The Channel tunnel has proved to be an expensive and disappointing investment

When the idea of reviving plans for a tunnel under the Channel came to Margaret Thatcher in the early 1980s I provided some of the briefing on the project. I researched the 1964-74 project which had got to the point where tunnelling started on the English side, only to see the Labour government cancel the project in January 1975 on the grounds that it was too expensive and not likely to be a good investment. The nineteenth century had vetoed several plans on security grounds, the later twentieth century became more worried about the money.

My conclusion was simple. A rail tunnel under the Channel was most unlikely to make money for its investors. There were many other more pressing needs for road and rail capacity in the UK that could justify public investment and would produce a better return. Given the strength of feeling for a Channel project in other parts of the government I proposed that the Prime Minister gave her consent, as long as no public money was put at risk in the project. She agreed with the advice, and the government proceeded accordingly. I thought the forecasts for build costs, for operating costs and for revenues were all too optimistic. I was also surprised that the private sector was so keen to press ahead, given the large risk of loss.

The UK and French governments offered a 55 year concession to the Channel Tunnel company to operate a rail tunnel and collect fees and charges to reward their shareholders and pay off their debts, with the tunnel then reverting to the two states. The company thought this a fair offer, raised shareholder money and set out to the governments how it would build and operate the tunnel, agreeing to meet government safety standards.

The Tunnel turned out to be a poor investment for many who put up their savings for the project in the early rounds. It was first beset by a major cost overrun. An overrun of around 80% depending on whose calculation you accept led to a total cost well in excess of the starting estimate, with considerable general inflation also affecting the outturn. This made getting an early and decent return much more difficult.

This was compounded by discovering that the forecasts of potential usage were far too optimistic. As I had expected, use of a rail tunnel on that route was much less than the enthusiasts thought. The 1985 traffic forecast said there would be 37 million passengers using the trains by 2003. Instead there were just 15.2 million. They said there would be 11.4m tonnes of train freight by 2003. There was instead just 1.7m tonnes. Their forecast of lorry use of the shuttle was more accurate but still ahead of outturn. Revenues as a result fell well short of forecast in the early years.

The Channel tunnel company had to go through various financial restructurings to raise the extra money it needed to keep going. Governments helped by extending the concession period, first by ten years, later allowing it to

stretch out to 2086, almost one hundred years. The tunnel has never hit the original passenger forecasts or train freight forecasts. It means there is plenty of spare capacity on the existing rail tunnel. The tunnel company reviewed the case for a road tunnel to go alongside it in the late 1990s and concluded there was not nearly enough potential use to justify such an additional investment.

I will talk in Monday about whether we need another such link

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How do you shift risk to the private sector to justify private finance of public services?

There are various risks which the private sector can take on where they might be better at managing them in a way which improves results and lowers costs. When designing a tender and negotiating with a provider the public sector needs to be careful to avoid the position where the private sector privatises the gains but keeps the public sector on risk for the losses.

The clearest way to put the private sector on risk is to make it responsible for both the financing and the revenue. The M6 toll road north of Birmingham not only meant the private sector took all the risks of the construction, but also had to rely on the toll revenue to remunerate the capital. It had to compete with a free road provided by the state. In such a clear cut case there is no doubt the private sector is on risk.

Many PFI projects remunerate the private sector with a flow of money from the government or Council. Whilst the private contractor still has to “earn” the money by providing the school and equipment or carrying out various medical services, the money comes from the state and the state has to make sure the provision continues whatever happens. This weakens the amount of risk which is effectively transferred. In some cases the state provides shadow tolls or revenues based on usage, in other cases public money is paid year by year for use of facilities which the private sector paid for up front.

When the main point of a PFI is to provide a new school or hospital building for the state to use there can still be a proper transfer of risk. The risk mainly transferred is the risk of design, construction and fitting out. The contract to make annual payments for the facilities once provided can be designed around the budget cost of the project rather than the actual outturn, leaving the private sector at risk of budget and time overruns on the building.

Should the private sector be involved in providing public services?

There was a bad reason for the Private Finance Initiative, and several good reasons.

The bad reason was much used under the Blair/Brown Labour government. They wanted to pay for a number of new schools and hospitals without the capital cost appearing on the public accounts. They therefore asked the private sector to borrow the money to keep it off the government balance sheet. The government can usually borrow more cheaply than private sector businesses. Bad PFI contracts sometimes resulted, with the state simply paying more to borrow through the intermediation of a PFI contract. In practice much of the risk of the projects rested still with the taxpayer who could end up with a bad deal.

The good reasons for PFI are that the private sector can do come things better and more cheaply than the public sector by specialising and managing them well, and the private sector can take on risks that would otherwise fall to the taxpayer. When the Thatcher government first got interested in the idea of more private sector help in delivering public sector projects and services it developed a set of rules.

Where the private sector wanted to provide a regular service by employing the staff and managing the tasks, the public sector had to organise fair competitions for the work and had to demonstrate there would be savings over the contract period compared to doing the work in house. When Councils and the central government contracted out items of service like refuse collection, cleaning and catering, there were usually substantial savings and a tough better policed standard of service required. The private contractor was on risk for managing the task and the staff, and faced penalties for failure to deliver the required quality and quantity of service. The public sector still had important roles in deciding how much service it needed, what the standard should be, and in policing the contract.

Where the government wanted the private sector to undertake the financing and delivery of a major capital asset there had to be sufficient transfer of risk to make it worthwhile for the public sector. The UK public sector has in the past had a poor record of controlling the costs of major projects and delivering them on time, though the current government believes it has sorted out many of these difficulties. A design, build, and finance contract for the private sector clearly got over any risk of expensive overruns and delays for the taxpayers. The extra cost of capital that the private sector would incur could be more than offset by better discipline in how long it took to build and how much it cost to build. If the private sector was unable to cut costs as it thought then it was on risk to absorb the overruns. One of the

most successful examples of a design, build, finance and operate contract was the Dartford crossing. The private venture was allowed to charge a toll and to collect it for as long as it took to recoup their outlay and an agreed profit. The bridge then passed to the state without debt as a free asset. The private sector still had plenty of incentive to build to budget and to get on with generating the cashflows, as investors wanted an early pay back.

It would be wrong to drop the involvement of the private sector in the provision of public services as well as impractical, just because one large company involved in public provision has gone bankrupt. It is important that shareholders, bondholders and lending banks are not bailed out by taxpayer money, which the government has been clear it will not allow. For the system to work there have to be penalties for the private sector for error and failures. The story when told will probably show us that the private sector became too keen to take on public sector business at very low margins, which turned out to be loss making when they came to manage the risks they had willingly accepted. Private shareholders have ended up subsidising the state as a result by supplying services and facilities below cost.

As a Minister I did turn down a proposal for a PFI project on the grounds that it was primarily a way of paying more for borrowing and substituted a public sector project. I took the rules seriously, and wanted to see there was either or both a significant transfer of risk or clear evidence that good quality provision would be cheaper through PFI. That should continue to be the guidelines for the UK government and Councils. Labour's attack on all of this is absurd, given the big role the last Labour government played in extending PFI and contracting out, and given the extensive use Labour Councils rightly make of these techniques today. One of the curious features of Labour in office in recent years locally and centrally is the way they have come to rely very heavily on private sector contactors and sub contractors to deliver public services. Much local policy making relies heavily on private sector consultants rather than on officers of Councils, and it was Labour who also introduced the idea of private sector healthcare performing operations for the NHS.

Parliament rejects possibility of membership of the single market and customs union again

Those who want the UK to stay in the single market and customs union tried to amend the Queen's speech in 2017 to require this. They lost by 322 to 101 votes.

They tried again with an amendment to the EU Withdrawal Bill in the Commons.

They lost again by 322 to 99, by a slightly wider margin.

On each occasion the official Labour position was to abstain, as they seem to be very divided over this matter and unable to make up their minds on a single united view.

Both the official Leave and remain campaigns made it quite clear leaving the EU meant leaving the single market and customs union. The government also pointed this out before the vote, and the EU has consistently stated you cannot be in the single market and customs union whilst refusing freedom of movement and ceasing to make budget contributions.

My contribution to the debate on the European Union (Withdrawal) Bill, 16 January

John Redwood (Wokingham) (Con): I strongly agree with the hon. Member for Ilford South (Mike Gapes) that the United Kingdom could strengthen her links and ties with Anguilla and could be very supportive as we go through Brexit. I trust that those on the Government Front Bench have listened carefully to what he has been saying. As far as I know, they have good will towards Anguilla. He mentioned some positive ideas about how the UK can help more and develop that relationship, which I welcome and which I suspect the Government may welcome.

I will respond briefly to the remarks of the hon. and learned Member for Edinburgh South West (Joanna Cherry). In her remarks—we have heard this in the many SNP speeches during the debates on the Bill—she referred again to the way in which Scottish voters had a different view from UK voters as a whole on the referendum and she implied that that had great constitutional significance. I urge her to think again. I pointed out to her that, had Scotland voted to be independent in its referendum, I do not think it would have mattered at all if, in a subsequent election—I think that there would probably have been one quite quickly—a lot of people in England had voted the other way and said, “No, we’d like Scotland to stay in.”

Joanna Cherry (Edinburgh South West) (SNP): Will the right hon. Gentleman give way?

John Redwood: If the hon. and learned Lady lets me finish my point, I will let her intervene. I would have thought that the result of the Scottish referendum was binding and, although I deeply want to keep the Union together, I would have felt that it was my duty to see the wishes of the Scottish people fully implemented because those were the terms of the referendum. She seems to be implying that it should have been otherwise.

Joanna Cherry: The right hon. Gentleman has unfortunately forgotten that the Scottish referendum was preceded by the Edinburgh agreement between the British and Scottish Governments, which said that the outcome of the referendum would be respected by both sides. I think that he is rather trying to deflect attention from the issue in hand today by harking back to this.

John Redwood: I fear that it is very relevant, and probably even more relevant to what we are going on to debate in the next group of amendments—and the hon. and learned Lady did raise it as an important part of her case on how we handle EU law. I feel that SNP Members want to recreate the European Union in every way they can by amending this Bill, which is actually about us developing a new relationship—a very positive relationship—with the EU from outside the EU. That means changing some of the legal ties that currently bind us to the EU, while the many that we do not want to change come under our control so that future votes of the British people, and Parliaments, could make a difference if they so wished. That is the very important thing that we are debating. She has to accept that just as, had the Scottish people voted to leave, we would all have accepted the verdict and got on with it, against our wishes, now that the United Kingdom's people have voted to leave the European Union, the whole Union has to accept that democratic judgment.

Joanna Cherry: Is the right hon. Gentleman really suggesting that the outcome of the 2014 referendum means that henceforth in this Union the views of the Scottish people can be blithely ignored on all occasions? Is that his view? I am sure that Scottish voters watching the television would love to know that that is what he saying.

John Redwood: Absolutely not. Scottish voters' views matter very much. They have a privileged constitutional position, which we are all happy with, such that in many areas Scotland makes her own decisions through her own Parliament. However, when it comes to a Union matter, I thought we all agreed that where we had a Union-wide referendum, the Union made the decision and the Union's Parliament needs to implement the wishes expressed in the referendum. That is why Members from every party in the House of Commons, apart from her party and a few Liberal Democrats, decided, against their own judgments in many cases, that we needed to get on with it, send the article 50 letter and give this Bill a good passage. We are bound by the wishes of the British people as expressed in the referendum.

Charlie Elphicke (Dover) (Ind): Does my right hon. Friend detect, as I do, a tendency in SNP Members, which reaches its pinnacle in the hon. and learned Member for Edinburgh South West (Joanna Cherry), not to accept the results of any referendum held in this country? They reject the alternative vote referendum result, they will not accept and respect the Scottish referendum result, and now they are trying to countermand the European referendum result. I really think it is high time that they accepted the decisions made in referendums in this country.

John Redwood: That is extremely good advice. I find myself in a rather different position from the hon. and learned Lady. She finds herself in a position where every time there is a referendum in Scotland or the UK, she is

on the losing side, whereas I have found that I am usually on the winning side. I seem to be much more in tune with the people. I agreed with the people's judgment on grammar schools when we had a referendum on that, I agreed with their view on the voting system, I agreed with the Scottish people's judgment on staying in the Union, and I very much agree with the United Kingdom electors' judgment that we should leave the European Union. The people are often much more sensible than their Parliament wishes them to be, and it is great when Parliament then has to listen to the people and get on with doing the job.

The main point that I wish to make is in response to my right hon. and learned Friend the Member for Beaconsfield (Mr Grieve), who tried to tackle the scholarship-level question that underlies our debates on this group of amendments—whether we can transfer all EU law into good British law, or do we, in practice, end up having to accept some European law because of the complexities involved. In my brief exchange with him by way of intervention, I pointed out that the rights of the British people have their best defence in the common sense and voting strength of the British people, that that will be reflected in their elected Parliament, and that if their elected Parliament gets out of line with the will of the United Kingdom voters, then the voters will, at the first opportunity, change the composition of the Parliament until it reflects the wishes of the United Kingdom voters on the matter of rights.

My right hon. and learned Friend countered by saying that taking my view would mean that we only ever had common law and Parliament would never need to legislate. That is a silly caricature of the true position. We all know, I think, that it is very difficult to define eternal, immortal rights. Some rights last for longer and are more important than others, but people find it very difficult to define that. Looking back over past statements of rights over the centuries, one sees that some of them now grate or are clearly very much against our view of what a right should be, whereas others may last for rather longer. Quite a lot of statements of rights have a big component related to what is topical or socially acceptable at the time. We are largely pleased that what is socially acceptable evolves, so there are many bad practices of the past that we have come to see were bad practices, and that has been reflected in new legislation. We always need to legislate to reflect changing perceptions about what is a right and which rights we should give most cognisance to.

Antoinette Sandbach (Congleton) (Con): Of course, the charter is an excellent example of these rights. It incorporates rights on data protection and other issues, as has been described in the debate. Would it not make sense to incorporate it into UK law and allow it to be changed at a later date through the kind of evolution that my right hon. Friend is describing?

John Redwood: These rights have been incorporated into UK law because we have shared quite a lot of them before they were codified in the way they are codified and because, subsequent to their codification, they have helped to inform our debates about amending, improving and strengthening the law. No, I do not think it is a good idea to incorporate the charter of rights as though it had some special significance. Interestingly, my right hon. and learned

Friend the Member for Rushcliffe (Mr Clarke) stated that when the charter first came forward in the Lisbon treaty, he tended to the “Beano” view of it—that it was not very significant. He did not think it was a strong part of the treaty and was not very keen on it, and was therefore quite happy with the Labour Government treating it differently and exempting us from parts of it as being inappropriate. Now, he gives it greater significance and implies that it is dreadful that we will not be incorporating it, as though it has been transformed between the date when we first considered it as part of the treaty and its current presence.

My view is that the British people and their Parliament will adopt all these good rules, and have done so, informing many of our laws. If there are other laws that need strengthening or improving, that is exactly what this Parliament is here to do, and if we are negligent in that matter, the British people and their lobby groups will make sure that our attention is drawn to whatever may be missing or could be improved. I would say to the House of Commons, let us remember what we are doing. We are taking back control. Where we need to strengthen or highlight rights by legislation, that is something that any of us can initiate, and if we can build a majority we can do it. There are many good examples of rights and laws emanating from Back Benchers or Opposition parties as well as from Governments.

My right hon. and learned Friend the Member for Beaconsfield said, wrongly, that I was trusting the Executive too much. That is not usually a criticism that has been made of me. Whereas I often find myself in agreement with the people in votes in referendums, I have often found myself in disagreement with parties in this House, including my own party, on matters of some substance, and I have not usually been shy—but I hope polite—in pointing out where I have those disagreements. I therefore reject his idea that I am trusting the Executive. I said very clearly in my intervention that I was trusting the United Kingdom electorate and their successive Parliaments. If one Parliament does not please or suit, or does not do the right thing on the rights that the public want, a new Parliament will be elected that will definitely do so.

My right hon. and learned Friend the Member for Rushcliffe reminded us that we have had a lot of debates about Henry VIII powers, which are relevant to this group of amendments on how much European law we incorporate. I find this argument one of the most odd brought forward by those who are nervous about Brexit. One of my main problems with our prolonged membership of the European Union was that large amounts of legislation had to go through this House unscathed, and often little remarked on or debated, because once they had been agreed around the European Union table in private, they were “good law” in Britain. If those laws were regulations, they acted directly, so we could not even comment on them. If they were directives, we had a very marginal ability to influence the way in which they were implemented and the main points of the law went through without any debate or right to vote them down. That was the ultimate Henry VIII approach. In the case of this legislation, after extensive dialogue and discussion, we are talking about very narrow powers for Ministers to make technical adjustments and improvements. All of it is of course in the context of the right for Parliament to call anything

in, debate it and vote on it.

Vicky Ford (Chelmsford) (Con): I am interested in the issue my right hon. Friend raises about our not being able to scrutinise European law in this Chamber before it was approved over there. In other Parliaments, such as the Dutch Parliament, specialist committees scrutinised proposals before they reached the European Parliament; for example, the telecoms committee in the Dutch Parliament would scrutinise telecoms law before it got to the European Parliament. As we take our own law, would it not be helpful to use the specialist committees more on the detail?

John Redwood: We had 45 years to get that right, and I think my hon. Friend would probably agree with me that it did not happen in the way she now says she wished it had. When I was the single market Minister, I tried to do this. I brought draft proposals to the House to try to get comment before I went off to negotiate. I felt that that was the only time it was worth hearing Parliament's view because there was still the chance of trying to change things. If Parliament agreed with me that the draft was very unsatisfactory, it was marginally helpful to be able to say to the EU, "By the way, the United Kingdom Parliament does not like this proposal", although the EU did not take that as seriously as I would have liked it to have done. The truth was that we could then be outvoted, under a qualified majority voting system, and we often were if we pushed our disagreement, so the views of Parliament mattered not a jot, even if we did the decent thing and invited Parliament to comment before the draft was agreed.

As my hon. Friend must know, once a draft was agreed, if it was a regulation, that was immediately a directly acting law in the United Kingdom and this Parliament had no role whatsoever. If it was a directive—directives can be very substantial pieces of legislation—we could not practically change anything in that law. Whatever Parliament thought, it had gone through.

Richard Drax (South Dorset) (Con): I sit on the European Scrutiny Committee and have done so for some time. I can confirm that, although we briefly look at all the laws coming into country, we certainly do not have the time to scrutinise them. I can assure the House that the House does not have the time to do so either.

John Redwood: There is also the point that, if we are scrutinising that after it has happened, that is not a lot of use. That can alert Parliament and the public to problems that the new law might create, but if it has been agreed under the rules, it is law and we have to do the best we can and live with it. Having sat through quite a few debates on the Floor of the House—in Committee, and on Second and Third Readings of Bills—while being a Member of Parliament, I do not think I have ever seen a Bill that has been so extensively debated, dissected, discussed, analysed and opposed. A huge amount of work has gone in to proposing a very large number of detailed and rather general amendments, discussing the philosophy, principles and technical matters in considerable detail.

Sir Oliver Letwin (West Dorset) (Con): Before he moves on to another point, does my right hon. Friend agree that the narrowness of the Henry VIII clauses

has actually been very considerably intensified by the amendments tabled on Report to clause 7(1) and 7(2)?

John Redwood: Yes, I agree. I think the Report stage may even produce some agreement between my right hon. Friend, me and our right hon. and learned Friend the Member for Beaconsfield that improvements have been made in that respect, with some powers for Ministers being narrowed and the House having an even bigger role. I am perfectly happy that that has happened.The wider point I want to make is that this very extensive, forensic and thorough discussion could be a model for other legislation. It is interesting that MPs on the whole do not get as interested in other legislation as they have done in this Bill. The Lords should take into account the fact that, on this occasion, the Commons has done its work very extensively and thoroughly, and has considered a very wide range of issues in amendments. I am sure that the Lords will take that into account when it comes to have its important deliberations on this legislation.

After all, this Bill should not be that difficult or divisive. To remind everyone, what it does is to keep all the European laws that we currently have as they are, so that there is legal certainty. As someone who believes that Brexit will be very positive and good for this country, I wish us to go on and make major changes to our fishing laws, our farming financial system and our VAT system, which we are not allowed to do under European law—we are not allowed to take VAT off things that should not be charged VAT, for example. There are quite a few positive changes I want made to our law codes. We can do so once we have taken back control. On this Bill, however, everyone should be reassured because all the things they love about European law are simply being rolled over into British law.