituency rather than his name, but forgive me—is meeting at this very late stage. That does not give an awful lot of confidence to the public that there is an off-the-shelf solution just waiting to be found. It is actually rather the opposite. It gives a concern that, very late on, we are scrambling around looking for that little piece of hoped for technology or little piece of whatever that can get us off the hook.

Q221 **Ian Paisley:** You do not actually need technology to do this, in terms of the border arrangements. When I look at what was previously, in people's minds, a hard border, that was our security infrastructure on the border because of 30 or more years of IRA terrorism. I do not think anyone is envisaging that, because we have decided to leave the EU on the basis that it could lead to greater opportunity, greater trading with the developing world and greater exports with the rest of the world outside of the EU, that is the recipe that would lead to a security border, in that you are presenting people who near enough have full employment with the opportunity to create more exports. It does not seem to lend itself to the view that we are going to need a hard border and security installations.

Tony Lloyd: I am not sure I accept that. I know this is one of these journalist-created conversations, but I heard a discussion this morning about whether the International Trade Secretary is going to propose zero tariffs across the piece for the UK. I do not know whether that is really in anybody's mind. If it is in people's minds, I hope they will think once, twice and three times, because a rushed move into that would be bizarre, for all manner of industries. I heard the ceramic industry representative this morning on the radio talking about the dangers of that for the employment base in the Potteries, where I have many family members.

If we were to move to that very different global trading arrangement, one thing that is very clear is that the European Union would not allow the Irish border to be a backdoor into the European Union for goods brought into the UK tariff free, to cross the Irish border without there being any control. I am not going to use a cheap phrase, but there is still something of the hope rather than the reality for those who say that this can all be done without checks. If we do get to that position, I hope you are all right; I just do not believe you at the moment.

Q222 **Ian Paisley:** Anything that would come in to the Republic of Ireland over a land border would be coming in from the United Kingdom. It could not get to any other part of the EU from the Republic of Ireland without going over water and therefore arriving at an EU port.



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Tony Lloyd: I am talking about the other way.

Q223 **Ian Paisley:** For the Labour Party, surely the most important border is the Dover-Calais border and not this Northern Ireland one, because that is where there is 100 times more traffic and considerably more opportunities for the movement of people and goods than on the Northern Ireland one and straight into the heart of Europe. Do you believe in the status quo of that border?

Tony Lloyd: There are real challenges on that passage as well. We know there are capacity issues at Dover-Calais and we know the conversation about disruption. There you are talking about days of traffic jam, if the worst fears come true. I would not want to pick and choose. I am told that the Port of Holyhead is one of the busiest ports in the UK.

Q224 **Ian Paisley:** As a cargo port?

Tony Lloyd: Yes, I have heard that it is the second busiest port in the UK. I have no idea whether that is accurate. I merely quote that because I was told that the other day. If you look at the economic structures and the complicated supply chains that have developed over the years of the European Union, they are many and wonderful. There is no doubt that traffic from different parts of the island of Ireland coming in to the north of England is an important part of the economic infrastructure for my own region. I do not want to see disruptions in any of those flows. It is how we achieve something, if you like, for the whole of the UK that is non-disruptive, but we have to find real solutions.

Q225 **Ian Paisley:** In terms of the backstop and the issue of the Dover-Calais border, would you apply the same solution to that as you would to the Northern Ireland border?

Tony Lloyd: Yes, of course, because what we have said is that we want customs alignment for the United Kingdom. In that sense, it is not just an economic guarantee; it is something that says there is no distinction between the position of people trading in Northern Ireland and those people trading in the north-west of England or, for that matter, the south-east of England, so we are on one foot, as we are now.

Q226 **Ian Paisley:** Through the geography of the islands, you will recognise that there is actually no threat to the integrity of the European Union with goods and people entering the EU unlawfully if those goods and people enter the Republic of Ireland from the UK. It is up to the EU to determine how it has that relationship and how it manages that relationship with a member state, i.e. the Republic of Ireland.

Tony Lloyd: Yes, but there are issues that arise on the border. I said in response to an earlier question that there are some 35,000 people that cross the border, one way or the other, to work every day. That is a huge part of the respective workforces. There are issues that are going to arise. One of the issues is that in Northern Ireland there are people from neither the UK nor Ireland who are working and cross that border, living on one side and working on the other. At the moment, they are covered



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by, I think, the frontier workers directive. I am not clear that anybody as yet has worked out what will happen to those people. Obviously there are 35,000 but they are people who are part of the economic infrastructure. We do have to have answers.

Q227 Ian Paisley: They appear to have worked that issue out for Gibraltar and Spain, which proportionately swamps what we are talking about in Northern Ireland. I do not see why that would cause an insurmountable problem for the few thousand people that it may apply to.

Tony Lloyd: They may not be insurmountable problems but they are problems that have to be addressed.

Q228 Ian Paisley: They have been addressed in Gibraltar and Spain. It should be an easy lift in terms of the solution.

Tony Lloyd: Let us lift it but let us see some heavy lifting by the Government on those issues, because they are non-trivial issues; they affect individuals and they affect the economic operation of people, both north and south.

Q229 Ian Paisley: Finally, page 6 of your manifesto said that the Labour Party's policy was that they want to leave the EU. When did that become, "But we want to stay in the customs union"?

Tony Lloyd: Which part of leaving the EU is inconsistent with that? We leave the EU. We leave all those things that are integral to being a member of the EU—the membership of Council of Ministers, the representation in the European Parliament and all of those things. Nothing that I am aware of says that being part of a customs agreement is incompatible with being not a member of the European Union.

Q230 Ian Paisley: Why was that not spelt out in the manifesto?

Tony Lloyd: There are many things, if you read that manifesto, that are not spelt out.

Q231 Ian Paisley: I do not think that is the strongest argument. I am asking why that was not very clear point, which you say is very clear and obvious, not on page 6 of your manifesto. Why does it not say, "We are leaving the EU but we wish to stay in a customs union"? It does not actually say that.

Tony Lloyd: It is true to say that Labour's position on where we want to go with respect to the European Union has been clearer for longer than that of the Government, not just by a few weeks but by over a year. We have been saying for a long time that the only way of resolving the situation, to guarantee no hard border and to make sure that we saw the flow of goods and the compatibility of services was by the kind of approach Labour is taking. That most certainly we were saying 18 months ago, not long after the election.

Q232 Ian Paisley: I do not know if any side in this argument can say they are



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clear on these issues, to be perfectly honest and perfectly fair and neutral on it, but certainly the Labour leadership has less right to claim clarity on Europe. I look at a social media post last night, showing Jeremy Corbyn campaigning in the Republic of Ireland for the Republic of Ireland not to sign up to the Lisbon Treaty. He urged them not to throw away their placards because they will need them one day whenever they wished to leave the EU altogether. I think Jeremy Corbyn is one of the leading advocates for leaving the EU. I am not sure where the clarity comes from.

Tony Lloyd: I am not sure on his placard whether he did say, "And we want a customs agreement".

Ian Paisley: He did not. It was not specific, either.

Tony Lloyd: It may not have had quite that detail; you are right. I would also point out that definitely predated the 2017 manifesto.

Q233 **Chair:** It is only fair to say that if there are going to be any traffic jams between Northern Ireland and the Republic, it is probably going to be caused by politicians crowding around the bridge between Strabane and Lifford, since we as a Committee only a few days ago were also gawping into the River Foyle at that rather lovely spot. It is also reasonable to point out that if we are concerned about WTO rules—and we should be—in the event of no deal, we could of course perfectly legitimately apply for a dispensation on the grounds of national security, which, given Northern Ireland's past, I think would be compelling. I do not know whether you have any thoughts on that.

Tony Lloyd: It is true that you can apply for a dispensation, but that dispensation would have to be examined as to being credible against the standards that are set out in annex 9 of the work on the joint committee, et cetera. Most of those provisions are temporary provisions. They are not designed as long-term provisions.

One thing that may be worth me throwing in at this stage, because you referred to security and it has come up a couple of times, is that one of the things that is a mystery to me as to why we have not resolved it, because it is so important in the context of Northern Ireland, is the need for things like the European arrest warrant to be in use, with access to the databases—ECRIS and SIENA. Those are things that it is in our national interest—for all of us—to see enshrined.

It is a mystery—maybe I should have said this to Lady Hermon—why we do not see this as part of this withdrawal agreement, because it is so obvious. It is a matter of record that the European arrest warrant has been used more by the PSNI than by comparative police forces in the rest of the UK, if that makes any sense. We need those things to be introduced. In whatever kind of Brexit we end up with, we cannot put our systems in jeopardy by failing to have access to those facilities. That is



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something the Government can do almost independently that should have been written into the withdrawal agreement.

Q234 **Chair:** Yes, I think we can agree on that, though of course the European arrest warrant is not necessarily without its detractors for various reasons, but, on balance, I would tend to agree with you.

Tony Lloyd: It is frankly better than in the previous regime.

Chair: It is better than the alternatives, yes, for sure.

Q235 **Maria Caulfield:** I want to go back to a couple of comments you made to Gregory Campbell and Ian Paisley. You said that WTO rules mean a hard border would have to be imposed. Where does it say that in WTO rules?

Tony Lloyd: You have taken it beyond my knowledge, I have to say.

Q236 **Maria Caulfield:** The premise of what you are saying has serious implications. There is a narrative out there that says that a hard border will have to be imposed, whether by the EU, the Irish Government or by the British Government. Where is the evidence for that?

Tony Lloyd: I cannot tell you where that exists in the WTO structures. What I can say is that it is the commentary that has been widely available.

Q237 **Maria Caulfield:** This is something with such a significant impact; there are people such as Lord Trimble, for example, who are taking court action because they are so concerned about the implications of a backstop and a hard border and the clear impact it could have for either community in Northern Ireland. Do you not think that to be saying that there needs to be a hard border without evidence that that is correct is slightly irresponsible?

Tony Lloyd: No, I do not. Anybody who looks at the commentary that has taken place from all sources—

Q238 **Maria Caulfield:** Which sources are these? You have come to give evidence today and you have clearly said there will have to be a hard border under WTO rules. Where is the evidence for that?

Tony Lloyd: I cannot give you that but I will return to this Committee.

Q239 **Maria Caulfield:** You could be wrong, in effect.

Tony Lloyd: I do not believe I am wrong, no. I do not believe I am wrong but what I am saying to this Committee is that I cannot give you chapter and verse.

Q240 **Maria Caulfield:** Do you disagree with the WTO, who themselves have said that there is nothing in their rules that would impose a hard border between Northern Ireland and the Republic of Ireland?



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Tony Lloyd: I will look into that. I will undertake to look into that, but I cannot give you the response today that says where that is in WTO rules. What I can say, though, is something rather different. There are other reasons why we can see the need to erect controls—

Maria Caulfield: In your evidence today, both to Gregory Campbell and to Ian Paisley—

Tony Lloyd: I am aware of the line of questioning and I have answered as honestly and candidly as I can.

Q241 **Maria Caulfield:** At the moment, although there may be commentary to the contrary, the evidence is not there to support your claim.

Tony Lloyd: It is not a question of evidence, actually, on what you are asking me specifically. Can I at this moment give you chapter and verse? I have said that, no, I cannot. I have said that to you. I can repeat it for the rest of the period that I sit before this Committee if you want. It will not take you or me any further in this discussion.

Q242 **Maria Caulfield:** Keith Rockwell, who is a WTO spokesman, said just before Christmas that not only is there nothing in the rules of the WTO to say that there has to be a hard border, but there is nothing in their rules to say that there have to be checks at a border either. What is your response to that?

Tony Lloyd: This is what I was going to come on to. One thing of which I am absolutely certain is that if we were to see a very different trading regime in and out of the UK, the one thing that the European Union would not accept is the capacity for the UK, through Northern Ireland into Ireland, to be a back door into the European Union economy. At that point, perforce of whatever, there would have to be controls.

Q243 **Maria Caulfield:** So it is not the WTO; it is the EU that is saying that.

Tony Lloyd: I am not even saying that the EU is saying it. I am saying it is simply a matter of logic that the EU would not allow there to be a backdoor mechanism.

Q244 **Maria Caulfield:** I do not know if you have read or witnessed some of the evidence sessions that we have had here. I do not think there is anyone denying that, if we are not in a customs union, checks would be needed, because there would have to be customs checks. In the evidence we heard from customs experts such as Lars Karlsson and Hans Meissner, they were very clear that those checks do not actually need to be done at a border; there are systems being used around the world, including in places such as Rotterdam, where these checks are done away from a border, at point of origin and point of destination. Did you watch and listen to those evidence sessions?

Tony Lloyd: No, I did not but I am aware of them. I will repeat what I said before: that whilst I am aware that was said, there is nowhere in the world that has an international border of the kind that we are talking



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about that does not have some kind of control at the moment. Also, simply moving away from the border does not resolve the problem.

Q245 **Maria Caulfield:** You gave evidence today that there would be days of traffic at various points across the border.

Tony Lloyd: I used a flippant comment.

Q246 **Maria Caulfield:** I understand that but this has implications for people who are running businesses on both sides of the border and are working cross-border. The evidence you have given is that there would have to be checks at the border and yet we have heard contrary evidence to this Committee to say that checks are needed but that they do not need to be done at the border.

Tony Lloyd: I did not say that. In fact, all the way through I have repeated many times that I am totally opposed to there being any return to a hard border of any kind. We have to find a way that avoids that. In actual fact, one thing I would say to this Committee is that it does not help simply to displace by two, five or 10 miles. If the concern is that we create an infrastructure that can be identified as being part of a return to the concept of a border, we do create the capacity.

Q247 **Maria Caulfield:** If you had actually listened to the evidence that was given to this Select Committee—and I would have thought as the Shadow Secretary of State for Northern Ireland you would be keeping a close eye on that, considering, if there was a general election, you could possibly be Secretary of State for Northern Ireland—there was clear evidence that those checks could be part of the existing checks, with the VAT checks that are done between the two areas; those are already in existence. There is no need for a border at all. There are processes in place that could be used.

Tony Lloyd: I do not agree with you. What you are describing is a situation where you simply redefine where the border impacts. That does not help.

Q248 **Maria Caulfield:** There is a VAT border now.

Tony Lloyd: If we get to the point of beginning to define something that can be construed as a border, one of the consequences—

Q249 **Maria Caulfield:** Are you unhappy about the current VAT checks that take place between the two jurisdictions now?

Tony Lloyd: Clearly not, but if we begin to recreate an international border that is defined as that international border, then we create a problem for ourselves.

Q250 **Maria Caulfield:** That was not the evidence that was given to the Committee. They said there was no need for any border at all.



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Tony Lloyd: I am not sure that is right. You are simply asking us to move the border to somewhere different from the existing line on the map. That does not necessarily help us.

Chair: Thank you. We have come to the end of our session. We have kept you for nearly two hours, Mr Lloyd. That is quite a marathon. You have been extremely helpful in informing our thinking in this matter. Certainly what you have said will be carefully reflected upon and duly incorporated within the report we write. Thank you so much for being with us.

Tony Lloyd: Thank you. I will check this WTO point and if I am wrong on that I am quite happy to let the Committee know, Dr Murrison. Thank you.