

# PARLIAMENTARY DEBATES

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OFFICIAL REPORT

European Committee B

SUBSIDIARITY AND PROPORTIONALITY

*Monday 7 December 2015*

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**The Committee consisted of the following Members:**

*Chair:* MRS ANNE MAIN

Blackwood, Nicola (*Oxford West and Abingdon*)  
(Con)

Blomfield, Paul (*Sheffield Central*) (Lab)

† Bruce, Fiona (*Congleton*) (Con)

† Cummins, Judith (*Bradford South*) (Lab)

† Hollingbery, George (*Lord Commissioner of Her Majesty's Treasury*)

† Kawczynski, Daniel (*Shrewsbury and Atcham*)  
(Con)

† Kinnock, Stephen (*Aberavon*) (Lab)

† Lidington, Mr David (*Minister for Europe*)

† McFadden, Mr Pat (*Wolverhampton South East*)  
(Lab)

† Morris, James (*Halesowen and Rowley Regis*) (Con)

Paisley, Ian (*North Antrim*) (DUP)

† Qureshi, Yasmin (*Bolton South East*) (Lab)

† Rees-Mogg, Mr Jacob (*North East Somerset*) (Con)

Katy Stout, *Committee Clerk*

† **attended the Committee**

# European Committee B

Monday 7 December 2015

[MRS ANNE MAIN *in the Chair*]

## Subsidiarity and Proportionality

4.30 pm

**The Chair:** Before we begin, it might be helpful if I remind Members of the procedure in European Committees. Proceedings must conclude no later than two and a half hours after we start. First, I shall call a member of the European Scrutiny Committee—I understand that it will be Mr Jacob Rees-Mogg—to make a brief statement about why the Committee decided to refer the documents for debate. Secondly, I shall call the Minister to make a statement, followed by questions for up to an hour, although I have some discretion to extend that period if there is appetite for it. Thirdly, the Committee will debate the Government motion. I will put the question on the motion when the debate or the time available—whichever comes first—is exhausted. Does a member of the European Scrutiny Committee wish to make a brief explanatory statement about the decision to refer the documents to the Committee?

**Mr Jacob Rees-Mogg** (North East Somerset) (Con): May I say what a pleasure it is to serve under your chairmanship, Mrs Main? Although these two Commission annual reports are essentially factual documents, they were recommended for debate on the Floor of the House as their subject matter goes to the heart of the European Union debate: the democratic deficit of the EU. In the words of the Prime Minister in his Bloomberg speech of January 2013:

“It is national parliaments, which are, and will remain, the true source of real democratic legitimacy and accountability in the EU.”

It is notable that in the Prime Minister’s letter of 10 November to the President of the European Council, he also stated that he is seeking a new arrangement—a red card—

“where groups of national parliaments, acting together, can stop unwanted legislative proposals”

from the EU, and that he wants

“to see the EU’s commitments to subsidiarity fully implemented, with clear proposals to achieve that.”

The first report from the Commission sets out its assessment of how the EU institutions addressed compliance with the principles of subsidiarity and proportionality, including the operation of the formal reasoned opinion procedure whereby national Parliaments can raise objections to an EU proposal for legislation on the ground that it does not comply with the principle of subsidiarity and, if enough do so, they can force a reconsideration. The Commission concludes that the smaller number of reasoned opinions raised by national Parliaments

“must however be seen in the light of the decrease in the number of legislative proposals issued by the Commission towards the end of its term of office and not as an indication of diminishing interest of national Parliaments in subsidiarity matters. This conclusion is confirmed by the ongoing debate among national Parliaments concerning the subsidiarity control mechanism.”

It is noticeable that during 2014, 15 national Parliaments or Chambers issued 21 reasoned opinions covering 15 proposals. The highest number for any one proposal was three—well short of the lowest threshold for forcing a reconsideration of the proposal. This House issued three, proposing new measures concerning the presumption of innocence, animal cloning and undeclared work.

The second report sets out the Commission’s assessment of its relations with national Parliaments, focusing on informal political dialogue, rather than the formal reasoned opinion procedure. This vehicle can be used when it is not possible, because of the tight deadline, to issue a formal reasoned opinion. The Commission’s report records a drop in those informal opinions. In the analysis of key topics of dialogue, it identifies the discontent expressed by 10 Parliaments or Chambers, including this House, on the Commission’s reaction to the formal reasoned opinions against the proposal for a European public prosecutor’s office, in respect of which a yellow card was issued in 2013.

The report concludes by marking the commitment of the new Commission under President Juncker to forge a new partnership with national Parliaments, as evidenced by its early action in increasing visits and specifically inviting comments on its 2015 work programme. The European Scrutiny Committee originally called for the debate not just because of its analysis in these reports of relations between national Parliaments and the EU; as already indicated, they cover a subject that goes to the heart of the role of national Parliaments in the EU.

The European Scrutiny Committee’s report drew the House’s attention to the call, so far unanswered, of many national Parliaments and Chambers for the President of the EU Commission to set up a working group to look at the role of national Parliaments. It also welcomed the Commission’s efforts to improve its dialogue with national Parliaments, including its responses to reasoned opinions and the opportunity to improve parliamentary scrutiny arising from the early consultation promised by the Commission’s Better Regulation package.

Finally, the Committee’s report drew attention to the development of the informal green card procedure, whereby national Parliaments can suggest matters for which either new EU legislation should be brought forward, or existing legislation should be amended or even repealed.

**The Chair:** I call the Minister to make an opening statement. I remind the Committee that interventions are not allowed during the statement, although questions are allowed afterwards.

4.35 pm

**The Minister for Europe (Mr David Lidington):** It is a pleasure, as always, to serve under your chairmanship, Mrs Main. As my hon. Friend the Member for North East Somerset has said, today’s debate stems from two European Commission annual reports relating to 2014, the first on the principles of subsidiarity and proportionality, and the second on the Commission’s relations with national Parliaments.

Those questions of subsidiarity and proportionality go to the heart of the debate that we, and national Governments and Parliaments across Europe, are now having on reform of the European Union. Those principles are about determining whether it is appropriate for

legislation to be introduced at the EU level and, if so, how and in what detail. The concept of subsidiarity, in particular, is at the core of the idea that the EU must respect the layers of government that are closest and most accountable to European citizens.

There is a balance to be achieved between taking action at EU level when it is clearly in the collective interests of member states so to do and recognising when it is better for decisions to be made at national, regional or local government level. The Government's view is that too often the right balance has not been struck. The gap between the EU and its citizens is growing. While that is felt acutely in the United Kingdom, the concerns are not limited to us, as can be seen in polling from such organisations as the Pew Research Center and Eurobarometer.

More than a decade ago, at Laeken, European leaders pledged to reform the European Union so as to avoid "a creeping expansion of the competence of the Union",

but that ambition remains unfulfilled. That is why resolving the long-standing questions of sovereignty is an important pillar of the Government's wider programme of EU reform, which my right hon. Friend the Prime Minister set out in his letter to President Tusk earlier this month.

Recent messages from the Commission suggest that it is taking subsidiarity and proportionality seriously and that it is alive and receptive to the UK's reform agenda. That is encouraging. In particular, the Commission work programme for 2016 refers to a "renewed commitment" to dialogue with national Parliaments on draft proposals, and it commits the Commission to ensuring that national Parliaments have a strong voice in European policy making.

For his part, President Juncker has been clear about his personal commitment to strengthening the role of national Parliaments, which he believes will help to address the democratic deficit felt by so many EU citizens. In his 2015 state of the Union address to the European Parliament, he made a specific reference to the UK's ambition in that area, an ambition that he said he shares and that wants to work with the Prime Minister to achieve.

Members of the Committee will appreciate that the Better Regulation agenda is closely linked to the debate on subsidiarity. It is positive to note that the Commission has taken a leading role in minimising unnecessary burdens in EU legislation. Last month 19 member states, including the United Kingdom, collectively called on the Commission to go even further by setting burden-reduction targets, and we reiterated our belief in the principle that the EU should not take action at all where better outcomes could be achieved at the national or sub-national level.

We understand, too, from working-level discussions that the Commission is looking at creating new ways for national Parliaments to feed their views into the legislative programming process. That is important, because the EU needs to focus on areas where it can genuinely add value. I believe that we and other national Parliaments need to capitalise on that positive momentum and ensure that we secure and implement real reforms.

Of course, it is incumbent on all participants in EU regulation and legislation to ensure respect for subsidiarity and proportionality, and to make full use of existing checks and balances. Impact assessments, for example,

are already meant to assess subsidiarity and proportionality impacts. In addition to the Commission, the Council and the European Parliament are under an obligation to assess the impact of their changes to proposals. Member states, too, have a role to play in ensuring that they hold the Commission to account when proposals and amendments breach those fundamental principles.

The focus of the reports we are debating today is the mechanisms available to national Parliaments to uphold subsidiarity through the yellow and orange cards, and to influence Commission proposals through political dialogue. In 2014 national Parliaments submitted 21 reasoned opinions on subsidiarity to the Commission, covering 15 different proposals. That was 76% less than the 88 issued the previous year, and a significant reduction from what was already a fairly low baseline. It is true that the reduction should be seen in the context of the appointment of a new Commission and the European parliamentary elections in 2014, which meant that fewer legislative proposals were produced. However, it might also reflect a growing disengagement on the part of national Parliaments.

The tight time limit of only eight weeks from the transmission of a proposal to the deadline for a reasoned opinion is challenging for national Parliaments, particularly when a proposal is complex, or at certain times of the year—most obviously during parliamentary recesses. It does not allow much time for national Parliaments to share information with one another, which was crucial in the triggering of the first yellow card in 2012. The scope and threshold of reasoned opinions required to trigger a yellow card are also factors. Normally, a yellow card is triggered when reasoned opinions represent at least a third of national Parliaments—19 votes—and that threshold has only been reached on two occasions, with the second, as my hon. Friend said, being in 2013, on the European public prosecutor's office.

The way in which the Commission responded to that second yellow card, which was to proceed with the original proposal without replying to the concerns expressed by national Parliaments or adding any evidence, highlights the shortcomings of the current system. It is no wonder that national Parliaments might feel disengaged from the current system. That demonstrates the urgent need for us to go faster and further in implementing reforms to the roles of national Parliaments in the European Union, and why the Government are asking for a new arrangement whereby groups of national Parliaments working together can stop unwanted legislation. Furthermore, we want the promise on subsidiarity made by all Heads of Government at Laeken to be fully implemented, and clear proposals to be in place to do that.

It has also been encouraging to see progress made on the so-called green cards, which would enable groups of national Parliaments to establish a more positive dialogue with the Commission, through which new legislation could be proposed or existing laws amended or repealed. I note that national Parliaments gave green cards a ringing endorsement at the COSAC plenary meeting in Luxembourg last week. I am supportive of that work and will continue to follow discussions on the subject with great interest.

I hope that the Committee is reassured that the Government are serious about reforms in this area and are determined to secure them. The Prime Minister's

[Mr David Lidington]

letter to President Tusk made that clear, and the subject of today's debate is very much at the heart of our EU reform agenda.

**The Chair:** We now have until 5.35 pm for questions to the Minister on his statement. I remind Members that questions should be brief. It is open to a Member, subject to my discretion, to ask related supplementary questions, but there is also an opportunity for these in the subsequent debate.

**Mr Pat McFadden** (Wolverhampton South East) (Lab): It is a pleasure to serve under your chairmanship, Mrs Main. I would like to ask the Minister one or two questions about his statement. He referred to the letter that the Prime Minister sent, on 10 November, to the President of the European Council. It was a long letter, in which he said:

"I want to enhance the role of national parliaments, by proposing a new arrangement where groups of national parliaments, acting together, can stop unwanted legislative proposals. The precise threshold of national parliaments required will be a matter for the negotiation."

Will the Minister say a little more about what the Government are pressing for on that question of national Parliaments? The Government talk about the development of a red card—I apologise, Mrs Main, for the multi-coloured cards we always refer to in these discussions. What exactly would the powers of that card be and how many Parliaments would have to come together to wield it? I ask the same question with regard to the green card, which is designed to be a proactive rather than a reactive measure: how many Parliaments would have to come together to wield it? Furthermore, is the development of the green card as much a priority for our renegotiation as that of the red one?

Finally, to complete the colours, I will ask about the use of the yellow card, which the hon. Member for North East Somerset said had been wielded very little. When it was wielded over the European public prosecutor's office, the proposal was not substantially amended or withdrawn. What proposals do the Government have to strengthen the use of yellow cards, given that this is an unwieldy process and that when Parliaments come together in this way they ought not to be ignored?

**Mr Lidington:** I will try to respond as fully as I can within the constraints of time to the right hon. Member for Wolverhampton South East.

As the Prime Minister said in his letter, the level of a threshold to trigger a red card that would amount to a block on legislation would be a matter for the negotiation itself. I cannot pre-empt those detailed discussions, but we envisage that at a certain point what is currently a power for national Parliaments to require the Commission to review a particular initiative should become an outright bar to further progress.

As for the yellow card, to my mind a change that would be particularly welcome would be an extension of the timeframe allowed beyond the eight weeks permitted under current law. That would enable national Parliaments to consider proposals more closely and to co-ordinate with one another. I would also like to see such a change

to the yellow card take into account the very creative proposal from the Dutch Parliament for what it termed a "late card", so that in the event of a legislative measure changing significantly during its progress through the various institutions it would be possible for national Parliaments to come back and have another look at it, because at the moment that opportunity is forbidden to them regardless of how far-reaching any amendments might be.

Finally, the Government support the green card, but it is also an initiative that is actively being taken forward by national Parliaments at the moment. Yes, we support it, but if it can be achieved through Parliaments working together in COSAC, persuading the institutions to take that change on board, then we are happy simply to support the work that the Parliaments themselves have initiated.

**Mr Rees-Mogg:** May I ask the Minister a bit more about the red card? Is it fair to assume that the number of countries that would be required to send in a red card would be lower than the number required to vote against it in the Council of Ministers to provide a blocking majority under qualified majority voting?

**Mr Lidington:** The difference between the two arrangements, as my hon. Friend knows, is that to assemble a blocking majority in the Council of Ministers one has to assemble that majority on the basis of weighted votes, with the most populous countries having greater weight, in the calculation of a majority or minority, than the smaller member states, whereas in the case of the yellow card system each parliamentary chamber in the EU has a single vote. I suppose that it operates a bit like the way that the US Senate operates, with no regard to the relative populations of the different countries.

The answer to that question would therefore depend very much on what the comparator was in terms of the blocking minority among member states. I certainly envisage that a red card would have to involve a higher threshold than a yellow card would, since it would be a more far-reaching measure.

**Mr Rees-Mogg:** I am grateful to the Minister for his answer. However, could the red card serve any useful purpose if it were harder to get than a qualified majority vote against a proposal coming from the Commission, because all Governments are responsible to their Parliaments, and therefore to make it a workable proposition, the assumption would have to be that a matter had a qualified majority in favour but the Parliaments sought to stop it?

**Mr Lidington:** Having served as a Minister both in the last Parliament and this one, I have to say that I do not think that Governments can automatically assume that they have the majority in Parliaments, particularly on European matters. So, while the circumstances that my hon. Friend describes would be unusual, it would nevertheless be worth while to have that democratic back stop. Also, a strongly expressed parliamentary view would perhaps, in the case of a number of member states, put greater backbone into a Government resisting a measure to which their Parliament had declared itself opposed.

**Mr Rees-Mogg:** The very idea that Governments will have backbone in the face of Europe is a novel one, but I hope that we might see it one day.

Moving on to yellow cards, does my right hon. Friend think that part of the reason for the number of cards going down, apart from the lower number of proposals coming forward, is that once the decision was given about the EPP, Parliaments thought there was little point? The Commission did absolutely nothing regarding that important proposal. What is the purpose of this House or any other Chamber passing resolutions if they are just ignored?

**Mr Lidington:** As I said in my opening remarks, that might be part of the explanation. One would have to go back and talk to parliamentarians from the 27 other member states to have a clear analysis. I suspect that with some countries the lack of yellow cards might be down more to domestic political circumstances—perhaps a general election and a change of Government—than to anything happening at the EU level.

It is also fair, however, to take account of the changeover of the Commission. The Juncker Commission's track record of launching many fewer new initiatives than the Barroso Commission, even in its first term, inevitably reduces the number of targets for national Parliaments. That too is part of the explanation. Frankly, if the Commission is going to stick to that approach and take account, in advance, of what national Parliaments and national Governments would regard as the right priorities, that is a change we should all welcome.

**Mr Rees-Mogg:** On that very point, the Commission has tended to respond even when a majority has not been reached, but it has often been pretty stubborn in pushing forward with its proposal anyway. Indeed, in one of the documents we can even see that it wanted to bring forward a more ambitious proposal rather than sticking with the one it already had. To date, therefore, the yellow card has not been hugely successful, as far as one can tell. Does the Minister accept that? Does he also accept that the time limit he mentioned, which it has been argued ought to be extended, can be extended only through treaty change? Is that part of the Government's intended renegotiation?

**Mr Lidington:** I agree that although there is innovation in the Lisbon treaty—which was an advance, and better than not having any such process—it has not been particularly successful so far. It has certainly taken time for the culture of the Commission leadership to respond to what is necessary. The fact that someone such as First Vice-President Timmermans, who has been an elected politician in a country that has given a high priority to the opinions of its national Parliament, is now a key authority within the Commission has been an important contributing factor to the change we have seen on the part of the Commission in the past year and a bit.

Whether treaty change is needed is something that we are addressing in the course of the detailed negotiations. The technical talks that took place over the summer between UK officials and the secretariats and legal services of the institutions have, on that issue and on the others on which we seek reforms, fleshed out a menu of legal and procedural options for leaders to select

from, depending on what deal leaders eventually succeed in negotiating. It would be wrong of me to go further than that, when those negotiations still lie ahead.

**Mr Rees-Mogg:** I am grateful for that because footnote 16 on page 12 of the document gives the Commission's view that the deadline is enshrined in the treaty and therefore would require treaty change, but the Commission can err, so I hope the Government are right.

Finally—although I may have two questions on this point, depending on the Minister's answer—I want to ask about the green card issue. Are the Government supportive of a situation in which the Commission loses its exclusive right to propose legislation?

**Mr Lidington:** That is not part of our set of proposals and it would probably be very hard to negotiate that. My word of warning to my hon. Friend is that if that issue were opened up, we would probably see a lot of institutional pressure from the European Parliament to have a right to initiate legislation, and that there would be quite a lot of national Governments around Europe, particularly those of smaller member states, that would be quite attracted by that idea.

As for my hon. Friend's earlier point—alas, I have lost my thread, so perhaps he could just remind me.

**Mr Rees-Mogg:** Prior to the green card issue, I asked about the treaty change and the Minister answered me.

**Mr Lidington:** That is right, and if I have not satisfied my hon. Friend, at least I have replied to him. I will rest it there, Mrs Main.

**Mr Rees-Mogg:** I am a bit puzzled by the Minister's last answer. I thought the whole point of the green card was to give a group of member states the ability to propose changes to, amend, alter or even repeal EU legislation. Now, if it is not giving them the right that is otherwise the exclusive right of the Commission, I do not see what it is doing and whether it serves any purpose.

**Mr Lidington:** The distinction is this: the green card proposal would permit the national Parliaments acting collegially to propose changes and to seek reviews, but it would leave it then for the Commission, having reviewed the matter, to decide whether to bring forward particular amendments.

That is perhaps analogous—not exactly the same as, but analogous—to the European Parliament's powers to propose an own-initiative report, which can put forward ideas either for new legislation or the amendment or repeal of existing legislation but which cannot bind the Commission to act in a particular way. What one has found in practice, however, is that the Commission has taken very seriously those reports and frequently acted upon them. I hope that if we got a green card accepted, we would find that the Commission responded in the same way to well-evidenced, well-argued proposals from national Parliaments.

I now recall the point on which I was going to respond to my hon. Friend earlier. He expressed doubt as to whether, in the absence of treaty change, having a

[Mr Lidington]

red card would mean anything. Of course the Commission, while it has the sole right of initiative, can always choose whether to initiate or to persist with a particular piece of legislation, so it faces a certain political choice when it is in receipt of objections from national Parliaments.

**Mr Rees-Mogg:** You are being very generous today, Mrs Main; I promise that this is my last question. Is the Minister therefore saying that the democratic deficit will be addressed by the good will of the Commission when it feels like listening to national Parliaments?

**Mr Lidington:** What I am saying is that the democratic deficit needs to be addressed by a number of different and complementary reforms. Those will include some in the culture of the institutions, which we are starting to see, such as a focus on a rigorous selection of limited priorities where the European Union can genuinely provide value-added to all its members from European-level action, rather than leaving it to member states.

I believe that our proposals on national parliaments are not a panacea, which I have never claimed for them, but will help to reconnect electors with what the European Union is doing on their behalf. Obtaining some kind of mechanism for turning the Laeken commitment into institutional reality in the EU would be a further way in which to bridge the democratic deficit.

At the end of the day, bridging the democratic deficit will be about cultural change as much as about legislative and institutional change. It will be about the EU and its institutions demonstrating through their choice of actions that they are attuned to the policy priorities that matter to the people—the citizens whom they claim to represent.

*Motion made, and Question proposed,*

That the Committee takes note of European Union Documents No. 10651/15 and Addendum, a Commission Annual Report 2014: Subsidiarity and proportionality, and No. 10663/15 and Addendum, a Commission Annual Report 2014: relations with national parliaments; recognises the importance of the principle of subsidiarity and the value of stronger interaction between national parliaments and the EU institutions; welcomes the Government's reform agenda and efforts to ensure that the Commission responds to future objections under the yellow card scheme by substantially amending or withdrawing the proposal that has been put forward; calls on the Commission to respond to the request of 29 national parliament chambers to establish a working group to consider reforms to strengthen their role; is encouraged by the Commission's announcement of its intentions to forge a new partnership with national parliaments; and calls on the Commission to set out its plans to do this. (—Mr Lidington.)

5.1 pm

**Mr McFadden:** I will make a couple of brief points. It is true that the issue of subsidiarity, proportionality and the power of national Parliaments is important, and that view is shared throughout the Chamber. I have already read out what the Prime Minister said in his letter to the President of the Council two weeks ago, so I do not need to repeat it. In our manifesto, Labour stated:

“We will work to strengthen the influence of national parliaments over European legislation, by arguing for a ‘red-card mechanism’ for member states, providing greater parliamentary scrutiny.”

Today, in response to the Prime Minister's letter, President Donald Tusk said:

“There is also a largely shared view on the importance of the role of national parliaments within the Union as well as strong emphasis on the principle of subsidiarity.”

There will be different views in the House as to whether that constant re-emphasis of the commitment to subsidiarity shows up in the actions of the Commission and the EU institutions, but the question is whether a new spirit has emerged.

The Commission certainly says that there is a new spirit. Some months ago we debated on the Floor of the House the Commission's work programme, to which many Members referred. Earlier this year in London I attended a speech made by Frans Timmermans, the Vice-President of the Commission—the Minister mentioned him—and he posed the question, why does the ratchet always have to turn in one direction? Why can the Commission and the institutions not look at the existing corpus of legislation and ask whether it is still fit for purpose and necessary, or whether it has had unintended consequences after being in effect for some time? Those seem to be perfectly legitimate questions for the EU institutions, just as they would be for any national Parliament.

Looking around Europe, I wonder whether we are discussing the right exam question overall. At the moment, the EU is coping with huge crises of refugees and of security, but if we constantly view it as an organisation that is determined to interfere in our very way of life, we might not be asking the right question. Perhaps the question is how Europe works more closely together to deal with common challenges instead of always seeing working together as some kind of threat, as we tend to do in this country. The issue of national Parliaments is a legitimate one, but looking at the problems Europe is coping with today, I am not sure that it is the most urgent one facing the EU.

I will not go through again all the different powers of the different card mechanisms that have been outlined. Suffice to say, we will watch with interest how matters are developed in the negotiation that the Prime Minister has set out. The Minister has given us some useful pointers to the Government's position on the various green, yellow and red card proposals, but it looks as if matters will not be concluded at the December Council. We will hope for more concrete results from the February Council early next year.

5.4 pm

**Mr Rees-Mogg:** I am very sympathetic with the point that the right hon. Member for Wolverhampton South East makes that this might be the wrong issue to discuss, and that the real issue is how the nations of Europe can co-operate together. My answer is that they should do so through the nation state, because the nation state has validity and the European Commission does not. What we discover in today's debate is that it is actually all about the validity of the European Commission, and that national Parliaments will be given a bauble here and a bauble there. They will be given a red card, a yellow card and a green card—they will have a three-card trick. They will have a whole deck of cards, but they will not be able to do anything with it because everything

goes off to the European Commission, which may—if it is feeling benign—condescend to listen to the national Parliaments.

The Commission may take the Parliaments into account, and it may make proposals. How enormously generous. How thoughtful of somebody unelected, who was appointed against the will of the British Government, who has no mandate and who represents one of the smallest countries in the European Union. It is going to be up to Mr Juncker whether he listens to the German Parliament, the British Parliament or the French Parliament, all of which were elected by millions of people across Europe. One grand panjandrum in Brussels will decide whether he will take any notice of those cards at all.

The Government are great in their way—they push back a bit and say, “Oh, well, we’ve got a backbone, so therefore we’ll be tough and stand up to this. We’re going to put Britain first, the United Kingdom first, and make sure that we have our way.”

**Mr McFadden:** I appreciate the hon. Gentleman’s strength of view, but he is in danger of forgetting the existence of the Council of Ministers, on which sit the elected representatives of all of us—the Prime Ministers and Presidents.

**Mr Rees-Mogg:** The right hon. Gentleman is right. The Council of Ministers used to operate by unanimity, so our interests could be protected. At the heart of this is the question of who has the right to initiate legislation, because that is where the real democratic deficit is located; it is not the Council of Ministers but the unelected Commission that does that. That is a most extraordinary power. When one considers the power of this House, one sees that our right to initiate money Bills dates to 1407, and the power of this House grew because of that right of initiation and that right to control finances, which leads to control of the legislative programme.

The Commission’s right of initiation is central to its authority, and how sensitive was the Minister on its behalf when I said that this green card might interfere with that noble right of the Commission to initiate legislation—“No, that could not happen at all. It would upset the Commission too greatly, and the European Parliament might be a bit jealous.” The European Parliament is a body that has modest democratic legitimacy. A few people occasionally vote, but no one feels that it is their Parliament. People occasionally turn out to vote when they have to vote for something else. Even a police commissioner is more exciting to vote for than the European Parliament—well, not by very much, although it is a little more exciting. The democratic deficit is addressed not by the European Parliament, but by national Parliaments that represent individual citizens.

To return to the right hon. Gentleman’s excellent point about how Europe addresses such problems, it addresses such problems if it has validity, and it has validity if it is based on democracy. The European Union is facing problems at the moment because it has become so remote from that democracy. The President of Portugal is saying that a new Government cannot come in because that might upset the European Union, even when, in a coalition, the Portuguese Government have more support than any other nation. *[Interruption.]* We are saved by the bell.

5.8 pm

*Sitting suspended for a Division in the House.*

5.19 pm

*On resuming—*

**Mr Rees-Mogg:** We were not quite saved by the bell, as some had hoped. There is one final point that I want to make, which is that in the European Union Act 2011 the Government included a section clearly stating that sovereignty resides in this House and that we are only members of the EU because of that. It was a very good section that reminded us of what had been the perceived wisdom under the European Communities Act 1972: that the sovereignty of the British people is vested in this House and that only this House can use it in a fundamental way. If this House or this Parliament decides not to use it, we would be able to withdraw and restore all our democratic accountability. That underpins the importance of national Parliaments. Without their willingness or acceptance of a supranational body, and without the delegation of authority, there is no authority in the Commission. It does not exist in a vacuum. It is not a body created by God—the divine right of Commissioners—to rule over the whole EU; it is a body whose authority is drawn from us, but that is a drawing that can be withdrawn and perhaps may be.

5.21 pm

**Mr Lidington:** I thank the right hon. Member for Wolverhampton South East and my hon. Friend the Member for North East Somerset for their contributions, and I will try to respond to their points. I am grateful to the right hon. Member for Wolverhampton South East for referring to President Tusk’s letter, which was published today and states a need to assert the importance of national Parliaments. It is an objective that President Tusk feels is shared by other Governments of member states.

The right hon. Gentleman asked about the degree of support that we have among other member states for strengthening the role of national Parliaments. My truthful answer is that the greatest support comes from member states that have vigorous national parliamentary systems. Countries such as the Netherlands and Denmark, whose Parliaments have come forward with ideas to strengthen the accountability of EU decisions to national Parliaments, are perhaps more naturally inclined to have regard to this question than other countries that historically have had weaker national parliamentary systems and have seen European institutions as the guarantors of liberties and the rule of law.

Clearly, different member states have different views that sometimes depend on whether they feel that their own scrutiny arrangements, which may reflect a mandate system rather than a system such as ours, would be affected by some of the changes that we would like to be made. As President Tusk’s letter makes clear, the ideas that we have put on the table have had a broadly positive response from our partners.

Let me turn to the points made by my hon. Friend the Member for North East Somerset. I do not think that I have ever pretended in the five and three-quarter years that I have been doing this job that European institutions are perfect or that, were I to be asked to take a blank

[*Mr Lidington*]

sheet of paper and draft a new scheme for European co-operation, I would commence with the treaty of Lisbon and the current institutional framework. However, the political reality that we, as parliamentarians, must all confront is that that is the system we have at the moment. It is the product of decisions taken by our predecessors over the years. The key principle that we need to bear in mind in debating the question before us this afternoon is, in the words of the Prime Minister of the Netherlands:

“European where necessary, national where possible.”

That is the principle that should animate our policy and that I would like to be read, learned, marked and inwardly digested by the institutions of the EU.

I am not someone who habitually goes around lauding the work of the European Commission—it is an imperfect body, like all human institutions—but I thought that my hon. Friend was a wee bit unfair to it, because it is the United Kingdom that has often looked to the European Commission to champion work on the single market and on free trade agreements between Europe and other countries, and it is the Commission that has used its powers to challenge protectionist interests in

other member states—member states that would have blocked proposals that we and successive British Prime Ministers have judged to be in the best interests of our country. After all, that was why Margaret Thatcher, when Prime Minister, introduced the Single European Act. I think I am still correct to say that was the biggest move towards qualified majority voting in the history of the European Communities or the European Union.

There are flaws in the present arrangements and improvements that we should seek, but we should ponder carefully before throwing aside an institutional framework and a habit of countries working together that over the years have brought some significant benefits, both economic and political, to the people of the United Kingdom. The right way forward is to secure a set of ambitious reforms that change the working culture of the European Union to make it more competitive, more flexible and, yes, more democratic than it is today. The measures before us have enabled us to debate one particular aspect of that reform agenda.

*Question put and agreed to.*

5.27 pm

*Committee rose.*